

22 NOVEMBER 2012

NOTICE OF MEETING

You are advised of the following meeting:

TUESDAY 27 NOVEMBER 2012.

Meeting of Council Meeting No. 22/12

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

**To commence at the conclusion of the Open Workshop
regarding Allengrove Major Project**

Meeting Date: Tuesday 27 November 2012
Location: Council Chambers, Level 6, Civic Centre, 1 Devlin Street, Ryde
Time: To commence at the conclusion of the Open Workshop
 regarding Allengrove Major Project

*Council Meetings will be recorded on audio tape for minute-taking purposes
 as authorised by the Local Government Act 1993.*

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1 CONFIRMATION OF MINUTES - Council Meeting held on 13 November 2012

Report prepared by: Meeting Support Coordinator
File No.: GRP/12/5/5/5 - BP12/1295

REPORT SUMMARY

In accordance with Council's Code of Meeting Practice, a motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.

RECOMMENDATION:

That the Minutes of the Council Meeting 21/12, held on 13 November 2012 be confirmed.

ATTACHMENTS

- 1 Minutes - Ordinary Council Meeting - 13 November 2012

ITEM 1 (continued)

ATTACHMENT 1

**Council Meeting
MINUTES OF MEETING NO. 21/12**

Meeting Date: Tuesday 13 November 2012

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

Time: 7.30pm

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

Note: Councillor Pickering left the meeting at 12.33am and did not return. He was not present for consideration of Item 9.

Note: Councillor Li left the meeting at 12.33am and did not return. He was not present for consideration of Item 9.

Note: Councillor Maggio left the meeting at 12.33am and did not return. He was not present for consideration of Item 9.

Apologies: Nil.

Staff Present: General Manager, Group Manager – Community Life, Group Manager - Corporate Services, Group Manager – Environment & Planning, Group Manager - Public Works, General Counsel, Chief Financial Officer, Service Unit Manager – Governance, Manager – Communications and Media, Service Unit Manager – Urban Planning, Service Unit Manager – Risk and Audit, Internal Auditor, Client Manager, Development Director and Acting Section Manager - Governance.

LEAVE OF ABSENCE

The Mayor, Councillor Petch advised that Councillor Laxale has requested a Leave of Absence for the period Tuesday, 13 November 2012 until Sunday, 25 November 2012 inclusive.

RESOLUTION: (Moved by Yedelian OAM and Salvestro-Martin)

That Councillor Laxale's Leave of Absence for the period from Tuesday, 13 November 2012 until Sunday, 25 November 2012 inclusive be approved.

Record of Voting

For the Motion: Unanimous

Councillor Perram requested a Leave of Absence from Thursday, 22 November 2012 to Monday, 3 December 2012.

ITEM 1 (continued)

ATTACHMENT 1

Councillor Yedelian OAM requested a Leave of Absence from Tuesday, 20 November 2012 to Sunday, 25 November 2012.

Councillor Salvestro-Martin requested a Leave of Absence from Sunday, 2 December 2012 to Thursday, 20 December 2012.

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

- (a) That Councillor Perram's Leave of Absence for the period from Thursday, 22 November 2012 to Monday, 3 December 2012 be approved.
- (b) That Councillor Yedelian OAM's Leave of Absence for the period from Tuesday, 20 November 2012 to Sunday, 25 November 2012 be approved.
- (c) That Councillor Salvestro-Martin's Leave of Absence for the period from Sunday, 2 December 2012 to Thursday, 20 December 2012 be approved.

Record of Voting:

For the Motion: Unanimous

PRAYER

Pastor Robyn Peebles from the Church of the Good Shepherd, West Ryde was present and offered prayer prior to the commencement of the meeting.

DISCLOSURES OF INTEREST

Councillor Pickering disclosed a significant non-pecuniary interest in Item 9 – Proposed Voluntary Planning Agreement for a Residential Development at LOT 2 DP 1163230 – 126-128 Herring Road, Macquarie Park – LDA2012/314, for the reason that submissions were prepared and representations provided by him to an intermediary party to Toga.

Councillor Maggio disclosed a less than significant non-pecuniary interest in Notice of Motion 3 – Fees and Charges at Westminster Oval, Gladesville, for the reason that he is a participant of the Oval.

Councillor Perram disclosed a less than significant non-pecuniary interest in Mayoral Minute No. 18/12 – Seeking Direction of Minister re Discontinuance of Supreme Court Proceedings No. 2012/249917, for the reason that he remains a Defendant in the Supreme Court proceedings which have yet to be discontinued.

Councillor Salvestro-Martin disclosed a less than significant non-pecuniary interest in Mayoral Minute No. 18/12 – Seeking Direction of Minister re Discontinuance of Supreme Court Proceedings No. 2012/249917, for the reason that he is a party referred to in the proceedings.

ITEM 1 (continued)

ATTACHMENT 1

Councillor Li disclosed a less than significant non-pecuniary interest in Mayoral Minute No. 18/12 – Seeking Direction of Minister re Discontinuance of Supreme Court Proceedings No. 2012/249917, for the reason that he is a party to the proceedings referred to in the Mayoral Minute.

The Mayor, Councillor Petch disclosed a less than significant non-pecuniary interest in Mayoral Minute No. 18/12 – Seeking Direction of Minister re Discontinuance of Supreme Court Proceedings No. 2012/249917, for the reason that he is a person nominated in the proceedings.

TABLING OF PETITIONS

No Petitions were tabled.

PRESENTATION OF PLAQUE TO THE NORTHERN DISTRICT CRICKET ASSOCIATION

The Mayor, Councillor Petch presented the President of the Northern District Cricket Association, Mr John Crane with a Plaque in recognition for achieving 100 seasons of cricket in the City of Ryde.

PRESENTATION OF GENDER EQUITY 50:50 SILVER AWARD

Council's Service Unit Manager – Governance, Ms Shane Sullivan and Council's Manager – Communications and Media, Ms Angela Jones-Blayney presented The Mayor, Councillor Petch with the Silver 50:50 Gender Equity Award, awarded to City of Ryde Council at the Australian Local Government Women's Association Conference in Ipswich on 10 November 2012. City of Ryde is one of the first Councils in Australia to receive this recognition.

PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA

The following persons addressed the Council:-

Name	Topic
Robert Ruggeri	Notice of Motion 6 – Pedestrian Safety throughout the City of Ryde
Sherie Barton	Notice of Motion 5 – Devlin Street Pedestrian Bridges
Darryl Fung	Notice of Rescission 2 – Matter of Urgency – Removal of five shrubs on the nature strip at 163 Morrison Road, Putney

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

That the late request to address Council on Items Listed on the Agenda and also members of the public who had requested to address Council on Items Not Listed on the Agenda be allowed to address the meeting at this time.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

PUBLIC PARTICIPATION ON ITEMS LISTED ON THE AGENDA

The following person addressed the Council:-

Name	Topic
Noel Plumb (representing Ryde Community Alliance)	Item 13 (CONFIDENTIAL) – Allengrove Major Project – Legal advice received on options to appeal the approval granted

PUBLIC PARTICIPATION ON ITEMS NOT LISTED ON THE AGENDA

The following person addressed the Council:-

Name	Topic
Patricia Bloomfield	Farm Street, Gladesville

MATTERS OF URGENCY:-

REFERENCE TO RYDE COUNCIL IN THE SYDNEY MORNING HERALD –
Councillor Pickering

WHITE RIBBON DAY – DOMESTIC VIOLENCE AWARENESS AND PREVENTION
– Councillor Maggio

The Mayor, Councillor Petch raised two Matters of Urgency received from Councillors Pickering and Maggio and did not deem them as urgent. The Mayor sought Council's determination on having these matters confirmed as urgent to be considered at the meeting.

MATTER OF URGENCY – REFERENCE TO RYDE COUNCIL IN THE SYDNEY MORNING HERALD

RESOLUTION: (Moved by Councillors Yedelian OAM and Etmekdjian)

That Council consider the Matter of Urgency regarding Reference to Ryde Council in the Sydney Morning Herald, the time being 8.02pm.

Record of voting:

For the Motion: Councillors Chung, Etmekdjian, Maggio, Pickering, Simon and Yedelian OAM

Against the Motion: The Mayor, Councillor Petch and Councillors Li, Pendleton, Perram and Salvestro-Martin

ITEM 1 (continued)

ATTACHMENT 1

**MATTER OF URGENCY – WHITE RIBBON DAY – DOMESTIC VIOLENCE
AWARENESS AND PREVENTION**

RESOLUTION: (Moved by Councillors Yedelian OAM and Etmekdjian)

That Council consider the Matter of Urgency regarding White Ribbon Day – Domestic Violence Awareness and Prevention, the time being 8.03pm.

Record of voting:

For the Motion: Councillors Chung, Etmekdjian, Li, Maggio, Pendleton, Perram, Pickering, Simon and Yedelian OAM

Against the Motion: The Mayor, Councillor Petch and Councillor Salvestro-Martin

**MATTER OF URGENCY – REFERENCE TO RYDE COUNCIL IN THE SYDNEY
MORNING HERALD**

RESOLUTION: (Moved by Councillors Pickering and Etmekdjian)

That the General Manager provide a detailed report to Councillors on the allegations made in the Sydney Morning Herald in relation to Ryde Council's association with Direct Health Solutions and any other company operated by the Obeid family. This report should detail the circumstances and approval processes that operated and provide an explanation (if necessary) on why the normal tendering process allegedly did not take place.

Record of Voting:

For the Motion: Unanimous

**MATTER OF URGENCY – WHITE RIBBON DAY – DOMESTIC VIOLENCE
AWARENESS AND PREVENTION**

RESOLUTION: (Moved by Councillors Maggio and Etmekdjian)

That this Council resolves to:

- (a) Support White Ribbon Day on 25 November 2012 by selling White Ribbons in all City of Ryde Council facilities (such as Council's Customer Services Desk, Libraries and other facilities).
- (b) Donate \$1,000 towards Erins Place Inc Womens' Refuge in recognition of Council's support for supporting victims of domestic violence.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

MAYORAL MINUTES

MM14/12 MACQUARIE-RYDE FUTURES PARTNERSHIP

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

- (i) That Council endorse the continuation of the Macquarie Ryde Futures Partnership; and
- (ii) That Council host a reception on 11 December 2012 prior to the commencement of the Council meeting and that Professor Downton and other members of the steering committee be invited to attend.
- (iii) That council receives a briefing prior to the dinner on 11 December 2012, that includes an itemised list of projects undertaken and proposed to be undertaken, detailing all Council's costs relating to the partnership.

Record of Voting:

For the Motion: Unanimous

MM15/12 REVIEW OF POLICIES REGARDING VISITING OVERSEAS DELEGATIONS AND SISTER CITY RELATIONSHIPS

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

- (a) That Council reconsider its policy with regard to Visiting Overseas Delegations at a future workshop.
- (b) That the General Manager bring back a report to Council of existing sister city relationships.
- (c) That the General Manager organise a workshop to discuss all aspects of existing sister city relationships.

Record of Voting:

For the Motion: Unanimous

ITEM 1 (continued)

ATTACHMENT 1

MM16/12 RYDE CIVIC CENTRE

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

That:

- (a) Council staff immediately develop a project plan to expedite the rezoning of the Civic Centre site back to RL91 with a density of 60,000sq metres and to be zoned SP2 community use through a planning proposal.
- (b) Council staff prepare a list of priority maintenance required at the Civic Centre – using the existing building condition reports. This priority list is to be based on Workplace Health and Safety issues. This list is to be considered in the context of the 4 Year Delivery Plan.
- (c) Council staff prepare an outline of the communications program which will be associated with items (a) and (b).
- (d) Items (a) and (b) be developed using in-house expertise. Any involvement of consultants is to be subject to appropriate tendering processes for those services and only undertaken after consideration and direction from Council on the priority action areas.
- (e) That a further report be provided back to Council to update Council on all actions detailed in parts (a) to (d).

Record of Voting:

For the Motion: Unanimous

MM17/12 POTENTIAL DEVELOPMENT OF TENNIS WORLD SITE, NORTH RYDE

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

1. That a delegation of interested Councillors led by the Mayor seek an urgent meeting with the local state member, Mr Victor Dominello MP and the Minister of Planning, Mr Brad Hazzard MP to ensure that the Tennis World site is not redeveloped as part of the North Ryde Station Precinct redevelopment; and
2. That the City of Ryde write to the Minister for Planning, the local state member and the Premier stating that it is the wishes of both Council and the community that the site remain in public ownership for public recreational purposes in perpetuity.

Record of Voting:

For the Motion: Unanimous

ITEM 1 (continued)

ATTACHMENT 1

MM18/12 SEEKING DIRECTION OF MINISTER RE DISCONTINUANCE OF SUPREME COURT PROCEEDINGS NO. 2012/249917

Note: Councillor Perram disclosed a less than significant non-pecuniary interest in this Item, for the reason that he remains a Defendant in the Supreme Court proceedings which have yet to be discontinued.

Note: Councillor Salvestro-Martin disclosed a less than significant non-pecuniary interest in this Item, for the reason that he is a party referred to in the proceedings.

Note: Councillor Li disclosed a less than significant non-pecuniary interest in this Item, for the reason that he is a party to the proceedings referred to in the Mayoral Minute.

Note: The Mayor, Councillor Petch disclosed a less than significant non-pecuniary interest in this Item, for the reason that he is a person nominated in the proceedings.

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

That the Marsdens Law Group be appointed to act for Council in the Supreme Court Proceedings 2012/249917.

Record of Voting:

For the Motion: Unanimous

COUNCIL REPORTS

1 CONFIRMATION OF MINUTES - Council Meeting held on 23 October 2012

RESOLUTION: (Moved by Councillors Yedelian OAM and Perram)

That the Minutes of the Council Meeting 20/12, held on 23 October 2012 be confirmed.

Record of Voting:

For the Motion: Unanimous

2 REPORT OF THE PLANNING AND ENVIRONMENT COMMITTEE MEETING 12/12 held on 6 November 2012

RESOLUTION: (Moved by Councillors Simon and Yedelian OAM)

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

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

- 3 16 PUNT ROAD, GLADESVILLE. LOT 502 DP 732745. Local Development Application for alterations and additions to seniors housing (residential care facility): additional facilities including new office, meeting room, change room, and laundry. LDA2012/0015**

RESOLUTION: (Moved by Councillors Simon and Pendleton)

That Local Development Application No. 2012/0015 for 16 Punt Road be deferred for mediation with the Group Manager – Environment & Planning, applicant and objectors in regard to reducing the overshadowing impacts on the adjoining residents to achieve closer compliance with Council's Development Control Plan 2010. That a further report be provided to the Planning & Environment committee within three months.

Record of Voting:

For the Motion: Unanimous

3 REPORT OF THE WORKS AND COMMUNITY COMMITTEE MEETING 13/12 held on 6 November 2012

Note: Councillor Yedelian OAM left the meeting at 9.01pm and was not present for consideration or voting on this Item.

RESOLUTION: (Moved by Councillors Perram and Pickering)

That Council determine Items 5, 9(n) and 9(p) of the Works and Community Committee report, noting that Items 1, 2, 3, 4, 6, 7, 8, 9(a), 9(b), 9(c), 9(d), 9(e), 9(f), 9(g), 9(h), 9(i), 9(j), 9(k), 9(l), 9(m), 9(o), 9(q), 9(r), 9(s), 9(t), 9(u), 9(v) and 9(w) and were dealt with by the Committee within its delegated powers.

Record of Voting:

For the Motion: Unanimous

5 AUSTRALIAN BADMINTON ASSOCIATION REQUEST FOR SUPPORT

Note: Councillor Yedelian OAM was not present for consideration or voting on this Item.

RESOLUTION: (Moved by Councillors Perram and Pickering)

- (a) That Council waive the \$508 hire fee for the Australian Badminton Academy for the 10 year anniversary celebration at the Ryde Aquatic Leisure Centre.

ITEM 1 (continued)

ATTACHMENT 1

- (b) That the following resolution of Council from 23 August 2011 be extended to include any fees and charges levied at all facilities (RALC, ELS Hall etc):

That Council does not provide fee reductions or fee waivers for sporting groups or community organisations except in keeping with the adopted Schedule of Fees and Charges in the Delivery Plan

Record of Voting:

For the Motion: Unanimous

9 TRAFFIC AND PARKING MATTERS PRESENTED TO RYDE LOCAL TRAFFIC COMMITTEE MEETING held on 27 September 2012

Note: Councillor Yedelian OAM was not present for consideration or voting on this Item.

RESOLUTION: (Moved by Councillors Perram and Pickering)

- (n) That Council adopt the following recommendations in relation to the report titled "OSGATHORPE ROAD AND EVAN STREET, GLADESVILLE" - Request for Local Area Traffic Management as follows:
- i. That Council take no action to introduce traffic calming measures in Osgathorpe Road, Evan Street and Brereton Street.
 - ii That '3T' load limit be installed along Osgathorpe Road, Evan Street and Brereton Street subject to RMS concurrence of a suitable Traffic Management Plan (TMP).
 - iii That Council investigate the behaviour of vehicles traversing the bend along Osgathorpe Road as cars have been known to straddle the road.
 - iv That suitable measures be provided to restrict this type of driving behaviour.

Record of Voting:

For the Motion: Unanimous

Note: Councillor Yedelian OAM returned to the meeting at 9.02pm.

ITEM 1 (continued)

ATTACHMENT 1

9 TRAFFIC AND PARKING MATTERS PRESENTED TO RYDE LOCAL TRAFFIC COMMITTEE MEETING held on 27 September 2012

RESOLUTION: (Moved by Councillors Perram and Simon)

(p) That Council adopt the following recommendations in relation to the report titled "CULLODEN ROAD AND WATERLOO ROAD, MARSFIELD" - Request for review of marked pedestrian crossing as follows:

- (i) That Council not approve the request for marked pedestrian crossings along Waterloo Road and Culloden Road respectively.
- (ii) That Council redefine the problem and staff speak to Councillors Perram and Laxale before bringing a further report back to the Traffic Committee.

Record of Voting:

For the Motion: Unanimous

4 STAFF CULTURE SURVEY - RESULTS

RESOLUTION: (Moved by Councillors Pickering and Yedelian OAM)

That this matter be deferred to the next Council Meeting on 27 November 2012.

Record of Voting:

For the Motion: Unanimous

5 2011/2012 FINANCIAL STATEMENTS

Note: Council's Chief Financial Officer provided a presentation regarding the 2011/2012 Financial Statements.

RESOLUTION: (Moved by Councillors Pickering and Etmekdjian)

- (a) That in accordance with Section 419 of the Local Government Act, Council receive and note the Auditors Reports on the 2011/2012 Annual Financial Statements for the year ended 30 June 2012.
- (b) That any public submissions on the 2011/2012 Financial Reports be referred to Council's Auditors, Hill Rogers Spencer Steer, Chartered Accountants.
- (c) That Council suspend standing orders to allow a presentation by Council's staff and any comments by or questions of the external auditor, Hill Rogers Spencer Steer or members of the Audit Committee, in respect of the 2011/2012 Financial Statements including the Auditor's Reports.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

6 LOCAL INFRASTRUCTURE RENEWAL SCHEME - ROUND TWO

MOTION: (Moved by Councillors Maggio and Etmekdjian)

- (a) That Council make an application under the NSW Local Infrastructure Renewal Scheme – Round Two for Children’s Play areas and equipment, in accordance with the Children’s Play Implementation Plan, at an estimated cost of \$1.5 million.
- (b) That Council endorse a new loan of \$1.5 million to support Council’s application as detailed in part (a) and delegate to the General Manager, the authority to commence the procurement of this loan.
- (c) That the General Manager be requested to provide options to Councillors for the upcoming Budget workshops in 2013, in how Council will meet the debt servicing costs of this new loan.

AMENDMENT: (Moved by Councillors Yedelian OAM and Salvestro-Martin)

That this matter be deferred for a workshop with options to be presented to Council.

On being put to the Meeting, the voting on the Amendment was two (2) votes For and nine (9) votes Against. The Amendment was LOST. The Motion was then put and CARRIED.

Record of Voting:

For the Amendment: Councillors Salvestro-Martin and Yedelian OAM

Against the Amendment: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Li, Maggio, Pendleton, Perram, Pickering and Simon

RESOLUTION: (Moved by Councillors Maggio and Etmekdjian)

- (a) That Council make an application under the NSW Local Infrastructure Renewal Scheme – Round Two for Children’s Play areas and equipment, in accordance with the Children’s Play Implementation Plan, at an estimated cost of \$1.5 million.
- (b) That Council endorse a new loan of \$1.5 million to support Council’s application as detailed in part (a) and delegate to the General Manager, the authority to commence the procurement of this loan.

ITEM 1 (continued)

ATTACHMENT 1

- (c) That the General Manager be requested to provide options to Councillors for the upcoming Budget workshops in 2013, in how Council will meet the debt servicing costs of this new loan.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Li, Maggio, Perram, Pickering, Salvestro-Martin, Simon and Yedelian OAM

Against the Motion: Councillor Pendleton

7 SUBMISSION ON DRAFT LONG TERM TRANSPORT MASTER PLAN

RESOLUTION: (Moved by Councillors Simon and Etmekdjian)

That Council endorse the submission on the Draft Long Term Transport Master Plan and that this be sent to Transport for NSW.

Record of Voting:

For the Motion: Unanimous

8 ADOPTION OF THE SHRIMPTONS CREEK PARKLANDS PLAN OF MANAGEMENT

RESOLUTION: (Moved by Councillors Maggio and Simon)

- (a) That the Shrimptons Creek Parklands Plan of Management (dated October 2012) be adopted.
- (b) That all community members who made a submission be thanked and advised of the outcome.
- (c) That the General Manager investigate the possibility of installing a pedestrian bridge across Shrimptons Creek at the northern end of Santa Rosa Park and provide an indicative cost for Council's consideration.

Record of Voting:

For the Motion: Unanimous

ITEM 1 (continued)

ATTACHMENT 1

9 PROPOSED VOLUNTARY PLANNING AGREEMENT FOR A RESIDENTIAL DEVELOPMENT AT LOT 2 DP1163230 - 126-128 HERRING ROAD, MACQUARIE PARK. LDA2012/314

Note: Councillor Pickering disclosed a significant non-pecuniary interest in this Item, for the reason that submissions were prepared and representations provided by him to an intermediary party to Toga.

Note: Councillor Pickering left the meeting at 10.07pm and was not present for discussion or voting on this Item.

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

That this Item be moved to Closed Session for discussion.

Record of Voting:

For the Motion: Unanimous

Note: Councillor Pickering returned to the meeting at 10.14pm.

10 PLANNING PROPOSAL - 461 - 495 VICTORIA ROAD, GLADESVILLE

RESOLUTION: (Moved by Councillors Yedelian OAM and Perram)

- (a) That Council note the Planning Proposal for 461-495 Victoria Road, Gladesville to amend Clause 4 'Use of certain land at 461-495 Victoria Road, Gladesville' of Schedule 1 under Ryde Local Environmental Plan 2010 to include the following land uses, *bulky goods premises, hardware and building supplies* and *garden centre*, and to amend the Height of Building Map (06) under Ryde Local Environmental Plan.
- (b) That Council forward the planning proposal to 461-495 Victoria Road, Gladesville to receive a gateway determination in accordance with Section 56 of the *Environmental Planning and Assessment Act 1979*.
- (c) That, in the event of a gateway determination being issued pursuant to Section 56 of the *Environmental Planning and Assessment Act 1979*, the proposed be placed on public exhibition and a further report be presented to Council following the completion of the consultation period advising of the outcomes and next steps.
- (d) That Council support a site specific addition to the Ryde Development Control Plan 2010 be prepared for 461-495 Victoria Road, Gladesville and public exhibited together with the planning proposal.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Maggio, Perram, Pickering, Salvestro-Martin and Yedelian OAM

Against the Motion: Councillors Li, Pendleton and Simon

11 CIVIC PRECINCT COST ANALYSIS REPORT

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

That this matter be deferred to the next meeting of Council to be held on 27 November 2012 and for the General Manager to identify those matters that are commercial in confidence to enable the report with attachments to be included on the public agenda.

Record of Voting:

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

Against the Motion: Councillor Yedelian OAM

12 REPORTS DUE TO COUNCIL

Note: Councillor Perram left the meeting at 10.40pm and was not present for consideration or voting on this Item.

RESOLUTION: (Moved by Councillors Maggio and Perram)

That the report on Outstanding Council Reports be endorsed.

Record of Voting:

For the Motion: Unanimous

Note: Councillor Perram returned to the meeting at 10.42pm.

LATE ITEM

14 CITIZEN ENGAGEMENT ADVISORY COMMITTEE – TERMS OF REFERENCE

RESOLUTION: (Moved by Councillors Pendleton and Yedelian OAM)

(a) That Council adopt the methodology for selecting the Citizen Engagement Advisory Committee as outlined in the Council report.

ITEM 1 (continued)

ATTACHMENT 1

- (b) That Council adopt the Draft Terms of Reference for the Citizen Engagement Advisory Committee.
- (c) That Council agrees to work collaboratively with the New Democracy Foundation to help shape our emerging City of Ryde Community Engagement framework.

Record of Voting:

For the Motion: Unanimous

PRECIS OF CORRESPONDENCE FOR CONSIDERATION

1 DIVISION OF LOCAL GOVERNMENT ON-SITE INFRASTRUCTURE AUDIT

RESOLUTION: (Moved by Councillors Perram and Simon)

That the correspondence be received and noted.

Record of Voting:

For the Motion: Unanimous

2 DIVISION OF LOCAL GOVERNMENT RESPONSE TO COUNCIL'S REQUEST UNDER SECTION 416 OF THE LOCAL GOVERNMENT ACT 1993 FOR AN EXTENSION OF TIME FOR SUBMISSION OF THE 2011/12 FINANCIAL STATEMENTS

RESOLUTION: (Moved by Councillors Perram and Simon)

That the correspondence be received and noted.

Record of Voting:

For the Motion: Unanimous

NOTICES OF MOTION

1 FEEDBACK FROM COUNCILLORS FOR IMPROVEMENTS TO THE LOCAL GOVERNMENT ELECTION PROCESS - Councillor Roy Maggio

RESOLUTION: (Moved by Councillors Maggio and Perram)

That the General Manager seeks feedback from the Councillors for improvements to the Local Government Election process. That this feedback then be collated, presented to Council for consideration of those elements which are to be included in a formal submission to the State Electorate Commission.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

2 STATE ELECTORAL COMMISSION - Councillor Roy Maggio

Note: This Notice of Motion was withdrawn by Councillor Maggio.

**3 FEES AND CHARGES AT WESTMINSTER OVAL, GLADESVILLE -
Councillor Roy Maggio**

Note: Councillor Maggio disclosed a less than significant non-pecuniary interest in this Item, for the reason that he is a participant of the Oval.

RESOLUTION: (Moved by Councillors Maggio and Simon)

That a report be prepared on the condition of Westminster Oval and referred to the next Works and Community Committee meeting to be held on 20 November 2012 for its consideration.

Record of Voting:

For the Motion: Unanimous

**4 CITY OF RYDE PROCUREMENT PROCESSES - Councillor Jeff Salvestro-
Martin**

RESOLUTION: (Moved by Councillors Salvestro-Martin and Yedelian OAM)

That the General Manager be delegated to conduct an independent review of City of Ryde procurement processes, in general covering all areas.

Record of Voting:

For the Motion: Unanimous

COMPLETION OF BUSINESS – EXTENSION OF TIME

RESOLUTION: (Moved by Councillors Pickering and Pendleton)

That the meeting time be extended to allow Council to complete all Items of business on the Agenda, the time being 11.05pm.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

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

Against the Motion: Councillor Yedelian OAM

5 DEVLIN STREET PEDESTRIAN BRIDGES - Councillor Denise Pendleton

Note: Sherie Barton addressed the meeting in relation to this Item.

RESOLUTION: (Moved by Councillors Pendleton and Yedelian OAM)

Council must take immediate action to ensure pedestrians at Top Ryde have a safe, fully accessible and reliable means of crossing Devlin Street.

1. Council to take **immediate** action to require the west lift (next to the old library building) to be properly ventilated to ensure pedestrian safety, particularly during instances of lift failure in summer.
2. That Council staff provide a report by February 2013 covering:
 - a. Clarification of roles, responsibilities, accountabilities and ownership of the pedestrian bridges:
 - i. By organisation: Council, RMS and shopping centre management
 - ii. Council management.
 - b. The established performance and reliability standards for the pedestrian bridges lifts.
 - c. Response time for repair crews to attend the lifts if they fail – including the minimum and maximum period of delay.
 - d. Standard for emergency response time when a lift fails with someone trapped inside – including the minimum and maximum period.
 - e. Report on the two pedestrian bridges' lift performance:
 - Instances of lifts stoppage (date) and duration
 - Instances of pedestrians trapped inside lifts – number of pedestrians trapped and the duration they were trapped (not average time)

ITEM 1 (continued)

ATTACHMENT 1

- Number of complaints received by Council on lift performance and pedestrian safety concerns.
 - Number of complaints investigated and closed by Council staff and actions taken.
 - Average response times and maximum delay in response to call out to service lift for reactivation.
- f. What legal options does Council have if the performance of the infrastructure is considered unacceptable e.g. penalties, licence termination etc?
- g. Options for Council's process improvements including establishing new design requirements or standards to be applied to any future pedestrian bridges in the municipality.
3. Council to immediately write to the local Member for Ryde requesting his intervention with the Minister for Roads to achieve an alternative solution for pedestrians at this major intersection. In particular Council to seek a meeting involving all interested Councillors, Council senior staff, the RMS and the centre management to consider options for improved risk assessment, reprioritisation of the pedestrian in the road sharing equation at Devlin Street, and alternative crossing options, including staged crossings, night time safety and timed crossing or other suitable alternatives.
4. Urgent review of Ryde Council's complaint management and risk assessment processes, particularly related to infrastructure and complaints where public safety issues are reported.

Record of Voting:

For the Motion: Unanimous

6 PEDESTRIAN SAFETY THROUGHOUT THE CITY OF RYDE - Councillor Jeff Salvestro-Martin

Note: Robert Ruggeri addressed the meeting in relation to this Item.

RESOLUTION: (Moved by Councillors Salvestro-Martin and Yedelian OAM)

That the General Manager conduct an audit of Pedestrian Safety throughout the City of Ryde. That the report include examination of the adequacy of existing pedestrian crossings, refuges and footpaths including the adequacy of disabled and pram access and the inclusion of 40km zones where appropriate. Specific focus should be given to areas where there are:

1. Schools or Early Childhood Centres
2. Community Facilities

ITEM 1 (continued)

ATTACHMENT 1

3. Public Transport Nodes
4. Commercial Enterprise
5. High Pedestrian Flows
6. An unusual incidence of pedestrian misadventure

The report should inform Council of recent changes to traffic legislation and the obligations and responsibilities of Council to ensure it meets its obligations under the relevant Acts and should include consultation with relevant authorities, City of Ryde Advisory Committees and the Ratepayers of Ryde. The report should specifically detail the estimated costs and solicit input from residents about specific concerns they have with respect to their safety as pedestrians within the City of Ryde.

Record of Voting:

For the Motion: Unanimous

7 COUNCIL PAPERS AND BOARDVANTAGE - Councillor Craig Chung

RESOLUTION: (Moved by Councillors Chung and Maggio)

That the General Manager:

1. Ensure that all Council papers that are submitted to Councillors in hard copy including but not limited to Council & Committee agenda and attachment documents, urgent Notices of Motion, late agenda items are duplicated on BOARDvantage at the same time that hard copies are issued.
2. Cease providing hard copies of Council papers to those Councillors who notify the Governance Unit in writing of their desire to cease receiving Council papers in hard copy.
3. Ensure that no document is removed from BOARDvantage without resolution of Council.
4. Upon request of a Councillor cause a backup copy to be made of all documents loaded to the individual Councillors BOARDvantage account including notations contained on the individual Ipad in a format suitable for reading on PC or Mac.

Record of Voting:

For the Motion: Unanimous

ITEM 1 (continued)

ATTACHMENT 1

8 COMMUNITY COUNCIL MEETINGS - Councillor Craig Chung

RESOLUTION: (Moved by Councillors Chung and Maggio)

That the General Manager:

1. Investigate and report on the costs associated with conducting 3 Community Council Meetings in 2013 at community facilities within each of the three wards.
2. Make recommendations for 3 dates and locations for Community Council Meetings to be held in 2013.

Record of Voting:

For the Motion: Unanimous

NOTICES OF RESCISSION

1 NOTICE OF RESCISSION: PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO THE MAYOR AND OTHER COUNCILLORS - Councillor Jeff Salvestro-Martin, Councillor Sarkis Yedelian OAM, Councillor Craig Chung

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

That Council rescind the previous resolution in relation to Item 10 – PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO THE MAYOR AND OTHER COUNCILLORS, passed at the Council Meeting held on 23 October 2012, namely:-

- (a) *That Council endorse the public exhibition of the revised Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy for a period of at least 28 days.*
- (b) *That after the exhibition period of the draft policy, a further report be provided to Council seeking the adoption of the draft Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy and detailing any submissions received.*
- (c) *That Council approve the appropriate disposal of the Mayoral vehicle.*
- (d) *That Clause 28 be amended to include access for meeting rooms at the library, as available for the purposes of Councillors meeting with the public during operating hours and free of charge.*

On being put to the Meeting, the voting on the Rescission Motion was ten (10) votes For and one (1) votes Against. The Rescission Motion was CARRIED.

ITEM 1 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Etmekdjian, Li, Maggio, Pendleton, Pickering, Salvestro-Martin, Simon and Yedelian OAM

Against the Motion: Councillor Perram

The Matter was then AT LARGE.

RESOLUTION: (Moved by Councillors Etmekdjian and Simon)

1. (a) That Council endorse the public exhibition of the revised Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy for a period of at least 28 days.
 - (b) That after the exhibition period of the draft policy, a further report be provided to Council seeking the adoption of the draft Payment of Expenses and Provision of Facilities for the Mayor and Other Councillors Policy and detailing any submissions received.
 - (c) That Council approve the appropriate disposal of the Mayoral vehicle.
 - (d) That Clause 28 be amended to include access for meeting rooms at the library, as available for the purposes of Councillors meeting with the public during operating hours and free of charge.
2. That Council staff bring a further report to Council detailing options on how Councillors' reimbursement of expenses can be streamlined.

Record of Voting:

For the Motion: Unanimous

2 NOTICE OF RESCISSION: MATTER OF URGENCY - REMOVAL OF FIVE SHRUBS ON THE NATURE STRIP AT 163 MORRISON ROAD, PUTNEY - Councillor George Simon, Councillor Denise Pendleton, Councillor Terry Perram

Note: Darryl Fung addressed the meeting in relation to this Item.

MOTION: (Moved by Councillors Simon and Pendleton)

That Council rescind the previous resolution in relation to Matter of Urgency – REMOVAL OF FIVE SHRUBS ON THE NATURE STRIP AT 163 MORRISON ROAD PUTNEY, passed at the Council Meeting held on 23 October 2012, namely:-

That staff remove the five shrubs on the nature strip at 163 Morrison Road, Putney and replace them with low bearing shrubs, in consultation with the local residents.

ITEM 1 (continued)

ATTACHMENT 1

On being put to the Meeting, the voting on the Rescission Motion was five (5) votes For and six (6) votes Against. The Rescission Motion was LOST.

Record of Voting:

For the Motion: The Mayor, Councillor Petch and Councillors Chung, Pendleton, Perram and Simon

Against the Motion: Councillors Etmekdjian, Li, Maggio, Pickering, Salvestro-Martin and Yedelian OAM

QUESTIONS BY COUNCILLORS AS PER POLICY

1 QUESTIONS WITH NOTICE - Councillor Roy Maggio

The following Question with Notice and Answer was provided to Council.

Question 1: **What is Council doing in regard to private certifiers that are not performing satisfactorily?**

Answer 1: Council staff investigate all allegations of improper conduct by private certifiers. The majority of these allegations are usually a misunderstanding of the certifiers role, however, there have been a number of examples where a certifier may have acted inappropriately. In these instances, Council staff allow the certifier the opportunity to remedy the situation. If for some reason the certifier fails to remedy the situation, Council staff report the incident to the Building Professionals Board (BPB). The same opportunity is afforded to the public to report incidents to the BPB. Unfortunately, the BPB is under-resourced and the process of reporting an incident is difficult, therefore a number of incidents do not get the attention they deserve. There is currently a New South Wales Government review of the system being undertaken to look at ways of improvement.

PUBLIC PARTICIPATION ON ITEMS NOT LISTED ON THE AGENDA

Patricia Bloomfield addressed the meeting in relation to Items not Listed on the Agenda earlier in the Meeting as detailed in these Minutes.

ITEM 1 (continued)

ATTACHMENT 1

CLOSED SESSION

ITEM 13 - ALLENGROVE MAJOR PROJECT - LEGAL ADVICE RECEIVED ON OPTIONS TO APPEAL THE APPROVAL GRANTED

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (g) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

LATE ITEM

ITEM 15 – CAMPERDOWN BOWLING AND RECREATION CLUB - LIQUIDATION

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

ITEM 9 – PROPOSED VOLUNTARY PLANNING AGREEMENT FOR A RESIDENTIAL DEVELOPMENT AT LOT 2 DP 1163230 – 126-128 HERRING ROAD, MACQUARIE PARK. LDA2012/314

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (d) (i) commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.

RESOLUTION: (Moved by Councillors Etmekdjian and Pickering)

That the Council resolve into Closed Session to consider the above matters.

Record of Voting:

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

Against the Motion: Councillor Yedelian OAM

Note: The Council closed the meeting at 12.03am. The public and media left the chamber.

ITEM 1 (continued)

ATTACHMENT 1

**13 ALLENGROVE MAJOR PROJECT - LEGAL ADVICE RECEIVED ON
OPTIONS TO APPEAL THE APPROVAL GRANTED**

Note: Noel Plumb (representing Ryde Community Alliance) addressed the meeting in relation to this Item.

RECOMMENDATION: (Moved by The Mayor, Councillor Petch and Councillor Pickering)

That this matter be deferred to the next Council meeting to be held on 27 November 2012 to allow the Group Manager – Environment and Planning to have further discussions with the Principal Solicitor from NSW Environmental Defenders Office (EDO) to confirm what options are available to Council with an invitation being extended to the Principal Solicitor to attend a workshop (open to the public) to be held on 27 November 2012 at 7.30pm, noting the Council meeting will commence at the conclusion of the workshop.

Record of Voting:

For the Motion: Unanimous

15 CAMPERDOWN BOWLING AND RECREATION CLUB - LIQUIDATION

RECOMMENDATION: (Moved by Councillors Pickering and Perram)

1. That Council take actions as detailed in the report and as discussed in Closed Session of Council.
2. That Council directly manage the facilities in the interim and does not undertake an Expression of Interest process for the use of the site, until a future plan for the property is approved by Council.
3. That following a careful analysis of likely net operating costs, necessary adjustments be made in the December quarterly review to allow Council to directly manage the facilities in the best interests of the community as an interim arrangement.
4. That Council conducts preliminary discussions with the NSW State Crown Lands Division of the Department of Land and Property Information to seek their views on the future uses for the site.
5. That the future use and zoning of this site be considered as part of the current review of the zoning of the adjacent Council owned land (known as the Argyle Centre site).

Record of Voting:

For the Motion: Unanimous

ITEM 1 (continued)

ATTACHMENT 1

9 PROPOSED VOLUNTARY PLANNING AGREEMENT FOR A RESIDENTIAL DEVELOPMENT AT LOT 2 DP1163230 - 126-128 HERRING ROAD, MACQUARIE PARK. LDA2012/314

Note: Councillor Pickering disclosed a significant non-pecuniary interest in this Item, for the reason that submissions were prepared and representations provided by him to an intermediary party to Toga.

Note: Councillor Pickering left the meeting at 12.33am and did not return.

Note: Councillor Li left the meeting at 12.33am and did not return.

Note: Councillor Maggio left the meeting at 12.33am and did not return.

RECOMMENDATION: (Moved by Councillors Yedelian OAM and Perram)

- (a) That Council enter into the Voluntary Planning Agreement (VPA) made by Toga Macquarie Developments P/L as part of Development Application LDA2012/314.
- (b) That Council's agreement to enter into the VPA be communicated to the Sydney East Joint Regional Planning Panel when LDA2012/314 is presented to it for determination.

Record of Voting:

For the Motion: Unanimous

OPEN SESSION

RESOLUTION: (Moved by Councillors Perram and Etmekdjian)

That Council resolve itself into open Council.

Record of Voting:

For the Motion: Unanimous

Note: Open Council resumed at 12.38am.

RESOLUTION: (Moved by Councillors Perram and Etmekdjian)

That the recommendations of Items considered in Closed Session be received and adopted as resolutions of Council without any alteration or amendment thereto.

Record of Voting:

For the Motion: Unanimous

ITEM 1 (continued)

ATTACHMENT 1

NATIONAL ANTHEM

The National Anthem was sung at the conclusion of the meeting.

The meeting closed at 12.40am on 14 November 2012

CONFIRMED THIS 27TH DAY OF NOVEMBER 2012

Chairperson

**2 REPORT OF THE PLANNING AND ENVIRONMENT COMMITTEE MEETING
13/12 held on 20 November 2012**

Report prepared by: Meeting Support Coordinator
File No.: GRP/12/5/5/5 - BP12/1296

REPORT SUMMARY

Attached are the Minutes of the Planning and Environment Committee Meeting 13/12 held on 20 November 2012. The Minutes will be listed for confirmation at the next Planning and Environment Committee Meeting.

Items 1 and 2 were dealt with by the Committee within its delegated powers.

The following Committee recommendations for Items 3, 4 and 5 are submitted to Council for determination in accordance with the delegations set out in Council's Code of Meeting Practice relating to Charters, functions and powers of Committees:

3 50 FARNELL STREET, WEST RYDE. LOT 19 DP 30394. Local Development Application for Demolition, construct multi-dwelling housing containing 4 strata titled dwellings. LDA2012/0137.

Report: The Committee inspected the property at 50 Farnell Street, West Ryde.

Note: Mr Anthony Scott (objector on behalf of Hollscott Corporation Pty Ltd) and Mr Andrew Martin (on behalf of the applicant) addressed the Committee in relation to this Item.

RECOMMENDATION: (Moved by Councillors Chung and Salvestro-Martin

- (a) That Local Development Application No. 2012/137 at No. 50 Farnell Street, West Ryde, being LOT 19 in DP 30394, be approved subject to the **ATTACHED** conditions (Attachment 2).
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Councillors Chung, Salvestro-Martin, Simon and Maggio

Against the Motion: Councillor Pendleton

Note: This matter will be dealt with at the Council Meeting to be held on **27 NOVEMBER 2012** as dissenting votes were recorded and substantive changes were made to the published recommendation.

ITEM 2 (continued)**4 66A PELLISIER ROAD, PUTNEY. LOT B DP 419543. Local Development Application for new dual occupancy. LDA2012/0106.**

Report: The Committee inspected the property at 66A Pellisier Road, Putney.

Note: Mr Don Bailey (objector on behalf of residents of 66, 70, 72 and 74 Pellisier Road and 4a and 8 McGowan Road), Mr Mark Grodzicky (on behalf of Liz Grodzicky - owner) and Mr Peter Hall (applicant's architect) addressed the Committee in relation to this Item.

Note: A document from Mr Don Bailey dated 20 November 2012 was tabled in relation to this Item and a copy is ON FILE.

MOTION: (Moved by Councillors Maggio and Chung)

- (a) That Local Development Application No. 2012/106 at No. 66A Pellisier Road, Putney, being LOT B DP 419543, be deferred for the Group Manager Environment and Planning to undertake a mediation with the applicant and objectors to bring the dual occupancy into closer compliance with DCP 2010 and a further report be presented to the Planning and Environment Committee within three (3) months.
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Councillors Chung and Maggio

Against the Motion: Councillors Salvestro-Martin, Simon and Pendleton

The Motion was LOST and the matter was AT LARGE.

MOTION: (Moved by Councillors Simon and Pendleton)

- (a) That Local Development Application No. 2012/106 at No. 66A Pellisier Road, Putney, being LOT B DP 419543, be approved subject to the ATTACHED conditions (Attachment 2).
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Councillors Simon and Pendleton

Against the Motion: Councillors Salvestro-Martin, Chung and Maggio

The Motion was LOST and the matter was AT LARGE.

ITEM 2 (continued)

Note: This matter will be dealt with at the Council Meeting to be held on **27 NOVEMBER 2012** as the matter is AT LARGE.

5 64 PELLISIER ROAD, PUTNEY. LOT 102, DP 86680. Local Development Application for alterations and additions to the existing dwelling and new cabana. LDA2011/0493.

Report: The Committee inspected the property at 64 Pellisier Road, Putney.

Note: Ms Mary Ruggeri (objector), Mr Mark Wakeham (objector on behalf of Marion Wakeham), Mr Mark Grodzicky (objector) and Mr Vito Ignazzi (on behalf of the applicant) addressed the Committee in relation to this Item.

Note: Correspondence and photographs from Mark and Elizabeth Grodzicky dated 20 August 2012 was tabled in relation to this Item and a copy is ON FILE.

Note: Photographs from Vito Ignazzi dated 20 August 2012 was tabled in relation to this Item and a copy is ON FILE.

RECOMMENDATION: (Moved by Councillors Maggio and Chung)

- (a) Local Development Application No. LDA2011/493 for alterations and additions to the existing dwelling and construction of a cabana at No. 64 Pellisier Road, Putney be approved as a deferred commencement subject to amended plans. The amended plans and supporting information shall incorporate the following details:
- i. Reduction of balcony/terrace. The Ground Floor balcony/terrace immediately adjoining the family and dining room shall be reduced by a minimum of 4 metres from the rear and the surplus area be replaced with roofing material to the lower ground floor level below and is not to be accessible.
 - ii. Setback of proposed additions from northern boundary. The proposed additions must be stepped back to be in line with the existing kitchen and dining room side wall (this will equate to a setback of about 1 metre from the northern (side) boundary).
 - iii. Tree Management Plan – adjoining Fig Tree:
The submission of a report and plans from a suitably qualified practicing Arborist which provides details of management of impacts on the adjoining Fig Tree. The report shall include details of the following matters:
 - Details (including a site plan and photographs) regarding investigation to determine the location of the structural roots of the adjoining Fig Tree.

ITEM 2 (continued)

- Structural Plans of columns of the proposed additions in relation to the structural roots of the adjoining Fig Tree (based on the investigations above) – which minimises construction impacts on the Fig Tree.
 - Structural Plans – cabana: The cabana is to be constructed with pier and beam or other construction methods which minimises impacts within the Tree Protection Zone of the Fig Tree. Subfloor infill walling is not acceptable.
 - Proposed physical management of the Fig Tree before, during and post construction, to ensure its longevity.
 - That any proposed pruning of the Fig Tree be limited to 10% of the tree canopy as supervised by an arborist.
- (b) Upon submission of satisfactory details to Council regarding the above matters, the General Manager be the delegated authority to make the consent operational subject to standard conditions of consent to be provided at the Ordinary Meeting of Council 27 November 2012.
- (c) That the persons who made submissions be notified of Council's decision.

Record of Voting:

For the Motion: Councillors Chung, Simon, Pendleton and Maggio

Against the Motion: Councillor Salvestro-Martin

Note: This matter will be dealt with at the Council Meeting to be held on **27 NOVEMBER 2012** as dissenting votes were recorded and substantive changes were made to the published recommendation.

ATTACHMENTS

- 1 Minutes - Planning and Environment Committee - 20 November 2012

ITEM 2 (continued)

ATTACHMENT 1

**Planning and Environment Committee
MINUTES OF MEETING NO. 13/12**

Meeting Date: Tuesday 20 November 2012

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

Time: 4.05pm

Councillors Present: Councillors Simon (Chairperson), Chung, Maggio, Pendleton and Salvestro-Martin.

Councillors Maggio and Salvestro-Martin arrived at 5.43 pm and did not attend inspections.

Apologies: Nil.

Leave of Absence: Councillor Yedelian OAM.

Staff Present: Group Manager – Environment & Planning, Service Unit Manager – Assessment, Service Unit Manager – Environmental Health & Building, Service Unit Manager – Governance, Consultant Town Planner, Team Leader – Assessment, Team Leader – Drainage Engineers, Senior Town Planner, Business Support Coordinator – Environment & Planning and Councillor Support Coordinator.

DISCLOSURES OF INTEREST

There were no disclosures of interest.

1 CONFIRMATION OF MINUTES - Meeting held on 6 November 2012

RESOLUTION: (Moved by Councillors Pendleton and Salvestro-Martin

That the Minutes of the Planning and Environment Committee 12/12, held on Tuesday 6 November 2012, be confirmed.

Record of Voting:

For the Motion: Unanimous

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

ITEM 2 (continued)

ATTACHMENT 1

2 208-214 BLAXLAND ROAD, RYDE. LOT 1 DP 1135185, Part LOTS 12-13 DP 6046. Application pursuant to Section 96(2) of the Environmental Planning & Assessment Act, 1979, to amend the approved three storey residential flat building.

Report: The Committee inspected the property at 208-214 Blaxland Road, Ryde.

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

(a) That the application MOD 2012/41 for modification of Local Development Application No. LDA2008/0630 for demolition of the existing buildings and the construction of a three storey residential flat building comprising 24 units, including basement car parking and landscape works at 208 – 214 Blaxland Road Ryde be approved subject to the deletion of condition 1, its replacement with the following, and by the addition of condition 154:

1. Development is to be carried out in accordance with the following:

(a) Plans No. SK01B to SK08B (inclusive), SK12B, SK14B to SK17B (inclusive) and SK22B dated 18/05/2009, SK09 and SK10, dated 27/08/2008 and SK11A dated 13/03/2009 prepared by Mackenzie Architects, BASIX Certificate number: 238665M dated 19 March 2009, Acoustic Study prepared by Acoustic Logic Consultancy (Report 2008560/0508A/R0/HM) dated 5 August 2008 and support information submitted to Council forming part of the Deferred Commencement Development Consent dated 14 July 2009.

(b) As amended by:

- Distinctive edging on plans SK01D dated 26 October 2011, SK02D dated 25 October 2011, SK05C – SK08C dated 11 October 2011, prepared by Mackenzie Architects,
- Plan SK23C dated 18 October 2011, prepared by Mackenzie Architects,
- Basix Certificate 388670M dated 25 July 2011,
- Noise Impact Assessment prepared by Acoustic Logic dated 18 October 2011.

And support information submitted to Council as part of MOD2011/103.

(c) As amended by distinctive colouring on plans WAE01 – WAE04, WAE08 dated 15.02.2012, plans WAE05A – WAE07A dated 28.06.2012 prepared by Mackenzie Architects.

154. All balustrades or parts of balustrades (except balustrades to unit 24) are to be of solid (non see through) material as shown on the approved plans referred to in Condition 1(a) & 1(b) or the solid parts shall be of opaque (non see through) glass.

(b) That the objector be advised of the decision.

ITEM 2 (continued)

ATTACHMENT 1

- (c) That the Manager Environmental Health & Building issue a penalty notice for the breach of the Development Consent.

Record of Voting:

For the Motion: Unanimous

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

3 50 FARNELL STREET, WEST RYDE. LOT 19 DP 30394. Local Development Application for Demolition, construct multi-dwelling housing containing 4 strata titled dwellings. LDA2012/0137.

Report: The Committee inspected the property at 50 Farnell Street, West Ryde.

Note: Mr Anthony Scott (objector on behalf of Hollscott Corporation Pty Ltd) and Mr Andrew Martin (on behalf of the applicant) addressed the Committee in relation to this Item.

RECOMMENDATION: (Moved by Councillors Chung and Salvestro-Martin

- (a) That Local Development Application No. 2012/137 at No. 50 Farnell Street, West Ryde, being LOT 19 in DP 30394, be approved subject to the **ATTACHED** conditions (Attachment 2).
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Councillors Chung, Salvestro-Martin, Simon and Maggio

Against the Motion: Councillor Pendleton

Note: This matter will be dealt with at the Council Meeting to be held on **27 NOVEMBER 2012** as dissenting votes were recorded and substantive changes were made to the published recommendation.

4 66A PELLISIER ROAD, PUTNEY. LOT B DP 419543. Local Development Application for new dual occupancy. LDA2012/0106.

Report: The Committee inspected the property at 66A Pellisier Road, Putney.

Note: Mr Don Bailey (objector on behalf of residents of 66, 70, 72 and 74 Pellisier Road and 4a and 8 McGowan Road), Mr Mark Grodzicky (on behalf of Liz Grodzicky - owner) and Mr Peter Hall (applicant's architect) addressed the Committee in relation to this Item.

Note: A document from Mr Don Bailey dated 20 November 2012 was tabled in relation to this Item and a copy is ON FILE.

ITEM 2 (continued)

ATTACHMENT 1

MOTION: (Moved by Councillors Maggio and Chung)

- (a) That Local Development Application No. 2012/106 at No. 66A Pellisier Road, Putney, being LOT B DP 419543, be deferred for the Group Manager Environment and Planning to undertake a mediation with the applicant and objectors to bring the dual occupancy into closer compliance with DCP 2010 and a further report be presented to the Planning and Environment Committee within three (3) months.
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Councillors Chung and Maggio

Against the Motion: Councillors Salvestro-Martin, Simon and Pendleton

The Motion was LOST and the matter was AT LARGE.

MOTION: (Moved by Councillors Simon and Pendleton)

- (a) That Local Development Application No. 2012/106 at No. 66A Pellisier Road, Putney, being LOT B DP 419543, be approved subject to the ATTACHED conditions (Attachment 2).
- (b) That the persons who made submissions be advised of Council's decision.

Record of Voting:

For the Motion: Councillors Simon and Pendleton

Against the Motion: Councillors Salvestro-Martin, Chung and Maggio

The Motion was LOST and the matter was AT LARGE.

Note: This matter will be dealt with at the Council Meeting to be held on **27 NOVEMBER 2012** as the matter is AT LARGE.

5 64 PELLISIER ROAD, PUTNEY. LOT 102, DP 86680. Local Development Application for alterations and additions to the existing dwelling and new cabana. LDA2011/0493.

Report: The Committee inspected the property at 64 Pellisier Road, Putney.

Note: Ms Mary Ruggeri (objector), Mr Mark Wakeham (objector on behalf of Marion Wakeham), Mr Mark Grodzicky (objector) and Mr Vito Ignazzi (on behalf of the applicant) addressed the Committee in relation to this Item.

Note: Correspondence and photographs from Mark and Elizabeth Grodzicky dated 20 August 2012 was tabled in relation to this Item and a copy is ON FILE.

ITEM 2 (continued)

ATTACHMENT 1

Note: Photographs from Vito Ignazzi dated 20 August 2012 was tabled in relation to this Item and a copy is ON FILE.

RECOMMENDATION: (Moved by Councillors Maggio and Chung)

- (a) Local Development Application No. LDA2011/493 for alterations and additions to the existing dwelling and construction of a cabana at No. 64 Pellisier Road, Putney be approved as a deferred commencement subject to amended plans. The amended plans and supporting information shall incorporate the following details:
- i. Reduction of balcony/terrace. The Ground Floor balcony/terrace immediately adjoining the family and dining room shall be reduced by a minimum of 4 metres from the rear and the surplus area be replaced with roofing material to the lower ground floor level below and is not to be accessible.
 - ii. Setback of proposed additions from northern boundary. The proposed additions must be stepped back to be in line with the existing kitchen and dining room side wall (this will equate to a setback of about 1 metre from the northern (side) boundary).
 - iii. Tree Management Plan – adjoining Fig Tree:
The submission of a report and plans from a suitably qualified practicing Arborist which provides details of management of impacts on the adjoining Fig Tree. The report shall include details of the following matters:
 - Details (including a site plan and photographs) regarding investigation to determine the location of the structural roots of the adjoining Fig Tree.
 - Structural Plans of columns of the proposed additions in relation to the structural roots of the adjoining Fig Tree (based on the investigations above) – which minimises construction impacts on the Fig Tree.
 - Structural Plans – cabana: The cabana is to be constructed with pier and beam or other construction methods which minimises impacts within the Tree Protection Zone of the Fig Tree. Subfloor infill walling is not acceptable.
 - Proposed physical management of the Fig Tree before, during and post construction, to ensure its longevity.
 - That any proposed pruning of the Fig Tree be limited to 10% of the tree canopy as supervised by an arborist.
- (b) Upon submission of satisfactory details to Council regarding the above matters, the General Manager be the delegated authority to make the consent operational subject to standard conditions of consent to be provided at the Ordinary Meeting of Council 27 November 2012.
- (c) That the persons who made submissions be notified of Council's decision.

ITEM 2 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Councillors Chung, Simon, Pendleton and Maggio

Against the Motion: Councillor Salvestro-Martin

Note: This matter will be dealt with at the Council Meeting to be held on **27 NOVEMBER 2012** as dissenting votes were recorded and substantive changes were made to the published recommendation.

The meeting closed at 7.05 pm.

CONFIRMED THIS 4TH DAY OF DECEMBER 2012.

Chairperson

**3 REPORT OF THE WORKS AND COMMUNITY COMMITTEE MEETING
14/12 held on 20 November 2012**

Report prepared by: Meeting Support Coordinator
File No.: GRP/12/5/5/5 - BP12/1297

REPORT SUMMARY

Attached are the Minutes of the Works and Community Committee Meeting 14/12 held on 20 November 2012. The Minutes will be listed for confirmation at the next Works and Community Committee Meeting.

Items 1 and 3 were dealt with by the Committee within its delegated powers.

The following Committee recommendations for Items 2 and 4 are submitted to Council for determination in accordance with the delegations set out in Council's Code of Meeting Practice relating to Charters, functions and powers of Committees:

2 SHRIMPTONS CREEK - UPGRADE TO WATERLOO ROAD ENTRANCE

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

Note: Councillor Pickering was not present for consideration of this Item.

RECOMMENDATION: (Moved by Councillors Perram and Etmekdjian)

- (a) That Council approve the draft concept plan for the Waterloo Road entry to Shrimptons Creek.
- (b) That Council allocate the amount of \$120,000 from the Macquarie Park Special Levy for the purpose of undertaking the additional works proposed, and that the amount also be consolidated into the next Quarterly Review.
- (c) That Council allocate an additional amount of \$50,000 from the Macquarie Park Special Levy to fully pave the area between Byfield Street and Cottonwood Crescent.

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **27 NOVEMBER 2012** as substantive changes were made to the published recommendation and it is outside the Committee's delegations.

ITEM 3 (continued)**4 WESTMINSTER OVAL – CAPITAL WORKS UPDATE****RECOMMENDATION:** (Moved by Councillors Li and Etmekdjian)

- (a) That Council continue with the scheduled maintenance for Westminster Oval as planned.
- (b) That Council limit the use of the Westminster Oval for 2013 winter season to 30 hours per week with additional maximum 4 hours of school use.
- (c) That the users of the ground be informed of Council's decision to limit the use of Westminster Oval for the 2013 winter season.

Record of Voting:For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **27 NOVEMBER 2012** as substantive changes were made to the published recommendation.

ATTACHMENTS

- 1 Minutes - Works and Community Committee - 20 November 2012

ITEM 3 (continued)

ATTACHMENT 1

**Works and Community Committee
MINUTES OF MEETING NO. 14/12**

Meeting Date: Tuesday 20 November 2012

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

Time: 4.38pm

Councillors Present: The Mayor, Councillor Petch, Councillors Perram (Chairperson), Etmekdjian, Li and Pickering.

The Mayor, Councillor Petch arrived at the meeting at 4.40pm and was not present for consideration of Items 1, 2 and 3.

Councillor Pickering arrived at the meeting at 5.03pm and was not present for consideration of Items 1, 2 or 3.

Apologies: Nil.

Leave of Absence: Councillor Laxale.

Staff Present: Group Manager – Community Life, Group Manager - Public Works, Service Unit Manager – Urban Planning, Service Unit Manager – The Environment, Service Unit Manager – Infrastructure Integration, Service Unit Manager – Open Space, Team Leader – Design and Development and Acting Section Manager – Governance.

DISCLOSURES OF INTEREST

There were no disclosures of interest.

1 CONFIRMATION OF MINUTES - Meeting held on 6 November 2012

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

Note: Councillor Pickering was not present for consideration of this Item.

RESOLUTION: (Moved by Councillors Li and Etmekdjian)

That the Minutes of the Works and Community Committee 13/12, held on Tuesday 6 November 2012, be confirmed.

Record of Voting:

For the Motion: Unanimous

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

ITEM 3 (continued)

ATTACHMENT 1

Note: The Mayor, Councillor Petch left the meeting at 4.43pm.

2 SHRIMPTONS CREEK - UPGRADE TO WATERLOO ROAD ENTRANCE

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

Note: Councillor Pickering was not present for consideration of this Item.

RECOMMENDATION: (Moved by Councillors Perram and Etmekdjian)

- (a) That Council approve the draft concept plan for the Waterloo Road entry to Shrimptons Creek.
- (b) That Council allocate the amount of \$120,000 from the Macquarie Park Special Levy for the purpose of undertaking the additional works proposed, and that the amount also be consolidated into the next Quarterly Review.
- (c) That Council allocate an additional amount of \$50,000 from the Macquarie Park Special Levy to fully pave the area between Byfield Street and Cottonwood Crescent.

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **27 NOVEMBER 2012** as substantive changes were made to the published recommendation and it is outside the Committee's delegations.

3 PUBLIC EXHIBITION OF DRAFT PARRAMATTA RIVER ESTUARY COASTAL ZONE MANAGEMENT PLAN

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

Note: Councillor Pickering was not present for consideration of this Item.

RESOLUTION: (Moved by Councillors Etmekdjian and Li)

- (a) That the Council endorse the exhibition of the Draft Parramatta River Estuary Coastal Zone Management Plan for a period of at least 28 days.
- (b) That a further report on the Parramatta River Estuary Coastal Zone Management Plan be presented for Council's consideration after the public exhibition period has finished and all submissions have been considered by the Parramatta River Estuary Management Committee.
- (c) That Action in the Parramatta River Estuary Coastal Zone Management Plan regarding Ryde be considered in Council's resources plan.

ITEM 3 (continued)

ATTACHMENT 1

Record of Voting:

For the Motion: Unanimous

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

Note: The Mayor, Councillor Petch returned to the meeting at 4.54pm.

LATE ITEM

4 WESTMINSTER OVAL – CAPITAL WORKS UPDATE

RECOMMENDATION: (Moved by Councillors Li and Etmekdjian)

- (a) That Council continue with the scheduled maintenance for Westminster Oval as planned.
- (b) That Council limit the use of the Westminster Oval for 2013 winter season to 30 hours per week with additional maximum 4 hours of school use.
- (c) That the users of the ground be informed of Council's decision to limit the use of Westminster Oval for the 2013 winter season.

Record of Voting:

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **27 NOVEMBER 2012** as substantive changes were made to the published recommendation.

The meeting closed at 5.05pm.

CONFIRMED THIS 4TH DAY OF DECEMBER 2012.

Chairperson

4 ADVISORY COMMITTEES - APPOINTMENT OF REPRESENTATIVES

Report prepared by: Governance Support Coordinator
File No.: CLR/07/8/22 - BP12/1274

REPORT SUMMARY

The report provides a summary of the recent history and current status of the City of Ryde Advisory Committees, including the call for Expressions of Interest and its outcomes, and recommends that Council now determine the Councillor and Community representatives for each Committee.

The specific City of Ryde Advisory Committees addressed within this report are:

- Access Committee
- Audit and Risk Committee
- Bicycle Advisory Committee
- Community Harmony Reference Group
- Eastwood Events and Promotions
- Economic Development Committee (including Macquarie Park Forum)
- Heritage Advisory Committee
- Ryde Hunters Hill Joint Library Services
- Ryde Youth Council
- Sport and Recreation Advisory Committee (including Wheeled Sports)
- Status of Women Advisory Committee

City of Ryde Advisory Committees will be addressed in further reports as follows:

- A further report will be provided to Council on the Ryde Youth Council early in 2013, as its extended nomination period for Expressions of Interest has not yet closed.
- the Citizen Engagement Advisory Committee was considered by Council at its meeting on 13 November 2012.

Additionally as the nature of the City of Ryde's relationship with Central Darling is currently unclear due to significant changes at Central Darling, it is proposed that re-establishment of this committee be deferred until clear direction and requirements from Central Darling are known.

RECOMMENDATION:

- (a) That Council receive the nominations to the City of Ryde Advisory Committees provided under **ATTACHMENT 1 – CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL**, and determine the membership of the City of Ryde Advisory Committees, in accordance with their Terms of Reference.
- (b) That Council determine the Councillor(s) to be members of each City of Ryde Advisory Committee, in accordance with their Terms of Reference.

ITEM 4 (continued)

- (c) That Council nominate a Councillor chairperson to each of these Committees, in accordance with their Terms of Reference.
- (d) That following Council's endorsement of the above recommendations, each Advisory Committee be requested to review their Terms of Reference at their first meeting and report back to Council for confirmation on this matter.
- (e) That Council defer the Country Council Partnership Committee being established pending further details being provided by Central Darling Council.

ATTACHMENTS

- 1** Advisory Committees Expressions of Interests - November 2012 -
CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL
- 2** Advisory Committees Standard Terms of Reference

Report Prepared By:

Lorie Parkinson
Governance Support Coordinator

Report Approved By:

Shane Sullivan
Manager - Governance

Roy Newsome
Group Manager - Corporate Services

ITEM 4 (continued)**Background**

At its meeting of 26 July 2011, Council resolved to *review the structure of the Advisory Committees*. However, at its meeting held on 13 September 2011, it resolved *that this matter be deferred for consultation with all Advisory Committees...(and) that in the interim the status of Advisory Committees remain*.

At its meeting of 22 November 2011, Council endorsed an Advisory Committees consultation plan to be implemented during 2012. The information gained would form the basis of the comprehensive review that was due, following the conduct of the 2012 Local Government elections in September 2012. This plan included:

- Councillor workshops
- surveys of Advisory Committee members
- staff attendance at Advisory Committees
- a workshop with Advisory Committee Convenors, and
- benchmarking with other Councils to identify best practice .

At its meeting of 25 September 2012, Council resolved;

That Council postpone the nomination of Councillors to Advisory Committees and conduct a workshop, noting that a review is currently being undertaken of the Advisory Committee Structure, in accordance with Council's previous resolution, with a further report to be provided back to Council for its consideration by November 2012.

At its meeting of 9 October 2012, Council resolved that this matter was urgent, and;

That a workshop with Councillors be held regarding the Advisory Committees on Tuesday 16 October 2012, followed by an Extraordinary Meeting of Council to determine the matter.

At the Extraordinary Council meeting on 16 October 2012, Council resolved, interalia;

(a) That the following Advisory Committees be convened for a term of 12 months, subject to a report back to Council:

- Access
- Audit
- Bicycle
- Community Harmony Reference Group
- Country Council Partnership
- Eastwood Events and Promotions
- Economic Development (including Macquarie Park)
- Heritage
- Ryde Hunters Hill Joint Library Services

ITEM 4 (continued)

- *Ryde Youth Council*
- *Sport and Recreation (including Wheeled Sports)*
- *Status of Women*

(d) That following the closure of the Expression of Interest period a report be provided to Council at its meeting on 27 November 2012, to determine the representatives on all Advisory Committees, including Councillor nominations for each Committee.

(e) That once Council confirms its Committees, that the Committees be requested to review and confirm the Terms of Reference.

DiscussionExpressions of Interest for Community Representatives

Expressions of Interest were called for interested persons to nominate to be Community Representatives for the following City of Ryde Advisory Committees:

- Access Committee
- Bicycle Advisory Committee
- Community Harmony Reference Group
- Eastwood Events and Promotions
- Economic Development Committee (including Macquarie Park Forum)
- Heritage Advisory Committee
- Ryde Youth Council
- Sport and Recreation Advisory Committee (including Wheeled Sports)
- Status of Women Advisory Committee

Accordingly these were advertised:

- on the City of Ryde website from 23 October 2012;
- in the Northern District Times on 24 October 2012; and
- in Ryde City View on 31 October 2012.

All Committee Members from the previous term were also notified and invited to submit an Expression of Interest.

Committee Members from the Macquarie Park Forum and the Wheeled Sports Advisory Committee were also advised that these committees were to be absorbed into the Economic Development, and Sport and Recreation Committees respectively, and invited to submit an Expression of Interest to those committees.

As the Terms of Reference for the Joint Library Committee, and the Audit and Risk Committee Charter do not include community representation, these Committees were not advertised.

ITEM 4 (continued)

The Advisory Committee nominations closed on 7 November 2012.

Ryde Youth Council's nomination period is longer due to the specific nature of the Committee, and closes on 5 December 2012. This is due to a targeted information and expression of interest process, including specific communications with high schools, youth clubs, Macquarie University and local youth services.

Community Nominations to Advisory Committees

There were 77 Expressions of Interest (EOI) to become Community Representatives for the following City of Ryde Advisory Committees

Advisory Committee	EOIs
Access Committee	8
Bicycle Advisory Committee	4
Community Harmony Reference Group	7
Eastwood Events and Promotions	8
Economic Development Committee (including Macquarie Park)	22
Heritage Advisory Committee	9
Sport and Recreation Advisory Committee (including Wheeled Sports)	13
Status of Women Advisory Committee	6

The details of each nomination, including any late nominations, are provided in **ATTACHMENT 1 – CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL**.

The table below indicates the number of Community representatives for each Advisory Committee, as given in their Terms of Reference.

Committee Title	Community Representative profile
Access Committee	<ul style="list-style-type: none"> • Twelve (12) community representatives
Bicycle Advisory Committee	<ul style="list-style-type: none"> • Two (2) representatives of Bike North • One (1) alternate Bike North delegate • One (1) representative of Macquarie University • One (1) representative of Roads & Traffic Authority • One (1) representative from a major employer in the Macquarie Park area
Community Harmony Reference Group	<ul style="list-style-type: none"> • Persons who are representative of the cultural, ethnic, faith and linguistic diversity of the City of Ryde. • People who reside, work or visit the Ryde Local Government Area who have a demonstrated commitment to community harmony.
Eastwood Events and Promotions	<ul style="list-style-type: none"> • Four (4) members Eastwood Chamber of Commerce • Two (2) members Korean Chamber of Commerce • Two (2) members Eastwood Community Association • Two (2) community representatives

ITEM 4 (continued)

Committee Title	Community Representative profile
Economic Development Committee, including Macquarie Park Forum	Envisaged to be: <ul style="list-style-type: none"> • Four (4) x Commercial Property Owners • Four (4) x Business Community • Two (2) x Educational Institutions • Two (2) x Community Organisations
Heritage Advisory Committee	<ul style="list-style-type: none"> • Community groups represented by one (1) person, including, but not limited to: <ol style="list-style-type: none"> (a) Putney and District Progress Associations (b) Meadowbank West Ryde Progress Association (c) Brush Farm Historical Society (d) Ryde District Historical Society (e) Ryde Hunters Hill Flora and Fauna Preservation Society (f) National Trust of Australia (NSW) • Up to three (3) Individual community representatives.
Sport and Recreation Advisory Committee, including wheeled Sports	<ul style="list-style-type: none"> • One representative from sporting clubs, recreation organisations and regular • hirers that use facilities and/or are located within the City of Ryde
Status of Women Advisory Committee	<ul style="list-style-type: none"> • Eight (8) Community Representatives

Councillor Representatives to Advisory Committees

In addition to Council determining the Community representatives to the Advisory Committees, Council needs to determine the Councillors to be appointed to each Committee.

The table below indicates the number of Councillors to be appointed to each Advisory Committee, as given in their Terms of Reference.

Committee Title	Councillor Delegate
Access Committee	No less than one (1) Councillor appointed annually
Bicycle Advisory Committee	No less than one (1) Councillor appointed annually
Community Harmony Reference Group	No less than one (1) Councillor appointed annually
Eastwood Events and Promotions	No less than one (1) Councillor appointed annually
Economic Development Committee	No less than one (1) Councillor appointed annually
Heritage Advisory Committee	No less than one (1) Councillor appointed annually
Ryde Youth Council	No less than one (1) Councillor appointed annually One (1) alternate Councillor delegate

ITEM 4 (continued)

Committee Title	Councillor Delegate
Sport and Recreation Advisory Committee	No less than one (1) Councillor appointed annually
Status of Women Advisory Committee	No less than one (1) Councillor appointed annually
Audit and Risk Committee	Two (2) Councillors, with each having a nominated alternate.
Joint Library Committee	Two (2) Councillors appointed for a 4-year (or remainder thereof) term One (1) alternate Councillor Delegate

Standard Terms of Reference for Advisory Committees 2012

The standard Terms of Reference for Advisory Committees (**ATTACHMENT 2**) have been amended to include the additional clause referred to in the following Council resolution of 16 October 2012:

- (a) *That Council endorse the ATTACHED standard Terms of Reference for Advisory Committees, subject to the inclusion of a clause that when a member of the Committee misses three consecutive meetings without an apology, the position becomes vacant.*

Financial Implications

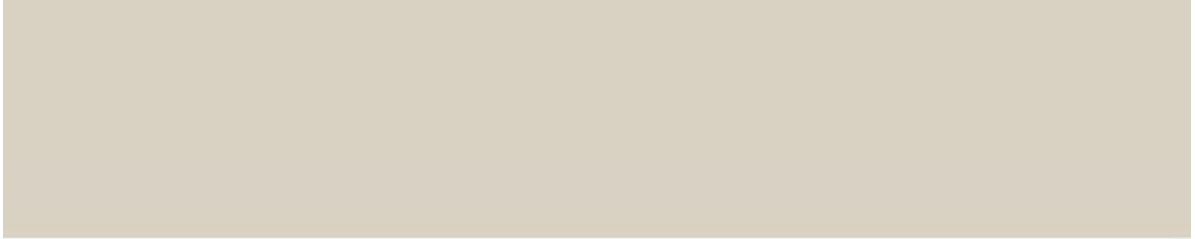
The recommendations in this report will be met from the current budget allocation for Advisory Committees.


Critical Dates

The City of Ryde Advisory Committees provide a mechanism for consultation, advice and feedback. Council has resolved that once Council determines the membership of each Advisory Committee, the Committees will then review and confirm their Terms of Reference. This process cannot commence until the membership of the committees is confirmed.

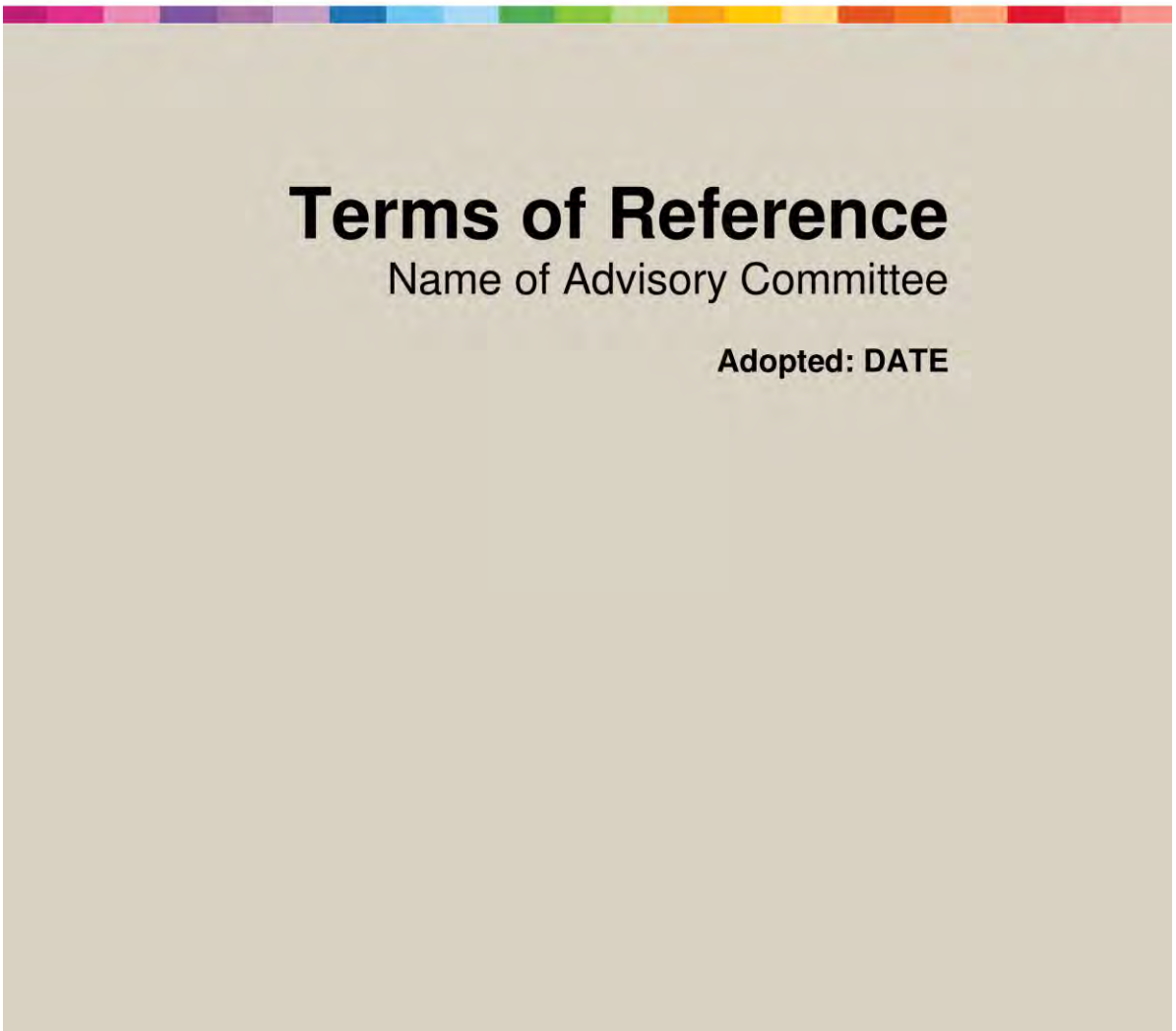
ITEM 4 (continued)

ATTACHMENT 2



 City of Ryde

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ITEM 4 (continued)

ATTACHMENT 2

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Document Version Control

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Change History

Version	Issue Date	Author	Reason for Change
1.2	20/4/10	Shane Sullivan	Resolution of Council 7 October 2008: - that at least one (1) Councillor delegate is required to be appointed (with no upper limit) : page 4 - that the Mayor not automatically be represented on certain Committees : page 4 - that where the Mayor is appointed to be a delegate on an Advisory Committee, it not be necessary that the Mayor be Chairperson of this Committee : page 6 - that a Councillor or an appropriate staff member be Chairperson on an Advisory Committee : page 6
1.2	20/4/10	Shane Sullivan	Resolution of Council 8 July 2008 Minutes of all Advisory Committees to be incorporated in the business papers of the next Council/Committee meeting and then placed on Council's website. : page 7
1.2	20/4/10	Shane Sullivan	Resolution of Council 20 April 2010 Provisions for casual vacancies: page 5
1.3	24/8/11	Shane Sullivan	Reformat to align with City of Ryde branding. Insert paragraph linking role to Community Strategic plan
1.4	1/11/12	Lorie Parkinson	Resolution of Council 16 October 2012. If a member of a Committee misses three consecutive meetings without apology, the position becomes vacant: page 5.

ITEM 4 (continued)

ATTACHMENT 2



Contents

1. Roles	3
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3. Membership, Chairperson and Voting	3
4. Meetings.....	6
5. Communications and Reporting	6
6. Code of Conduct and Other Council Policies	6

1. Roles

The City of Ryde has adopted a Community Strategic Plan and Delivery Plan that will shape all activities and projects over the next four years. Council's Advisory Committees are an important mechanism for consultation, advice and feedback to Council staff on implementation and review of the Community Strategic Plan.

The primary role of the Committee is to:

-

2. Responsibilities

The Committee is responsible for:

-

3. Membership, Chairperson and Voting

Membership of the <Committee> comprises:

- No less than one (1) Councillor appointed annually
(Resolution of Council, 7 October 2008)
-
-
-
-

Note: the Mayor is not automatically represented on certain Committees
(Resolution of Council, 7 October 2008)

Local residents shall be appointed by resolution of Council following advertisement for nominations in at least one local newspaper, on Council's website and in the Mayoral Column. Nominations are to be in writing and are to be circulated in full to the Councillors for evaluation. The Committee will not be involved in the evaluation or selection process of any local resident representatives.

The following City of Ryde staff ordinarily attend the Committee meetings but are not members of the Committee:



ITEM 4 (continued)**ATTACHMENT 2**

Council officers will provide professional advice and administrative support. It should be noted that employees of the Council are not subject to the direction of the Advisory Committee or any members thereof.

Term of Membership to Committee

Members appointed to the Committee shall be appointed for the 4-year (or remainder thereof) term of the current Council, although membership can be altered at any time by resolution of Council. Each September, the current membership of the Committee will be submitted to Council for confirmation.

Membership of the Committee can be withdrawn by resolution of Council only. Council staff will be appointed and removed by the General Manager.

If a member of a Committee misses three consecutive meetings without apology, their membership will be withdrawn and the position will be deemed vacant. (*Resolution of Council, 16 October 2012*).

Casual Vacancy

(*Resolution of Council, 7 October 2008*)

A casual vacancy caused by the resignation or death of a Member, or the withdrawal of membership, will be filled by undertaking the following process:

- (i) Where a casual vacancy occurs, the Committee Facilitator will report this matter to the next Advisory Committee meeting and record it appropriately in the Minutes, and highlight it in the report to the next available Council Meeting.
- (ii) The Committee Facilitator will provide a report to the next available Council Meeting regarding the proposed replacement that will give consideration to the following options:
 - (a) If the Member was nominated as the representative of an organisation it will be recommended that the organisation be invited to nominate a replacement representative (if no alternate member has previously been nominated).
 - (b) If the Member was nominated as an individual, the Committee Facilitator will review the original expressions of interest received and will confirm if any of those individuals who were previously nominated, are still prepared to be considered as a member of the respective committee for the Committee.
 - (c) Where, due to either no other previous nominations, or those nominations not being current, an expression of interest will be called for in replacing member/s, for appointment by Council.
 - (d) Where a vacancy occurs within 9 months of the end of the term of the current Council, the vacancy will not be filled
- (iii) Once endorsed by Council, a Member filling a casual vacancy will hold office for the remainder of the term of the Member he/she has replaced

ITEM 4 (continued)

ATTACHMENT 2

The Chairperson of the Committee is:

- A Councillor or Staff Member as elected by Council.

The Chairperson is to have precedence at the meeting and shall determine the order of proceedings, generally as set by the agenda.

All remarks by members of the Committee and others present shall be made through the Chairperson. In the absence of the Chairperson, another Councillor Member of the Committee or the Committee Facilitator shall chair the meeting.

A staff member appointed as Chairperson of the Committee, does not become a formal member of the Committee by virtue of this position. All staff are representatives of Council only and not members of the Committee. It is not necessary that the Chairperson be a member of the Committee.

Council's Code of Meeting Practice shall be used as the reference guide for any matters pertaining to the Committee meetings that are not otherwise outlined in these Terms of Reference.

The Chairperson is to be a staff member or Councillor. Where the Mayor is appointed to be a delegate, it is not necessary that the Mayor be the Chairperson of this Committee.
(Resolution of Council, 7 October 2008)

Committee Facilitator

A Committee Facilitator shall be appointed by the General Manager. The Facilitator shall be a staff member of Council and is responsible for coordinating the preparation of agendas, invitations and minutes of the Committee. The Facilitator shall also be responsible for coordinating any presentations from guest speakers and for considering requests from members of the public to address the Committee. The Facilitator has the right to refuse a request from a member of the public to address the Committee if it is deemed more appropriate for that person to address a formal Council or Committee meeting.

Voting

No formal voting rules apply. As the Committee has an advisory role, its recommendations are made by consensus and no recommendation is deemed to be a decision of Council unless the matter is referred to Council for determination. If consensus is not achieved, and if required, the matter shall be referred to Council for determination.

Proxy

No voting by proxy is permitted. Only members in attendance at the meeting shall be entitled to participate in the decision making process of the Committee. If a member is unable to attend the meeting but wishes to be in attendance for discussion of a particular matter, he/she can notify the Chairperson prior to the meeting to request deferral of the item to a subsequent meeting or to request that the Chairperson formally indicate the member's view to the Committee during the discussion on the matter. The Committee shall decide if a matter is to be deferred to a subsequent meeting based on the representations made to the Chairperson by the absent member.

Quorum

ITEM 4 (continued)

ATTACHMENT 2

As the Committee is advisory only no quorum is required, however, the Chairperson shall use his/her discretion to determine if any item on the agenda should be deferred to a future meeting if it is considered there are insufficient people at the meeting to consider the item.

4. Meetings

Meeting Schedule and Procedures

Meetings are to be held on the *****. The Chairperson has the authority to call meetings.

The Agenda & meeting papers shall be circulated to members at least 3 days prior to meeting.

Each meeting shall be properly recorded by the taking of minutes.

Public Participation

All meetings of the Committee are public meetings. Members of the public and media can attend meetings as observers, however, they cannot speak at a meeting unless prior arrangements are made through the Committee Facilitator. Presentations shall be limited to a maximum of 5 minutes.

5. Communications and Reporting

The agendas and minutes of the Committee shall be stored as a permanent record of Council, as determined by the General Manager.

The minutes of each meeting shall be circulated to all members as soon as practicable. Any questions by members regarding the minutes are to be referred immediately to the Committee Facilitator and if any error in the minutes is confirmed, the Committee Facilitator shall arrange to make the appropriate changes.

The Minutes of all Advisory Committees will be reported in the Councillor Information Bulletin within two (2) weeks of the Committee meeting. However, if a resolution of Council is required, e.g. allocation of funds, resources or an amendment to any Council Policy, then the Minutes shall be reported to the next available Council or Committee of the Whole meeting.

All agendas shall be published on Council's website within 5 days of completion.

All Advisory Committee minutes shall be published on Council's website within 5 days of completion or adoption by Council.

A report may be prepared for Council's consideration where the Committee suggests an action (or actions) which staff cannot carry out within existing delegations.

Members of the Committee are not permitted to speak to the media as representatives of the Committee unless approved by Council.

6. Code of Conduct and Other Council Policies

Each Committee member who is not otherwise a Councillor or staff member shall be provided with a copy of Council's Code of Conduct and other related policies that may be applicable to the operation of the Committee.

The conduct of each Committee member is expected to be consistent with the principles outlined in these Council publications.

5 INVESTMENT REPORT - October 2012

Report prepared by: Chief Financial Officer**File No.:** GRP/09/3/2/7 - BP12/1304

REPORT SUMMARY

This report details Council's performance of its investment portfolio for the months of October 2012 and compares it against key benchmarks. The report includes the estimated market valuation of Council's investment portfolio, loan liabilities, an update on Council's legal action and a commentary on significant events in global financial markets.

Council's financial year to date return is 5.30%, 1.67% above benchmark. Income from interest on investments and proceeds from sale of investments totals \$1.43M, which is \$278K above budget projections, which will improve Council's Working Capital result at 30 June 2013.

RECOMMENDATION:

That Council endorse the report of the Chief Financial Officer dated 5 November 2012 on Investment Report – October 2012.

ATTACHMENTS

There are no attachments for this report.

Report Prepared By:

John Todd
Chief Financial Officer

Report Approved By:

Roy Newsome
Group Manager - Corporate Services

ITEM 5 (continued)

Discussion

Council's Responsible Accounting Officer, is required to report monthly on Council's Investment Portfolio and certify that the Investments are held in accordance with Council's Investment Policy and Section 625 of the Local Government Act.

Council's investments complied with the Minister for Local Government's Investment Order dated 12 January 2011 and Council's Investment Policy when acquired, however the following investments are now outside the Minister's Order:

Investment	Rating	Maturity	Face Value	Book Value
• Grange IMP - Merimbula CDO	N/R	20/06/2013	\$0.20m	\$0.00m
• - Global Bank Note CDO	N/R	20/09/2014	\$0.50m	\$0.00m
• Oasis CDO *	CC	04/09/2014	\$1.00m	\$0.00m
• FOCUS Note	AA	20/12/2012	\$0.50m	\$0.50m

(* Council at its meeting of 25 May 2010 wrote down/ impaired the Oasis CDO to a nominal value, this being funded from the Financial Security Reserve.)

Under the Minister's Order, Council is required to divest itself of these investments as soon as practicable. These investments were purchased with the intention of holding them to maturity, with the exception of the investments in the Grange IMP, which was a managed fund.

Investment Performance Commentary

Council's performance against the benchmark for returns of its investment portfolio for the months of October 2012 and the past 12 months are as follows:

	Oct 2012	12 Mth	FYTD
Council Return	5.07	5.48	5.30
Benchmark	3.55	4.23	3.62
Variance	1.52	1.25	1.67

Council's investment portfolio as at the end of October was as follows:

Cash/Term Deposits	\$66.0M	65.06%
Floating Rate Notes	\$17.9M	17.60%
Fixed Rate Bonds	\$2.0M	1.96%
Other Financial Products	\$0.5M	0.49%
Total Cash Investments	\$86.4M	
Property	\$15.1M	14.89%
Total Investment Portfolio	\$101.5M	

Council continues to utilise the Federal Government's current guarantee (\$250K) investing in Term Deposits with a range of Authorised Deposit Taking Institutions (ADI's) on short to medium term investments (generally 30 days to six months maturity) where more competitive rates are available.

ITEM 5 (continued)

This guarantee is in a transitory period, where term deposits made before 10 September 2011 continue to be covered at the current \$1 million level from now until 31 December 2012, or until the deposit matures, whichever occurs sooner. Any term deposits made after 10 September 2011 are guaranteed by the Federal Government up to \$250K.

Financial Security Reserve (FSR)

The Financial Security Reserve has a balance of \$2.072M as at October 2012 as detailed below:

Financial Security Reserve	(\$'000)
Balance 1 July 2012	2,064
Interest on Written Down CDO's ⁽¹⁾	8
Proceeds from Sales & Maturities ⁽²⁾ of Written Down CDO's	0
Balance of Financial Security Reserve	2,072

(1) Council continues to receive interest on the written down CDO investments.

(2) There have been no sales to date in 2012/2013.

Council has not indicated what it wishes to do with this reserve in the longer term, but had resolved to transfer all proceeds and interest earned on written down investments to this reserve.

Economic Commentary

The RBA left the official cash rate unchanged on Melbourne Cup day, and are waiting to see what the effects of previous cash rate cuts are before their next move, though it's likely that local data will be of less import than what happens in global markets.

US growth continues to be slow, even though jobs growth is slowly improving. The major concern now is the looming "fiscal-cliff", in which \$607B in tax increases and funding cuts automatically come into law in January unless lawmakers act.

The national accounts for China show that economic growth slowed for the 7th straight quarter, with GDP growth down to 7.4%.

In the Eurozone, there's little good news. Unemployment remains above 10% across the EU, with the peripheral countries such as Spain and Greece stubbornly remaining above 25%, and youth unemployment topping 50%. Weakness is also growing in the core countries, with the labour market in Germany and France faltering.

Legal Issues

As previously reported to Council, the LGFS Rembrandt CDO Investment and the Grange (Lehman Brothers) IMP Investment are currently before the Courts. Council at its meeting on 17 July 2012 also endorsed being a third party to an action against the CBA for the Oasis CDO investment.

ITEM 5 (continued)

The following update is provided in respect of Council's legal action in these matters due to recent developments.

Lehman / Grange IMP

On Friday 21 September 2012, Justice Rares handed down the judgment in this matter, which was in favour of the Councils involved in this legal action, and was reported in the September Investment Report. Council is still waiting for final orders to be handed down, which are expected in December 2012.

LGFS – Rembrandt

On 5 November Federal Court Justice Jayne Jagot ruled that Councils were entitled to succeed in their claim for damages against LGFS, ABN AMRO and Standard & Poors (S&P). This result has vindicated Council's Investment in this product with Justice Jayne Jagot finding against LGFS, ABN AMRO and S&P had collectively been responsible for misleading and deceptive conduct and negligent misrepresentation of this investment to Councils. S&P have stated they will be lodging an appeal and further updates on this matter, will be provided to Council when available.

CBA – Oasis and Palladin

Council has endorsed Council being a third party to an action against CBA in relation to the Oasis CDO investments for \$1 million that Council has written down to zero. It is still early in this legal action being taken and no further updates have been received since last reported to Council.

While Council has written off this investment, the investment has 1 further default until it completely defaults. Council has been approached to sell this investment which currently has a market value of between \$0.15-\$0.17 cents. Council is currently considering selling this investment, if these offers can be confirmed as this offer is equivalent to two years of interest on this investment.

As part of this action, Council is also party to action against CBA for its investment in the Palladin CDO, of which Council held \$2M. This investment defaulted in October 2008.

Council's Property Investment Portfolio

The following properties were held as part of Council's Property Investment portfolio:

- 2 Dickson Avenue, West Ryde
- 1a Station St, West Ryde
- 8 Chatham Road, West Ryde
- 202 Rowe St, Eastwood (commercial)
- 226 Victoria Rd, Gladesville (commercial)
- West Ryde Car Park Site
- Herring Road Air Space Rights

ITEM 5 (continued)

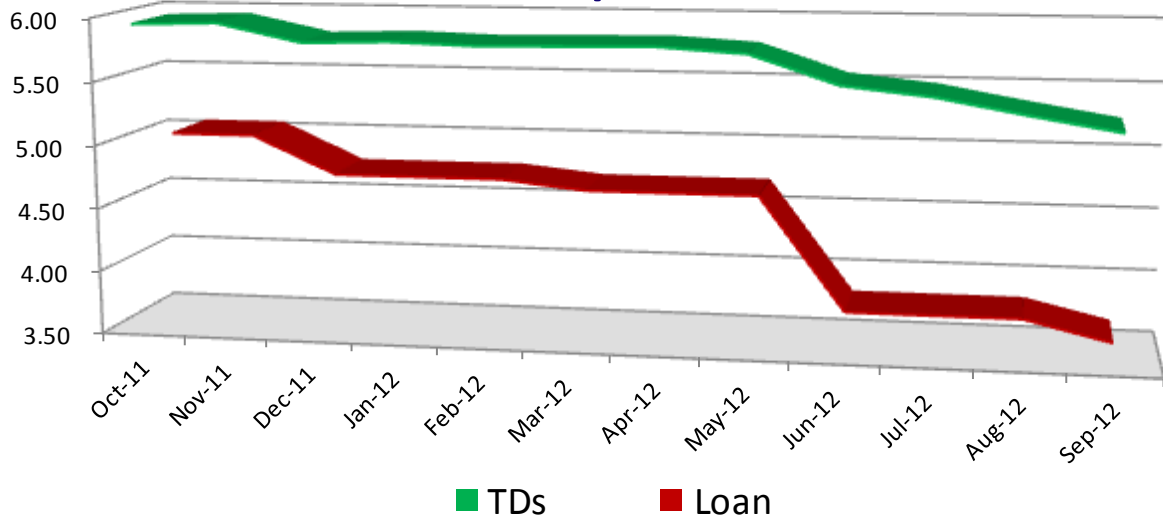
The properties within this portfolio are under review as part of the updating of the Asset Management Plans to ensure that Council clearly identifies those properties that are held as an investment, which may also include commercial properties and other operational assets that may be earmarked for future development. Once this review is complete, it will be reported to Council for consideration.

Loan Liability

Council’s loan liability as at 31 October 2012 was \$3.8 million which represents the balance of one loan taken out in 2004 for the Civic Centre Redevelopment and refinancing the West Ryde Tunnel. This loan was for 15 years and was negotiated at a very attractive rate for Council at 90 Day BBSW + 20 basis points and is reset every quarter.

There is no advantage to Council in changing these arrangements or repaying this loan earlier than planned. Council is receiving a better rate of return on its investments than it is paying on the loan. The following graph shows the gap between the average interest rate earned on Council’s term deposits (top line) compared to the interest rate applying to this loan (bottom line).

Term Deposits/Loan Interest Rate Comparison



ITEM 5 (continued)

Debt Service Ratio

It should be noted that whilst Council's debt service ratio is low, all of Council's funds are committed to operational costs and projects of a capital and non-capital nature. This means that Council does not have the capacity to take on any additional debt without a new dedicated revenue stream to fund the loan repayments or by cutting services.

Debt Service Ratio		
Category 3 Councils	2009/10	2.77%
City of Ryde	2011/12	0.75%

Types of Investments

The following are the types of investments held by Council:

- **At Call** refers to funds held at a financial institution, and can be recalled by Council either same day or on an overnight basis.
- A **Floating Rate Note (FRN)** is a debt security issued by a company with a variable interest rate. This can either be issued as Certificates of Deposit (CD) or as Medium Term Notes (MTN). The interest rate can be either fixed or floating, where the adjustments to the interest rate are usually made quarterly and are tied to a certain money market index such as the Bank Bill Swap Rate.
- A **Fixed Rate Bond** is a debt security issued by a company with a fixed interest rate over the term of the bond.
- A **Floating Rate Collateralised Debt Obligation (CDO)** is an investment backed by a diversified pool of one or more classes of debt. These investments are for longer terms and offer a higher rate of interest. Credit ratings are assigned to these investments as detailed in the portfolio.

Credit Rating Information

Credit ratings are generally a statement as to an institution's credit quality. Ratings ranging from AAA to BBB- (long term) are considered investment grade.

A general guide as to the meaning of each credit rating is as follows:

AAA:	the best quality companies, reliable and stable
AA:	quality companies, a bit higher risk than AAA
A:	economic situation can affect finance
BBB:	medium class companies, which are satisfactory at the moment
BB:	more prone to changes in the economy
B:	financial situation varies noticeably
CCC:	currently vulnerable and dependent on favourable economic conditions to meet its commitments
CC:	highly vulnerable, very speculative bonds

ITEM 5 (continued)

- C: highly vulnerable, perhaps in bankruptcy or in arrears but still continuing to pay out on obligations
- D: has defaulted on obligations and it is believed that it will generally default on most or all obligations

Note: Ratings from 'AA' to 'CCC' may be modified by the addition of a plus (+) or minus (-) sign to show relative standing within the major rating categories.

A "p" after the rating is a commonly used shorthand method of indicating that the investment principal is given a rating, but the interest is not. This is most commonly used for capital protected products, where the income stream is derived from a number of factors and/or variables which are unable to be reliably estimated, such as share prices.

ITEM 5 (continued)
INVESTMENT SUMMARY AS AT 31 OCTOBER 2012

Issuer	Investment Name	Investment Rating	Invested at 31-Oct-12 \$000's	Annualised Period Return (%)	12 Month Average Return on Current Investments	Return since 01 July 2012	% of Total Invested	Indicative Market Value ** \$000's	% Market Value
Helix Capital	1. OASIS	CC	0	5.38	6.04	5.22	0.00	0	0.00%
Westpac	2. Focus	AA-	500	0.00	0.00	0.00	0.58	501	100.14%
Grange	3. Grange IMP	Unrated	0	0.00	0.00	0.00	0.00	0	0.00%
Westpac	4. Westpac At Call	AA-	7,297	3.37	3.99	3.51	8.45	7,297	100.00%
Westpac	5. Westpac Term Deposit 2	AA-	1,000	4.93	4.93	4.93	1.16	1,000	100.00%
Bank of Queensland	6. Bank of Queensland TD	BBB+	750	5.37	6.01	5.53	0.87	750	100.00%
ANZ	7. ANZ Term Deposit	AA-	1,000	5.01	5.38	5.01	1.16	1,000	100.00%
Westpac	8. St George Term Deposit	A+	1,000	5.63	5.63	5.63	1.16	1,000	100.00%
NAB	9. NAB Term Deposit	AA-	1,000	5.49	5.69	5.49	1.16	1,000	100.00%
Westpac	10. Westpac Term Deposit	AA-	1,000	5.15	5.15	5.15	1.16	1,000	100.00%
Westpac	11. Westpac Term Deposit	AA-	500	4.95	4.95	4.95	0.58	500	100.00%
NAB	12. NAB Term Deposit	AA-	1,000	6.60	6.60	6.60	1.16	1,000	100.00%
Westpac	13. Westpac Term Deposit	AA-	500	4.88	4.88	4.88	0.58	500	100.00%
NAB	14. NAB Term Deposit	AA-	1,000	5.32	5.55	5.32	1.16	1,000	100.00%
Police & Nurses Ltd	15. Police & Nurses Ltd	Unrated	500	5.06	5.43	5.03	0.58	500	100.00%
CBA	16. Bankwest Term Deposit	AA-	1,000	5.19	5.67	5.31	1.16	1,000	100.00%
NAB	17. NAB Term Deposit	AA-	1,000	5.73	5.75	5.73	1.16	1,000	100.00%
Railways CU	18. Railways CU	Unrated	500	5.13	5.71	5.33	0.58	500	100.00%
Qld Police CU	19. Qld Police CU TD	Unrated	500	4.53	5.47	4.91	0.58	500	100.00%
Qld Country CU	20. Qld Country Credit Union	Unrated	500	5.42	5.55	5.42	0.58	500	100.00%
Community CPS	21. Community CPS TD	Unrated	500	4.96	5.66	4.97	0.58	500	100.00%
Bendigo and Adelaide Bank	22. Bendigo Bank TD	A-	1,000	4.96	5.50	4.96	1.16	1,000	100.00%
Hunter United Credit Union	23. Hunter United Credit Union TD	Unrated	500	4.67	5.13	5.00	0.58	500	100.00%
CUA	24. Credit Union Australia TD	BBB+	1,000	5.82	5.90	5.82	1.16	1,000	100.00%
Coastline CU	25. Coastline Credit Union TD	Unrated	500	4.70	5.39	5.18	0.58	500	100.00%
Australian Defence Credit Union	26. Australian Defence CU TD	Unrated	500	4.81	5.57	5.11	0.58	500	100.00%
Rural Bank	27. Rural Bank	A-	1,000	6.48	6.48	6.48	1.16	1,000	100.00%
Banana Coast CU	28. Banana Coast CU TD	Unrated	500	5.21	5.64	5.21	0.58	500	100.00%
Qantas Staff CU	29. Qantas Staff CU TD	BBB	500	4.94	4.89	4.89	0.58	500	100.00%
Southern Cross CU	30. Southern Cross CU TD	Unrated	500	5.22	5.76	5.22	0.58	500	100.00%
B&E Ltd	31. B & E Building Soc TD	Unrated	500	4.45	5.46	4.92	0.58	500	100.00%
Victoria Teachers CU	32. Victoria Teachers CU	Unrated	500	5.06	5.63	5.06	0.58	500	100.00%
CBA	33. CBA TD	AA-	2,000	5.76	5.76	5.76	2.32	2,000	100.00%
Me Bank	34. ME Bank TD	BBB	1,000	5.07	5.69	5.34	1.16	1,000	100.00%
Macquarie Bank	35. Macquarie Bank Term Deposit	A	500	4.86	5.60	4.86	0.58	500	100.00%
CBA	36. Bankwest Term Deposit	AA-	1,000	7.00	7.00	7.00	1.16	1,000	100.00%
IMB	37. IMB TD	BBB	1,000	4.58	5.56	5.01	1.16	1,000	100.00%
Summerland CU	38. Summerland CU TD	Unrated	250	5.05	5.61	5.22	0.29	250	100.00%
Wide Bay CU	39. Wide Bay CU TD	BBB	500	5.03	5.63	5.12	0.58	500	100.00%
Northern Beaches CU	40. Northern Beaches CU TD	Unrated	500	4.76	5.71	4.99	0.58	500	100.00%
Queenslanders CU	41. Queenslanders CU TD	Unrated	500	5.16	5.57	5.16	0.58	500	100.00%
Warwick CU	42. Warwick CU TD	Unrated	500	5.19	5.59	5.19	0.58	500	100.00%
Maitland Mutual	43. Maitland Mutual Bldg Soc TD	Unrated	500	4.55	5.72	5.36	0.58	500	100.00%
AMP	44. AMP eASYSaver	A	939	4.10	4.90	4.29	1.09	939	100.00%
CBA	45. CBA Term Deposit	AA-	1,000	4.45	5.39	5.30	1.16	1,000	100.00%

ITEM 5 (continued)

Issuer	Investment Name	Investment Rating	Invested at 31-Oct-12 \$000's	Annualised Period Return (%)	12 Month Average Return on Current Investments	Return since 01 July 2012	% of Total Invested	Indicative Market Value ** \$000's	% Market Value
Gateway CU	46. Gateway CU TD	Unrated	500	4.97	5.59	4.97	0.58	500	100.00%
Rabobank	47. Rabobank TD	AA	500	5.01	5.77	5.53	0.58	500	100.00%
Newcastle Perm Bldg Soc	48. Newcastle Perm Bldg Soc	BBB+	1,000	5.04	5.55	5.07	1.16	1,000	100.00%
QT Mutual Bank	49. QT Mutual Bank	Unrated	500	4.52	5.76	5.50	0.58	500	100.00%
ING	50. ING TD	A	1,000	6.62	6.62	6.62	1.16	1,000	100.00%
Greater Bldg Soc	51. Greater Bldg Soc TD	BBB	1,000	5.12	5.61	5.18	1.16	1,000	100.00%
Holidaycoast CU	52. Holidaycoast CU TD	Unrated	500	5.32	5.43	5.32	0.58	500	100.00%
Bank of Queensland	53. BoQ TCD	BBB+	2,000	5.15	5.69	5.22	2.32	2,010	100.50%
Suncorp-Metway	54. Suncorp Metway FRN	A+	1,000	4.65	5.29	4.63	1.16	1,003	100.33%
Intech CU	55. Intech CU TD	Unrated	500	5.03	5.69	5.12	0.58	500	100.00%
Beirut Hellenic Bank (Aust)	56. Beirut Hellenic Bank TD	Unrated	250	5.04	5.82	5.10	0.29	250	100.00%
AMP	57. AMP TD	A	1,000	7.14	7.14	7.14	1.16	1,000	100.00%
Rabobank	58. Rabobank TD	AA	500	5.05	5.83	5.47	0.58	500	100.00%
Bendigo and Adelaide Bank	59. Bendigo and Adelaide Bank FRN	A-	1,000	5.04	5.72	5.08	1.16	1,003	100.31%
Community First CU	60. Community First CU TD	Unrated	500	4.85	5.52	4.96	0.58	500	100.00%
Heritage Bank	61. Heritage Bank	BBB-	1,000	5.09	5.54	5.21	1.16	1,000	100.00%
CBA	62. CBA TD	AA-	1,000	5.00	4.89	4.98	1.16	1,000	100.00%
Rabobank	63. Rabodirect At-call	AA	957	4.10	4.74	4.27	1.11	957	100.00%
Me Bank	64. ME Bank At Call Account	BBB	968	4.10	4.79	4.27	1.12	968	100.00%
NAB	65. NAB FRN	AA-	1,001	4.60	5.39	4.72	1.16	1,014	101.41%
NAB	66. NAB FRN	AA-	998	4.72	5.51	4.83	1.16	1,014	101.41%
CBA	67. CBA FRN	AA-	999	4.87	5.40	4.95	1.16	1,014	101.41%
Westpac	68. Westpac FRN	AA-	997	4.96	5.48	4.99	1.15	1,012	101.23%
CBA	69. CBA FRN	AA-	998	4.93	5.46	5.01	1.16	1,014	101.41%
NAB	70. NAB FRN	AA-	992	4.90	5.70	5.02	1.15	1,014	101.41%
Westpac	71. Westpac FRN	AA-	998	4.89	5.41	4.92	1.16	1,013	101.33%
NAB	72. NAB FRN	AA-	993	4.88	5.68	4.99	1.15	1,014	101.41%
CBA	73. CBA FRN	AA-	993	5.10	5.64	5.18	1.15	1,014	101.41%
ANZ	74. ANZ FRN	AA-	991	5.17	5.70	5.20	1.15	1,012	101.23%
Rabobank	75. Rabobank FRN	AA	988	5.16	5.82	5.33	1.14	1,002	100.21%
Police CU (SA)	76. Police CU - SA	Unrated	500	5.70	5.68	5.70	0.58	500	100.00%
Investec	77. Investec TD	BBB-	250	5.24	5.78	5.24	0.29	250	100.00%
Territory Insurance Office	78. TIO Term Deposit	AA+	1,000	3.78	4.97	4.65	1.16	1,000	100.00%
NAB	79. NAB Fixed MTN	AA-	993	6.30	6.31	6.33	1.15	1,084	108.38%
Bankstown City CU	80. Bankstown City CU TD	Unrated	250	4.99	5.53	5.20	0.29	250	100.00%
Westpac	81. Westpac Fixed MTN	AA-	996	6.20	6.22	6.23	1.15	1,082	108.24%
ING	82. ING Direct	A	1,000	4.67	6.00	5.83	1.16	1,000	100.00%
Macquarie Bank	83. Macquarie Bank TD	A	500	6.50	6.50	6.50	0.58	500	100.00%
CBA	84. CBA Retail Bond	AA-	954	5.14	5.48	5.32	1.10	966	99.55%
B&E Ltd	85. B & E Building Society TD	Unrated	500	4.47	5.65	5.53	0.58	500	100.00%
Bank of Cyprus (Aust)	86. Bank of Cyprus TD	Unrated	250	6.05	6.05	6.05	0.29	250	100.00%
Me Bank	87. ME Bank TD	BBB	1,000	5.09	5.22	5.20	1.16	1,000	100.00%
CBA	88. CBA Retail Bonds	AA-	489	5.36	5.65	5.54	0.57	498	99.55%
CBA	89. CBA Retail Bonds	AA-	489	5.38	5.64	5.57	0.57	498	99.55%
Bank of Queensland	90. Bank of Queensland TD	BBB+	1,000	5.28	5.28	5.28	1.16	1,000	100.00%
Bank of Queensland	91. Bank of Queensland TD	BBB+	1,000	4.70	5.08	5.08	1.16	1,000	100.00%
Investec	92. Investec TD	BBB-	250	6.15	6.15	6.15	0.29	250	100.00%
IMB	93. IMB TD	BBB	500	5.15	5.15	5.15	0.58	500	100.00%
CBA	94. CBA Retail Bond	AA-	490	5.29	5.36	5.36	0.57	498	99.55%
Westpac	95. St George TD	AA-	1,000	5.04	5.04	5.04	1.16	1,000	100.00%
CBA	96. CBA Retail Bond	AA-	490	5.28	5.32	5.32	0.57	498	99.55%
Rural Bank	97. Rural Bank TD	A-	1,000	5.06	5.06	5.06	1.16	1,000	100.00%
ING	98. ING Floating Rate TD	A	1,000	5.98	5.98	5.98	1.16	1,000	100.00%
IMB	99. IMB TD	BBB	1,000	4.88	4.88	4.88	1.16	1,000	100.00%
Westpac	100. St George TD	AA+	1,000	4.91	4.91	4.91	1.16	1,000	100.00%

ITEM 5 (continued)

Issuer	Investment Name	Investment Rating	Invested at 31-Oct-12 \$000's	Annualised Period Return (%)	12 Month Average Return on Current Investments	Return since 01 July 2012	% of Total Invested	Indicative Market Value ** \$000's	% Market Value
Bank of Queensland	101. Bank of Queensland TD	BBB+	1,000	5.13	5.13	5.13	1.16	1,000	100.00%
NAB	102. NAB TD	AA-	1,000	4.80	4.80	4.80	1.16	1,000	100.00%
Westpac	103. St George TD	AA-	600	4.92	4.92	4.92	0.69	600	100.00%
Me Bank	104. ME Bank TD	BBB	1,000	4.88	4.88	4.88	1.16	1,000	100.00%
			86,360	5.07	5.48	5.19	100	86,790	

*Monthly returns when annualised can appear to exaggerate performance

**Market valuations are indicative prices only, and do not necessarily reflect the price at which a transaction could be entered into.

Return including Matured/Traded Investments

Weighted Average Return

Benchmark Return: UBSA 1 Year Bank Bill Index (%)

Variance From Benchmark (%)

5.07	5.48	5.30
3.55	4.23	3.62
1.52	1.25	1.67

Investment Income

	\$000's
This Period	358
Financial Year To Date	1,431
Budget Profile	1,153
Variance from Budget - \$	278

I certify that as at the date of this report, the investments listed have been made and are held in compliance with Council's Investment Policy and applicable legislation, with the exception of the following investments:

Grange IMP	- Merimbula CDO	NR
	- Global Bank Note CDO	NR
Oasis CDO		CC
FOCUS Note		AA-



John Todd Date: 05/11/2012

ITEM 5 (continued)

Council's Investment Powers

Council's investment powers are regulated by Section 625 of the Local Government Act, which states:

- (1) A council may invest money that is not, for the time being, required by the council for any other purpose.
- (2) Money may be invested only in a form of investment notified by order of the Minister published in the Gazette.
- (3) An order of the Minister notifying a form of investment for the purposes of this section must not be made without the approval of the Treasurer.
- (4) The acquisition, in accordance with section 358, of a controlling interest in a corporation or an entity within the meaning of that section is not an investment for the purposes of this section.

Council's investment policy requires that all investments are to be made in accordance with:

- Local Government Act 1993 - Section 625
- Local Government Act 1993 - Order (of the Minister) dated 12 January 2011
- The Trustee Amendment (Discretionary Investments) Act 1997 – Sections 14A(2), 14C(1) & (2)
- Local Government (Financial Management) Regulation 1993
- Investment Guidelines issued by the Department of Local Government

Overview of Investments

An overview of all investments held by the City of Ryde as at 31 October is provided below:

1. **OASIS (Originally AA now CC):** This is a CDO that pays 140 bps above 90 day BBSW. This investment was purchased on 4 September 2006. The investment is for eight years and matures on 4 September 2014. This is a CDO that is actively managed by Société Générale. The CDO was downgraded to BBB- on 29 September 2008 with advice being received in early April 2009 that this investment has been further downgraded to CCC-. Defaults within the portfolio have resulted in a capital loss of approximately 35%. No fees are payable by Council on this investment. Council impaired this investment to a nominal value at its meeting of 25 May 2010 with such being funded from the Financial Security Reserve.
2. **FOCUS Note (AA-p):** This investment was purchased on 20 December 2006. This is a medium to long term investment (three-seven years) and matures on 20 December 2012. The capital of the investment is guaranteed by Westpac on maturity. This investment consists of a dynamically managed portfolio comprising investments in the BT Focus Australian Share Fund, and aims to outperform the S&P/ASX 300 Accumulation Index by 5% over a three to five year horizon.

ITEM 5 (continued)

Westpac receive a principal protection fee of 0.90 p.a., an upfront structuring and distribution fee of 2.50%. BT Financial Group receives a management fee of 0.60% p.a., and a performance fee of 15%. The performance fee is only paid if the performance of the fund before fees exceeds the S&P/ASX Accumulation index plus the management fee. On 28 October 2008 advice was received that the recent volatility in the global financial markets had triggered the capital protection mechanism in this investment with 100% of the portfolio now invested in a zero coupon bond . Council will not receive any further coupon payments between now and the December 2012 maturity date but will receive the full face value of the investment at maturity.

- 3. Grange (Lehman Brothers) IMP:** This is a portfolio of FRNs, CDOs and Bank issued securities managed by Grange Securities on Council's behalf. Lehman Brothers have cancelled the management agreement, and this portfolio is currently static. The IMP comprises the following investments:

<i>Investment</i>	<i>Maturing</i>
Merimbula CDO	20/06/2013
AAA (Berryl) Global Bank Note CDO	20/09/2014

- 4. Westpac at Call Account (AA-):** This investment is an at call account, paying the short term money market rate. These funds are used for operational purposes.
- 5. Westpac Term Deposit (AA-):** This investment is a 212 day term deposit, paying 5.25% (5.37% annualised), and matures on 1 February 2013.
- 6. Bank of Queensland TD (BBB):** This investment is a 183 day term deposit, paying 4.88% (4.93% annualised), and matures on 5 April 2013.
- 7. ANZ Term Deposit (AA-):** This investment is a 180 day term deposit, paying 4.95% (5.01% annualised), and matures 20 February 2013.
- 8. St George Term Deposit (AA-):** This investment is a 181 day term deposit, paying 5.55% p.a. (5.63% annualised), and matures 5 November 2012.
- 9. NAB Term Deposit (AA-):** This investment is a 180 day term deposit, paying 5.42% p.a. (5.49% annualised), and matures 7 November 2012.
- 10. Westpac Term Deposit (AA-):** This investment is a one year term deposit, paying 5.15% % (5.15% annualised), and matures 30 May 2013.
- 11. Westpac Term Deposit (AA-):** This investment is a three year term deposit, paying 4.95% pa, and matures 21 September 2015.
- 12. NAB Term Deposit (AA-):** This investment is a three year term deposit, paying 6.60% p.a., and matures 4 April 2014.

ITEM 5 (continued)

- 13. Westpac Term Deposit (AA-):** This investment is a 273 day term deposit, paying 4.85% (4.88 annualised), and matures 28 June 2013.
- 14. NAB Term Deposit (AA-):** This investment is a 179 day term deposit, paying 5.25% p.a. (5.32% annualised), and matures 16 November 2012.
- 15. Police & Nurses Credit Union (Unrated):** This investment is a 184 day term deposit, paying 5.00% (5.06% annualised) and matures on 27 February 2013.
- 16. Bankwest Term Deposit (AA-):** This investment is a 105 day term deposit, paying 5.10% p.a. (5.19% annualised), and matures 22 November 2012.
- 17. NAB Term Deposit (AA-):** This investment is a 180 day term deposit, paying 5.65% p.a. (5.73% annualised), and matures 26 November 2012.
- 18. Railways CU Term Deposit (Unrated):** This investment is a 90 day term deposit paying 5.03% (5.13% annualised) and matures on 5 November 2012.
- 19. Queensland Police CU (Unrated):** This investment is a 150 day term deposit paying 4.47% (4.53% annualised) and matures on 8 March 2013.
- 20. Queensland Country Credit Union Term Deposit (Unrated):** This investment is a 182 day term deposit, paying 5.35% (5.42% annualised), and matures 19 November 2012.
- 21. Community CPS Term Deposit (Unrated):** This investment is a 90 day term deposit paying 4.87% (4.96% annualised) and matures on 26 November 2012.
- 22. Bendigo Bank Term Deposit (A-):** This investment is a 181 day term deposit paying 4.90% (4.96% annualised) and matures on 7 March 2013.
- 23. Hunter United Credit Union (Unrated):** This investment is a 120 day term deposit paying 4.60% (4.67% annualised) and matures on 12 February 2013.
- 24. Credit Union Australia Term Deposit (BBB+):** This investment is a 333 day term deposit paying 5.81% (5.82% annualised) and matures on 21 December 2012.
- 25. Coastline CU Term Deposit (Unrated):** This investment is a one year term deposit, paying 5.25% (5.34% annualised), and matures on 11 October 2013.
- 26. Australian Defence Credit Union Term Deposit (Unrated):** This investment is a 180 day term deposit paying 4.75% (4.81% annualised) and matures on 4 March 2013.
- 27. Rural Bank Term Deposit (A-):** This investment is a five year term deposit, paying 6.48% p.a., and matures on 21 March 2017.

ITEM 5 (continued)

- 28. Bananacoast CU Term Deposit (Unrated):** This investment is a 188 day term deposit paying 5.15% (5.21% annualised) and matures on 2 January 2013.
- 29. Qantas Staff CU Term Deposit (BBB):** This investment is a 90 day term deposit paying 4.85% (4.94% annualised) and matures on 6 December 2012.
- 30. Southern Cross CU Term Deposit (Unrated):** This investment is a 183 day term deposit paying 5.15% (5.22% annualised) and matures on 12 December 2012.
- 31. B & E Ltd Building Society Term Deposit (Unrated):** This investment is a 179 day term deposit paying 4.40% (4.45% annualised) and matures on 5 April 2013.
- 32. Victoria Teachers CU Term Deposit (Unrated):** This investment is a 180 day term deposit paying 5.00% (5.06% annualised) and matures on 12 December 2012.
- 33. CBA Term Deposit (AA-):** This investment is a three year term deposit paying 5.76% p.a. and matures on 8 December 2014.
- 34. ME Bank Term Deposit (BBB):** This investment is a 180 day term deposit paying 5.01% (5.07% annualised) and matures on 4 March 2013.
- 35. Macquarie Bank Term Deposit (A):** This investment is a 181 day term deposit paying 4.80% (4.86% annualised) and matures on 28 March 2013.
- 36. Bankwest TD (AA-):** This investment is a four year term deposit paying 7.00% (7.00% annualised) and matures on 13 February 2015.
- 37. IMB Term Deposit (BBB):** This investment is a 92 day term deposit paying 4.50% (4.58% annualised) and matures on 30 January 2013.
- 38. Summerland CU Term Deposit (Unrated):** This investment is a three year term deposit paying 5.05% pa and matures on 21 September 2015.
- 39. Wide Bay CU Term Deposit (BBB):** This investment is a 127 day term deposit paying 4.95% (5.03% annualised) and matures on 2 January 2013.
- 40. Northern Beaches CU Term Deposit (Unrated):** This investment is a 180 day term deposit paying 4.70% (4.76% annualised) and matures on 23 April 2013.
- 41. Queenslanders Credit Union Term Deposit (Unrated):** This investment is a 184 day term deposit paying 5.10% (5.16% annualised) and matures on 25 January 2013.
- 42. Warwick CU Term Deposit (Unrated):** This investment is a 182 day term deposit paying 5.12% (5.19% annualised), and matures 7 January 2013.

ITEM 5 (continued)

- 43. Maitland Mutual Building Society (Unrated):** This investment is a 181 day term deposit paying 4.50% (4.55% annualised) and matures on 29 April 2013.
- 44. AMP eASYSaver at call account (A):** This investment is an at-call account earning 4.10%. No fees are payable by Council on this investment.
- 45. CBA Term Deposit (AA-):** This investment is a 181 day term deposit paying 4.40% (4.45% annualised) and matures on 29 April 2013.
- 46. Gateway Credit Union Term Deposit (Unrated):** This investment is a 184 day term deposit paying 4.91% (4.97% annualised) and matures on 17 December 2012.
- 47. Rabodirect Term Deposit (AA):** This investment is a 181 day term deposit, paying 4.95% (5.01% annualised), and matures on 11 March 2013.
- 48. Newcastle Permanent Building Society (BBB+):** This investment is a 90 day term deposit, paying 4.95% (5.04% annualised), and matures on 11 December 2012.
- 49. QT Mutual Bank (Unrated):** This investment is a 91 day term deposit paying 4.45% (4.52% annualised) and matures on 14 January 2013.
- 50. ING Term Deposit (A):** This investment is a two year term deposit paying 6.84% (6.62% annualised) and matures on 18 February 2013.
- 51. Greater Building Society Term Deposit (BBB):** This investment is a 157 day term deposit, paying 5.05% (5.12% annualised), and matures on 1 February 2013.
- 52. Holidaycoast CU Term Deposit (Unrated):** This investment is a 183 day term deposit, paying 5.25% (5.32% annualised), and matures on 30 November 2012.
- 53. Bank of Queensland FRN (BBB):** This is a certificate of deposit issued at a margin of 140 points above 90 day BBSW, maturing 11 November 2013.
- 54. Suncorp Metway FRN (A+):** This is a floating rate note purchased at a margin of 106 points above 90 day BBSW, maturing 18 June 2013.
- 55. Intech CU Term Deposit (Unrated):** This investment is a 122 day term deposit, paying 4.95% (5.03% annualised), and matures on 3 January 2013.
- 56. Beirut Hellenic Bank Term Deposit (Unrated):** This investment is a 97 day term deposit paying 4.95% (5.04% annualised) and matures 7 January 2013.
- 57. AMP Term Deposit (A):** This investment is a four year term deposit paying 7.14% which matures on 16 February 2015.

ITEM 5 (continued)

- 58. Rabobank Term Deposit (AA):** This investment is a one year term deposit paying 5.05% pa and matures on 3 September 2013.
- 59. Bendigo & Adelaide Bank FRN (A-):** This is a floating rate note issued at a margin of 140 points above 90 day BBSW, maturing 17 March 2014.
- 60. Community First CU TD (Unrated):** This investment is a 60 day term deposit paying 4.75% (4.85% annualised) and matures on 2 November 2012.
- 61. Heritage Bank Term Deposit (BBB-):** This investment is a 91 day term deposit paying 5.00% (5.09% annualised), and matures on 5 November 2012.
- 62. CBA Term Deposit (AA-):** This investment is a 212 day term deposit paying 4.95% (5.00% annualised), and matures on 5 November 2012.
- 63. Rabodirect At-Call (AA):** This investment is an at call account, paying the short term money market rate. These funds are used for operational purposes.
- 64. Members Equity Bank At-Call Account (BBB):** This investment is an at call account, paying the short term money market rate. These funds are used for operational purposes.
- 65. National Australia Bank Floating Rate Note (AA-):** This investment is a senior, unsecured floating rate note paying 115 above BBSW. This investment matures 21 June 2016.
- 66. National Australia Bank Floating Rate Note (AA-):** This investment is a senior, unsecured floating rate note paying 125 above BBSW. This investment matures 21 June 2016.
- 67. CBA FRN (AA-):** This investment is a senior, unsecured floating rate note purchased at a yield of 120 above BBSW. This investment matures 2 August 2016.
- 68. Westpac Floating Rate Note (AA-):** This investment is a senior, unsecured floating rate note purchased at a yield of 123 above BBSW. This investment matures 9 May 2016.
- 69. CBA FRN (AA-):** This investment is a senior, unsecured floating rate note purchased at a yield of 125 above BBSW. This investment matures 2 August 2016.
- 70. National Australia Bank FRN (AA-):** This investment is a senior, unsecured floating rate note purchased at a yield of 142 above BBSW. This investment matures 21 June 2016.

ITEM 5 (continued)

- 71. Westpac Floating Rate Note (AA-):** This investment is a senior, unsecured floating rate note purchased at a yield of 117 above BBSW. This investment matures 9 November 2015.
- 72. National Australia Bank FRN (AA-):** This investment is a senior, unsecured floating rate note purchased at a yield of 140 above BBSW. This investment matures 21 June 2016.
- 73. CBA FRN (AA-):** This investment is a senior, unsecured floating rate note purchased at a yield of 140 above BBSW. This investment matures 2 August 2016.
- 74. ANZ FRN (AA-):** This investment is a senior, unsecured floating rate note purchased at a yield of 142 above BBSW. This investment matures 9 May 2016.
- 75. Rabobank FRN (AA):** This investment is a senior, unsecured floating rate note purchased at a yield of 151 above BBSW. This investment matures 27 July 2016.
- 76. Police CU (SA) Term Deposit (Unrated):** This investment is a two year TD paying 5.70% (5.70% annualised) and matures 18 April 2014.
- 77. Investec Term Deposit (BBB-):** This investment is a one year TD paying 5.24% (5.24% annualised) and matures 10 July 2013.
- 78. TiO Term Deposit (AA+):** This investment is a 32 day TD paying 3.72% (3.78% annualised) and matures 26 November 2012. These funds are not covered by the Federal Government Guarantee, but are guaranteed by the NT State Government.
- 79. NAB Fixed MTN (AA-):** This is a fixed rate bond paying 6.18% (6.30% annualised) and matures 15 February 2017.
- 80. Bankstown City CU Term Deposit (Unrated):** This investment is a 91 day term deposit paying 4.90% (4.99% annualised) and matures 19 November 2012.
- 81. Westpac Fixed MTN (AA-):** This is a fixed rate bond paying 6.00% (6.14% annualised) and matures 20 February 2017.
- 82. ING Direct Term Deposit (A):** This is a 182 day term deposit paying 4.62% (4.67% annualised) and matures 22 April 2013.
- 83. Macquarie Bank Term Deposit (A):** This is a five year term deposit paying 6.50% (6.50% annualised) and matures 3 April 2017.
- 84. CBA Retail Bond (AA-):** This is a senior, unsecured floating rate note purchased at a yield of 160 above BBSW. This investment matures 24 December 2015.

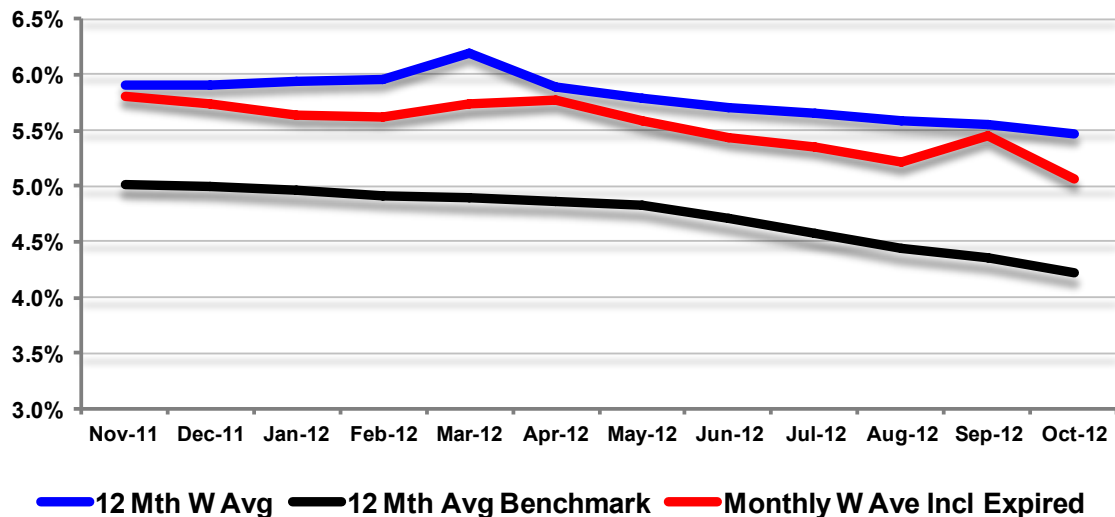
ITEM 5 (continued)

- 85. B & E Ltd Building Society Term Deposit (Unrated):** This investment is a 91 day term deposit paying 4.40% (4.47% annualised) and matures on 21 January 2013.
- 86. Bank of Cyprus Term Deposit (Unrated):** This investment is a five year term deposit paying 6.05% p.a. and matures on 15 May 2017.
- 87. ME Bank Term Deposit (BBB):** This investment is a 180 day term deposit paying 5.01% p.a. (5.07% annualised) and matures on 4 March 2012.
- 88. CBA Retail Bonds (AA-):** This is a senior, unsecured floating rate note purchased at a yield of 182 above BBSW. This investment matures 24 December 2015.
- 89. CBA Retail Bonds (AA-):** This is a senior, unsecured floating rate note purchased at a yield of 184 above BBSW. This investment matures 24 December 2015.
- 90. Bank of Queensland Term Deposit (BBB+):** This investment is a 151 day term deposit paying 5.20% (5.28% annualised) and matures 19 November 2012.
- 91. Bank of Queensland Term Deposit (BBB+):** This investment is a 181 day term deposit paying 4.65% (4.70% annualised) and matures 29 April 2013.
- 92. Investec Bank Term Deposit (BBB-):** This investment is a five year term deposit paying 6.95% on maturity (6.15% annualised) and matures 15 August 2017.
- 93. IMB Term Deposit (BBB):** This investment is a 90 day term deposit paying 5.05% (5.15% annualised), and matures 15 November 2012.
- 94. CBA Retail Bonds (AA-):** This is a senior, unsecured floating rate note purchased at a yield of 175 above BBSW. This investment matures 24 December 2015.
- 95. St George Term Deposit (AA-):** This investment is a 180 day term deposit paying 4.98% (5.04% annualised) and matures on 25 February 2013.
- 96. CBA Retail Bonds (AA-):** This is a senior, unsecured floating rate note purchased at a yield of 174 above BBSW. This investment matures 24 December 2015.
- 97. Rural Bank Term Deposit (A-):** This investment is a 182 day term deposit, paying 5.00% (5.06% annualised), and matures on 5 March 2013.
- 98. ING Floating Rate Term Deposit (A):** This is a five year floating rate term deposit paying 2.30% above 90 day BBSW, and matures 4 September 2017.

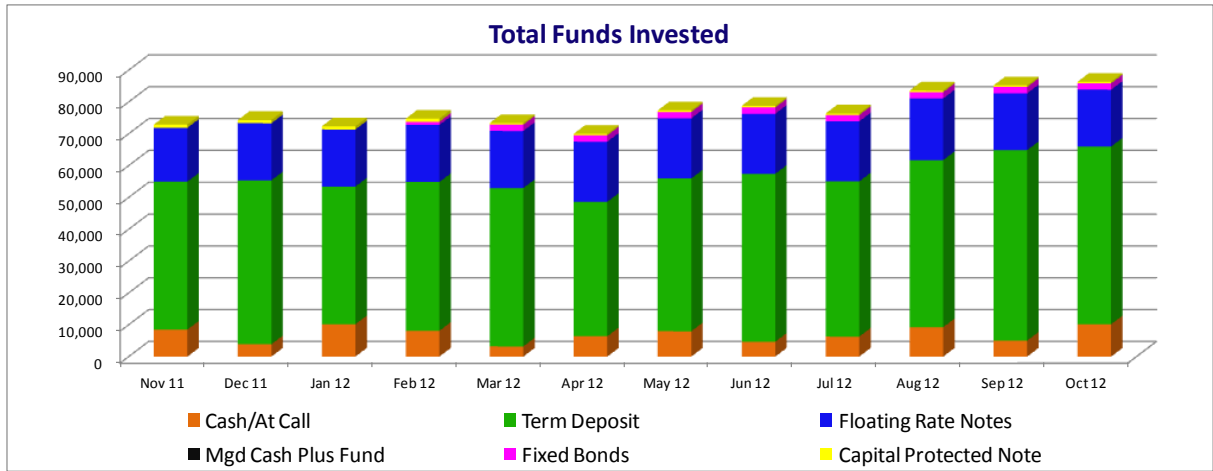
ITEM 5 (continued)

- 99. IMB Term Deposit (BBB):** This is a 122 day term deposit paying 4.80% (4.88% annualised) and matures 21 January 2013.
- 100. St George Term Deposit (AA-):** This is a 180 day term deposit paying 4.85% (4.91% annualised) and matures 20 March 2013.
- 101. Bank of Queensland Term Deposit (BBB+):** This is a 150 day term deposit paying 5.05% (5.13% annualised) and matures 18 February 2013.
- 102. NAB Term Deposit (AA-):** This is a 2.25 year term deposit paying 4.80% pa and matures 18 December 2014.
- 103. St George Term Deposit (AA-):** This is a 180 day term deposit paying 4.86% (4.92% annualised) and matures 27 March 2013.
- 104. Members Equity Bank Term Deposit (BBB):** This is a 119 day term deposit paying 4.80% (4.88% annualised) and matures 20 February 2013.

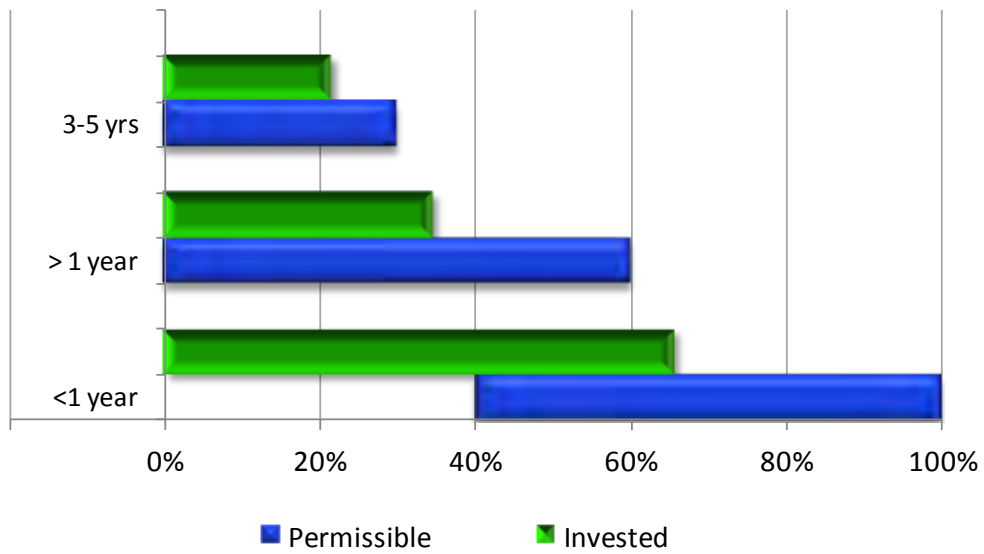
Performance - All Investments



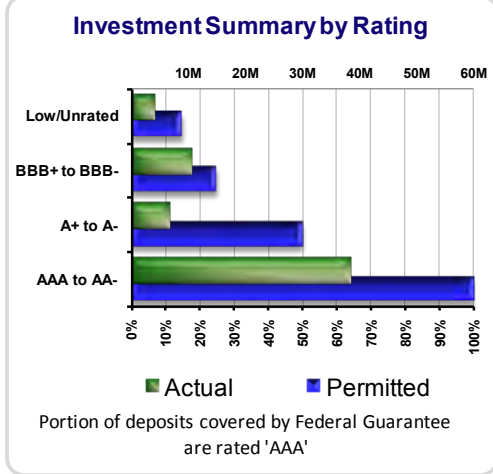
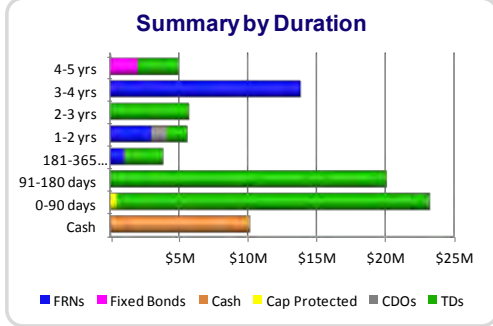
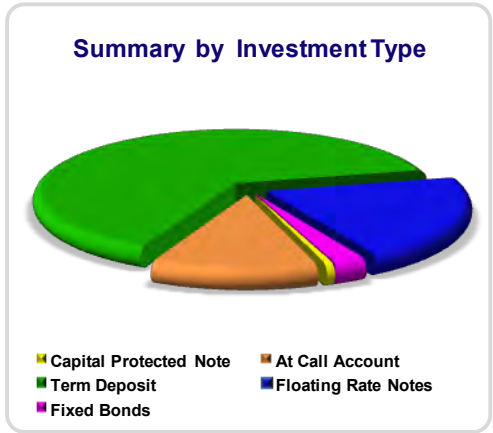
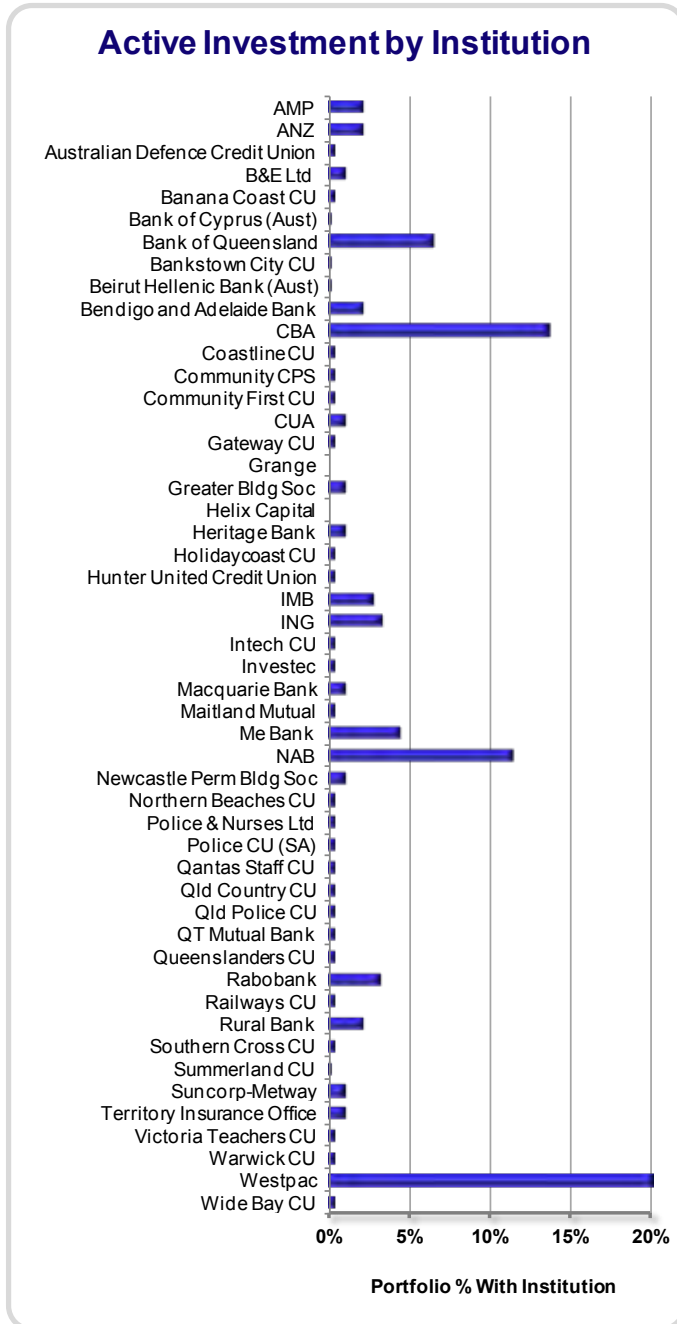
ITEM 5 (continued)



Policy Limits on Maturities



ITEM 5 (continued)



	>365 days	<365 days
Cash/TDs	\$10.3M	\$55.8M
FRNs	\$16.9M	\$1.0M
Fixed Bonds	\$2.0M	\$0.0M
Mgd Funds	\$0.0M	\$0.0M
Other	\$0.0M	\$0.5M
CDO's	\$0.0M	\$0.0M
	\$29.1M	\$57.3M

ITEM 5 (continued)

Context

The recommendation is consistent with Section 625 of the Local Government Act, which deals with the investment of surplus funds by Council's.

Financial Implications

Income from interest on investments and proceeds from sales of investments totals \$1.43M, being \$278K above budget projections as per the Delivery and Operational Plan, which will improve Council's Working Capital result as at 30 June 2013.

Adjustments to the budget amount of Investment Interest Income are not generally done until the December Quarterly Review, this is to ensure that any global economic impacts that may have occurred since the budget were set, can be taken into account.

The Financial Security Reserve has a current balance of \$2.072M.

**6 SEPTEMBER 2012 QUARTERLY REVIEW REPORT - DELIVERY PLAN
2012-2016 AND 2012/2013 OPERATIONAL PLAN**

Report prepared by: Chief Financial Officer
File No.: FIM/07/6/2/2 - BP12/1333

REPORT SUMMARY

Council's Four Year Delivery Plan 2012-2016 and One Year Operational Plan 2012/2013 set out the strategic and financial objectives for the year. They also detail the goals and various performance measures for Council's seven key outcome areas, the services and projects that Council plans to deliver in 2012/2013.

The Quarterly Report includes details for each of the seven Outcome areas and the 21 Program areas, detailing the targets adopted by Council and the performance to date in achieving those targets to 30 September 2012. Also shown is a financial performance summary for each key outcome area and a status report on all Capital and Non-Capital Projects by Program Area that are to be undertaken in 2012/2013 with information on how each Project is progressing.

As a result of the September Quarterly Review, Council has achieved a net improvement in the 2012/2013 Operational Budget of \$0.11 million. This is a pleasing result and has been achieved by tight controls of Council's operating costs with net savings of employee costs (\$0.07 million) and additional rate income of \$0.19 million brought to account in this review.

However, due to the continuing growing pressure on Council's infrastructure maintenance budget and the shortfall in funding the renewal of Council's existing infrastructure, this review is proposing to transfer an additional \$0.40 million to the Asset Replacement Reserve. This is being proposed to be funded from both the surplus generated from this review (\$0.11 million) and \$0.29 million from Council's current Working Capital surplus of \$3.71 million. If supported by Council, Working Capital will be reduced to a forecasted \$3.42 million, above Council's minimum balance of \$3.00 million.

This review brings to account additional rates income, additional Section 94 contributions received, additional grant funding from state government and additional income for restoration work.

The majority of corporate indicators are on track or have exceeded target, with an improvement being shown in relation to completion of project milestones.

From July 2012 to September 2012 Council dealt with over 6,919 customer requests and over 18,843 calls to the call centre. Council received 17 formal complaints and 79 customer compliments in the quarter.

ITEM 6 (continued)**RECOMMENDATION:**

- (a) That the report of the Chief Financial Officer, dated 9 November 2012 on SEPTEMBER 2012 QUARTERLY REVIEW REPORT – 2012/2016 DELIVERY PLAN AND 2012/2013 OPERATIONAL PLAN be received and endorsed.
- (b) That the proposed budget adjustments included in this report resulting in a net reduction of \$0.29 million in Council's Working Capital, to a projected balance as at 30 June 2013 of \$3.42 million, be endorsed and included in the 2012/2013 Budget.
- (c) That the proposed transfers to and from Reserves as detailed in the report, and included as budget adjustments, totalling a net decrease in Transfers from Reserves of \$0.13 million be endorsed.
- (d) That the Certificate of the Responsible Accounting Officer attached to the report of the Chief Financial Officer dated 9 November 2012 be endorsed.

ATTACHMENTS

- 1 Responsible Accounting Officer's Certificate 30 September 2012
- 2 2012/2013 - Quarterly Report on 4 Year Delivery Plan 2012/2016 and 1 Year Operational Plan 2012/2013 - July to September 2012, Quarter One – CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

John Todd
Chief Financial Officer

Report Approved By:

Roy Newsome
Group Manager - Corporate Services

ITEM 6 (continued)

Discussion

Background

As required under section 407 of the Local Government Act, 1993 the quarterly review of the One Year Operational Plan 2012/2013 as at 30 September 2012 is presented to Council.

This Quarterly Review reports on the performance of Council in undertaking its Principal Activities in terms of its stated objectives and financial position. The following sections are included in the document, *Quarterly Review Report Four Year Delivery Plan 2012/2016 and One Year Operational Plan 2012/2013, Quarter One* that has been **CIRCULATED UNDER SEPARATE COVER – ATTACHMENT 1**;

- General Manager's Overview, Financial Management and Corporate Performance Overview - provides a 'snapshot' of Council's performance in the quarter relative to several high profile activities.
- Outcome Area Reports – including overview, operational indicators, financial outcome and graphical representation of performance measures.
- Capital and Non Capital Projects Quarterly Status Report – provides comments regarding the status of all of Council's Capital and Non Capital Expenditure projects.
- Base Budget Quarterly Status Report.
- Reserves Listing Report – outlines the opening balance, approved budgeted transfers to/from reserves and proposed additional transfers to/from reserves, with a projected balance as at 30 June 2013. **Appendix A**
- Quarterly Changes Report – provides comments and details of those budget items that are proposed to be increased or decreased in the 2012/2013 budget. **Appendix B**
- Consolidated Income and Expenditure Estimates 2012/2013 – summary of the budget in two pages, showing original budget and quarterly changes. **Appendix C**

Report

The September 2012 Quarterly Review has been completed and is submitted to Council for endorsement.

The key points to note that are included in this Review are:

- \$1.86 million in Section 94 contributions received, transferred to reserves
- \$0.69 million additional RMS Grant (Roads to Recovery Program)
- \$0.49 million additional road restoration fees received
- \$0.33 million grant income from Metro Greenspace and Touch by Olivia Foundation for Livvi's Place at Yamble Reserve project
- \$0.19 million grant from Office of Environment & Heritage for Buffalo and Kitty's Creek Study and Parramatta River – Ryde Catchment Study
- \$0.19 million additional rate income brought to account for 2012/2013

ITEM 6 (continued)

- \$0.19 million saving of salaries and wages expenses
- \$0.49 million additional funding required in road restoration program, offset by additional income received
- \$0.13 million additional funding required for employing an additional IT staff to meet Council's business needs
- \$0.11 million additional funding required to offset the increase in the price of utilities in RALC, funded by Reserve
- \$0.10 million for investigation and design of stormwater levy funded projects to provide urgent maintenance to infrastructure as per Council Resolution 14 August 2012

Working Capital Summary

In the adopted 4 Year Delivery Plan and One Year Operational Plan 2012/2013 Council's forecasted available Working Capital position was to be \$2.40 million at 30 June 2013 from an Opening Working Capital of \$4.05 million for 2011/2012.

Following completion of the Financial Statements for 2011/2012, the final Working Capital figure was determined at \$5.36 million, an increase of \$1.31 million over the original forecast result included in the Operational Plan. The Operational Plan was developed on utilising \$1.66 million of Working Capital and Council's Working Capital, following finalisation of the financial statements, was projected to be \$3.71 million at 30 June 2013.

Due to concerns of the increasing maintenance costs in respect to Council's Infrastructure assets resulting from the current funding gap to meet the capital renewal of Council's existing infrastructure; it is recommended that the surplus of additional rates income and saving from salaries and wages, following the proposed adjustments, plus additional working capital, to a total of \$0.40 million be transferred to the Asset Replacement Reserve.

In the September Quarterly Review, the proposed budget adjustments will result in a decrease of \$0.29 million to Council's Working Capital as at 30 June 2013 to \$3.42 million. The result without the transfer to reserve would be an increase in Council's Working Capital of \$0.11 million.

Opening Working Capital	4,052
End of Year Changes	1,308
Opening Working Capital	5,360
Delivery Plan	(1,655)
September Adjustments	(288)
December Adjustments	
March Adjustments	
Carryover Adjustments	
June Adjustments	
Closing Working Capital	3,417

ITEM 6 (continued)Overview of September Review

Council's projected available Working Capital of \$3.42 million is a result of the September Quarterly Review. The following are the major changes to be made; with a complete listing provided in the circulated document, and more detailed explanations in each Outcome area of that document.

Operating Budget

- The budget is projected to increase its operating income by \$2.39 million (2.58%) with the main areas being as follows:
 - \$1.86 million in Sec 94 contributions received, transferred to reserves
 - \$0.69 million additional RMS Grant (Roads to Recovery)
 - \$0.49 million additional road restoration fees received
 - \$0.33 million grant income from Metro Greenspace and Touch by Olivia Foundation for Livvi's Place at Yamble Reserve project
 - \$0.19 million grant from Office of Environment & Heritage for Buffalo and Kitty's Creek Study and Parramatta River – Ryde Catchment Study
 - \$0.19 million additional rate income brought to account for 2012/2013
 - \$0.06 million additional income received through Risk Management Initiatives
 - \$0.04 million increase in Parking Fees and Charges
 - \$0.03 million increase in Tree Management program
 - \$0.07 million reduction of Fuel Tax Rebate
 - \$1.51 million less income due to prepayment of funding in Financial Assistance Grants in June (offset by increase in transfer from reserve)

- The budget is projected to increase its operating expenses over budget by \$1.01million (1.27%) with the main areas being as follows:
 - \$0.49 million additional funding required in Restoration program, offset by additional income received
 - \$0.14 million saving of salaries and wages expenses
 - \$0.13 million additional funding required for employing an additional IT staff to meet Council's business needs
 - \$0.11 million additional funding required to offset the increase in the price of utilities in RALC, funded by Reserve
 - \$0.10 million for investigation and design of stormwater levy funded projects to provide urgent maintenance to infrastructure as per Council Resolution 14 August 2012
 - \$0.09 million SES recurrent operations cost was missed in the 2012/2013 base budget
 - \$0.07 million for developing a plan to sustainable manage the library service and to inform the S94 Plan Review, funded by Section 94 Reserve
 - \$0.05 million additional funding required for the increase of Infringement Processing charges from the SDRO (increased by \$0.50 per infringement)
 - \$0.05 million additional funding required for feasibility study on synthetic fields as per Council Resolution

ITEM 6 (continued)

- \$0.04 million additional funding required for Information Technology General Controls Audit commissioned, funded by additional income received
- \$0.04 million for implementation of Councillor online and iPad engagement tool
- \$0.03 million additional funding required to complete Enterprise Risk Management project, funded by reserve
- \$0.03 million for feasibility study Community Hub-Eastwood, funded by additional grant

In total, a projected decrease in Operating deficit of \$1.38 million, most of which is being utilised for Capital or transferred to reserves.

Capital Budget

- The capital budget is projected to increase its capital expenses over budget by \$1.53 million (4.64%), with the main areas being as follows:
 - \$0.69 million Agincourt and Balaclava Rd TCS project, funded by additional grant from RMS (Roads to Recovery)
 - \$0.23 million for Livvi's Place at Yamble Reserve project, funded by additional grant
 - \$0.21 million for Community Life Relocation project, offset by reduction of Corporate Renewal project
 - \$0.19 million additional funding for Stormwater Improvement Works Renewal, funded by additional grant received
 - \$0.15 million for additional enhancements for TechOne following the upgrade, funded by Asset Replacement Reserve
 - \$0.14 million Power Generator at Civic Centre project, offset by saving from Air Conditioning Replacement at Civic Centre project
 - \$0.10 million for Rowe Street, Eastwood project, funded by grant funding for National Blackspot Program
 - \$0.09 million for purchase of replacement furniture for Eastwood Library, funded by Asset Replacement Reserve
 - \$0.05 million for design and approvals for AFL/cricket amenities block expansion at ELS Hall Park
 - \$0.05 million for planting trees for Queens Jubilee as per Council resolution

Reserve Movements

- It is projected to increase its transfers from reserves over budget by \$2.2 million (5.19%) the main areas being as follows:
 - \$1.53 million from the prepayment of the Financial Assistance Grant in June
 - \$0.15 million from Asset Replacement Reserve to fund Enhancements for TechOne
 - \$0.10 million from reserve to fund the cost of investigation and design of stormwater levy funded projects to provide urgent maintenance to infrastructure

ITEM 6 (continued)

- \$0.10 million from reserve to fund the increase in the price of utilities in RALC
 - \$0.09 million from Asset Replace Reserve to fund for purchase of replacement furniture for Eastwood Library
 - \$0.07 million from Section 94 reserve to fund the project of developing a plan to sustainable manage the library service and to inform the S94 Plan Review
 - \$0.07 million from Plant Reserve to fund the reduction of Fuel Tax Rebate
- It is projected to increase its transfers to reserves over budget by \$2.35 million (9.06%), the main areas being as follows:
 - \$1.86 million for Sec 94 contributions received, transferred to reserve
 - \$0.40 million for saving from salaries and wages and other operational costs, transferred to Asset Replacement Reserve
 - \$0.04 million additional Insurance Rebate received, transfer to reserve

The complete details are contained within the document circulated separately.

Progress against indicators

Our performance indicators help to provide a snap shot of the organisations health. Corporate indicators focus on major areas across the whole organisation and program indicators track how we are delivering on specific elements within each of the 21 programs outlined in our 2012-2016 Delivery Plan including One year Operational Plan 2012-2013.

Corporate indicators

As identified in pages 40-41, the majority of corporate indicators are on track. Of particular note the following areas demonstrate improvements in Council's performance against previous trends or targets:

- We have continued to maintain our high customer service standards in responding to our customer requests with 89% of all requests responded to within the agreed timeframe of ten days against our target of 90%. It is pleasing to see the continuation of our high performance in this area; we have consistently been on target or within 1% of the target for the past year.
- In the first quarter there has been continued improvement in the handling of complaints, with 96% of tier 1 and 2 complaints responded to within the agreed number of working days. This indicator showed improvements over the past year and has been maintained between 95-100% for the last two quarters.
- The sound management of our Budget over the past year has continued into the first quarter this year. This indicator has consistently been on track for the past five quarters.
- Our lost time injuries (LTI's) are the lowest in three years for this quarter (100 lost time days). This is also a reduction of five days from quarter four last year.

ITEM 6 (continued)

Those corporate indicators which have not met target this quarter and where we will look for an improvement on next quarter are:

- 80% of inward correspondence was completed within 10 working days against our target of 90%.
- 72% of project milestones completed on time within the quarter against our target of 90%.
- 93% of internal audit recommendations were implemented on time against our target of 100%.

Program Indicators

Of all 43 indicators across our 21 program areas, we achieved 32 (74%) of our performance indicators in our programs in quarter one.

Of particular note the following areas of performance improved against previous trends or targets:

- The RALC recorded 164,467 visitors this quarter which is a 14.6% increase from the same quarter last year.
- We continue to see improvements in our mean gross DA determination times against the group three average. We have improved 15 days from last quarter; this is the result of both seasonal trends and the success of our Express DA service. So far 80 applications (approximately 58%) have been processed as Express Applications and all were determined within 30 days.
- The Top Ryder Bus service continues to show increase patronage with 2,100 more passengers than the quarter one last year.

Staff turnover

Turnover for Quarter 1 2012/2013 was 2.71%. This represents an increase from last quarter where turnover was at 0.91%

Comparatively, Quarter 1 2012/2013 is equal to the Quarter 1 2011/2012 result (2.71%). On a 12 month rolling basis overall turnover is 9.36% which is equal to the overall turnover for 2011/2012 financial year. This measure shows that turnover across a 12 month average has remained unchanged.

Consultation

Internal Council business units consulted included:

- All Service Units in relation to budget changes.
- Executive Team.

ITEM 6 (continued)Critical Dates

The following deadlines are required to be met:

- In accordance with Section 407 of the Local Government Act 1993, the General Manager must report to the Council within 2 months after the end of each quarter as to the extent to which the performance targets set by the Council's current Management Plan have been achieved during that quarter.

The Chief Financial Officer as Council's Responsible Accounting Officer, in accordance with the Part 2 Clause 7 of the Local Government (Financial Management) Regulation 1999 is required to certify whether the Council's financial position is satisfactory having regard to the original estimates of income and expenditure.

Financial Implications

Council's available Working Capital is projected to reduce by \$0.29 million to approximately \$3.42 million as at 30 June 2013.

Council's Operating Result before depreciation is projected to increase by \$1.38 million to \$14.20 million.

Council's Capital Works Program is projected to increase by \$1.53 million as a result of new projects Bus Priority and Traffic Signals at Agincourt and Balaclava Road, Livvi's Place at Yamble Reserve, install curve advisory signage at Row Street Eastwood, as well as additional costs for funding for Stormwater Improvement Works Renewal program and enhancements for TechOne System.

ITEM 6 (continued)

ATTACHMENT 1

Certificate

In accordance with the Local Government (Financial Management) Regulation 1999, Part 2, Clause 7, I report that the financial position of the Council was satisfactory as at 30 September 2012, having regard to the original estimates of income and expenditure. Variations in total income, operating and capital expenditure as at 30 September 2012 are of a quantum and nature that overall end of year financial targets will be achieved.



John Todd
Chief Financial Officer
Responsible Accounting Officer

15 August 2012

7 REVIEW OF MACQUARIE PARK PLANNING CONTROLS

Report prepared by: Team Leader - Strategic Planning
File No.: GRP/12/5/5/5 - BP12/1242

REPORT SUMMARY

The NSW State Government has set growth targets for the City of Ryde of 12,000 new dwellings and 21,000 new jobs by 2031. Ryde Local Planning Study developed a strategy to meet this growth within town centres in order to protect the character of low density residential neighbourhoods. Growth in Macquarie Park will meet the jobs target and 50% of the dwellings target reducing pressure for growth elsewhere in the Ryde Local Government Area (LGA).

To support the growth and development in the corridor, the area requires substantial infrastructure provision including new roads, parks and plazas to meet the needs of existing and future residents and workers. Under the provisions of the planning controls proposed new roads and parks networks are to be funded by major developments through floor space and building height incentives.

Council has had a planning incentives scheme in place in Macquarie Park Corridor since 2006. In 2008 refinements to the planning controls to strengthen the incentives scheme were included in a Draft Local Environmental Plan (LEP) amendment (known as DLEP Amendment 1). However due to the legal complexities of the proposed incentive scheme, it took nearly two years of negotiation with the Department of Planning and Infrastructure (DoPI) before they were satisfied that it was compliant with legislative requirements and the strategic context. The delay in approving the DLEP for exhibition meant that the financial incentive model prepared by Council in 2007/8 was outdated and required review. It should also be noted that during this two year period the economy was impacted by the Global Financial Crisis.

To address this; Council allocated funds in the 2011/12 budget to review the Macquarie Park planning controls including the DCP and DLEP Amendment 1. A multi-disciplinary consultant team comprising traffic planners, urban designers, land economists and planners was engaged to prepare a feasibility assessment in relation to the planning incentives (additional height and floor space) and to make recommendations to ensure that council could leverage proposed new open space and roads through the development process. Other aims of the review were to ensure equity and provide certainty to the planning process.

The 2011/12 review recommended new open space and roads networks and changes to the planning controls. A summary of these amendments is outlined as follows:-

New roads and parks are needed in Macquarie Park

There is presently an open space deficiency in Macquarie Park Corridor that will be exacerbated by planned growth. The Ryde Integrated Open Space Study indicated that two new major reserves suitable for active and passive recreation and several

ITEM 7 (continued)

smaller open space areas are needed to support planned growth in Macquarie Park. The recommendations of this report meet those quantum and functionalities.

Existing north-south streets in Macquarie Park are generally 600-800m apart. Existing east-west streets (Waterloo Rd and Talavera Rd) are approximately 400m apart. As a result the road network has poor permeability, few route options and traffic congestion in the morning and evening peaks. In addition it can take 40 minutes to walk around a city block in Macquarie Park discouraging public transport usage - which is currently 15% for the journey to and from work. Council's aim is to reduce traffic congestion by increasing the modal split to 40% public transport use and by implementing new roads that will:

- Promote walking and therefore reduce car trips within the corridor and facilitate public transport use.
- Help reduce traffic congestion within Macquarie Park by providing greater permeability (more ingress and egress points).
- Help reduce traffic queuing by providing more route options (i.e. more roads).
- Provide new streets that result in increased development opportunities through subdivision and new street addresses for buildings.

The Proposed Incentive Scheme

The aim of the planning controls for Macquarie Park is to guide evolution of the area from Business Park to urban centre, making it more attractive to workers and Ryde residents through the provision of an effective access network and parks, plazas and other recreation opportunities whilst also encouraging employment diversity.

DLEP Amendment 1 introduces an incentive scheme that defers an availability of additional FSR and height until the developer enters into an agreement with Council to deliver roads and/or parks or contribute towards these. Once this agreement is executed the greater height and FSR is made available through a minor site specific LEP amendment. The scheme has been designed to minimise costs to council for new infrastructure and transfer these to the development community. The scheme is voluntary and if a developer chooses not to enter into the agreement the existing Ryde LEP 2010 will apply.

DLEP Amendment 1 (the subject of this Planning Proposal) seeks to amend the height and FSR maps in Ryde LEP 2010 and the text of the instrument in relation height and FSR.

RECOMMENDATION:

- (a) That Council place the Macquarie Park Corridor Planning Proposal on community consultation for a minimum period of 6 weeks, excluding public holidays.
- (b) That the outcomes of community consultation are reported to Council as soon as practicable after the exhibition period.

ITEM 7 (continued)**ATTACHMENTS**

- 1 Ryde Open Space Deficit
- 2 Ryde DCP 4.5 Macquarie Park - Structure Plan
- 3 Proposed Macquarie Park FSR
- 4 Proposed Macquarie Park Heights
- 5 Proposed Access Network
- 6 Proposed Open Space Network
- 7 Gateway Determination Advice

Report Prepared By:

Lexie Macdonald
Team Leader - Strategic Planning

Report Approved By:

Meryl Bishop
Manager - Urban Planning

Dominic Johnson
Group Manager - Environment & Planning

ITEM 7 (continued)

This report is structured as follows:

1. Background Strategic Directions and Supporting Studies
This section State Government and Council strategic directions and relevant policies are discussed. A brief outline of Council's existing planning controls as they relate to Macquarie Parks is provided
2. Review of Planning Controls for Macquarie Park
In this section the review methodology and key recommendations of the study are provided
3. Considerations for Council
In this section the risks and how they will be managed are discussed. Alternative options and the financial implications for Council are also outlined
4. Next Steps
In the last section of this report approval is sought from Council to proceed to community consultation. A brief outline of consultation activities and the administrative processes relating to planning proposals

1. Background Strategic Directions And Supporting Studies Documents**Study Area**

The Macquarie Park Corridor is 340 Hectare employment centre that is bounded by the M2, Epping Road, Delhi Road, Macquarie University and Lane Cove national Park.

Many of Australia's leading companies including Optus, Foxtel, Aristocrat, Microsoft and Johnson and Johnson are located in Macquarie Park. Macquarie Shopping Centre, one of Sydney's largest and magnet infrastructure such as Macquarie University and it's associated private hospital are also located in the Corridor.

Policy Framework: Growth targets for the City of Ryde set by NSW government
City of Cities: A Plan For Sydney's Future (the Metro Strategy), prepared by the NSW government aims to coordinate growth across greater metropolitan Sydney to limit urban sprawl and make the best use of existing road, rail, health, education and other infrastructure. Subregional strategies translate the aims of the Metro Strategy down to the local level.

The Inner North Subregional Strategy sets growth targets for the City of Ryde. These are to facilitate the creation of 21,000 new jobs and 12,000 new dwellings by 2031 by providing development capacity within Ryde's planning controls.

In response Ryde Council's strategy through the recommendations of the Ryde Local Planning Study 2010 is to focus growth in town centres in order to protect the character of low density residential areas and to locate growth close to public transport and other facilities. The success of Macquarie Park is a key component of this strategy.

ITEM 7 (continued)**100% of the jobs growth target will be met in Macquarie Park**

According to Transport for NSW there are currently 38,000 jobs in the Macquarie Park Corridor mostly in the retail, warehousing, professional, research and media sectors. It is anticipated that 50,000sqm floor space per annum will be developed in Macquarie Park each year resulting in 20,000 to 45,000 new jobs by 2031. The growth target of 21,000 new jobs in the Ryde Local Government Area set in the Inner North Subregional Strategy will be comfortably met in the Macquarie Park Corridor.

50% of the dwellings target for the City of Ryde will be met in Macquarie Park

Residential development is currently permissible in the B4 Mixed Land Use Zone adjoining Herring Road. The state government has also indicated that they are likely to include a significant residential component on the sites they own adjacent to the North Ryde Station and M2. The Macquarie Park Corridor, like many urban centres, will then be structured with a business core and residential fringe.

There are currently 2,333 dwellings in Macquarie Park. It is anticipated that an additional 6,000 new dwellings will be delivered in Macquarie Park Corridor over the next 20 years. This equates to 50% of Ryde's target of 12,000 new dwellings by 2031, thereby reducing state government pressure to accommodate growth elsewhere in the City Ryde.

Open Space deficiency identified in Macquarie Park

Macquarie Park open spaces include Elouera Reserve, Quandong Reserve, Shrimptons Creek parklands and Wilga Park.

The Macquarie university grounds incorporate open space that is publicly accessible. However, over time the university grounds will be redeveloped in accordance with the Concept Plan approved by the Minister for Planning in 2009 resulting in the loss of this open space.

The Macquarie Park Corridor is also bordered by open space – Lane Cove National Park, Christie Park and Blenheim Park for example – but these are not readily accessible to Macquarie Park Corridor due to the barriers created by arterial roads and because these open space areas are more than 400m distant from residents and business locations.

According to the Ryde Integrated Open Space Study Macquarie Park has an open space deficiency due to insufficient quantum and poor accessibility. Refer *Figure 0B-01 Open Space Structure Plan*, Ryde Integrated Open Space Study (**ATTACHMENT 1**).

Ryde's Open Space Study sets guidelines for future parks in Macquarie Park

Based on land use types, geography, accessibility and population growth, the Ryde Integrated Open Space Study recommends that new open space reserves be provided no more than 400m from any work location in the Macquarie Park Corridor and in the quantum of:

ITEM 7 (continued)

- at least one major reserve close to the core of the precinct generally no less than 1.5 Ha in size to support passive and informal active recreation and
- a suite of local parks distributed evenly across the corridor of a nominal size no less than 0.3 Ha and
- a series of small corner meeting places (as little as 20sqm)

Macquarie Park is car-dependent and traffic congestion is a concern for locals, workers, business and landowners

In 2009 Council completed a pedestrian study. The Macquarie Baseline Movement Economy Report 2009 concluded that Macquarie Park performs as a car dependent site and that Macquarie Park's large city blocks can take approximately 40 minutes to walk around -- discouraging public transport usage, which is currently 15% for the journey to/from work. The pedestrian study supported the creation of new roads and recommended more pedestrian through site links to encourage walking and public transport use.

Existing north-south streets in Macquarie Park are generally 600-800m apart. Existing east-west streets (Waterloo Road and Talavera Road) are approximately 400m apart. As a result there is poor permeability for the road network, few vehicle route options and traffic congestion in the am and pm peaks.

In March 2012 Macquarie Park Corridor landowners were consulted regarding development issues for the area. Traffic congestion was a significant concern because it impacts on the ability of major landowners to attract and retain tenants and for business to operate efficiently.

The Macquarie Park Traffic Model recommends road network improvements and increasing public transport usage

Finalised in 2008, the Macquarie Park Growth Model 2008 comprised a Paramics traffic model and report. The traffic model tested the "do nothing" option based on the existing roads network and the 2006 LEP at 2031.

"Within minutes of testing major congestion sources were revealed. In the morning peak this mostly involved traffic ... not being able to enter the study area ... In the PM peak, traffic was not able to leave Macquarie Park without excessive ... delays (and eventually "gridlock"). The "do nothing" assessment quickly revealed that major network improvements were required."

The Macquarie Park Growth Model 2008 report:

- Concluded that doing nothing is not an option.
- Made a number of recommendations for the regional road network including improvements to the M2 and grade separated turns at Delhi Road, Epping Road and Herring Road. Some of the recommendations for the M2 have already been implemented.

ITEM 7 (continued)

- Concluded that a 20% nett increase in traffic at 2031 would occur as a result of:
 - Macquarie University and Shopping Centre expansion;
 - Development of the lands known as the M2 site and around North Ryde Station; and
 - Significant through-traffic growth on the M2 and Lane Cove Road was forecast.
- Recommended increasing public transport use by introducing a target of 40% for public transport use for the journey to and from work to better manage congestion.
- Concluded that *“the internal road network proposed under LEP [Amendment 1] 2008 will operate effectively in 2031 due to the density of the street grid proposed and the route choices available.”*

Ryde Council’s vision for the future: Macquarie Park DCP Part 4.5

Ryde’s existing DCP will guide how Macquarie Park will look and feel in the future. DCP Part 4.5 Macquarie Park (which became effective in 2008) includes a section that articulates the built form, access and open space network structure plans.

(Refer **ATTACHMENT 2: Ryde DCP Part 4.5 Macquarie Park Structure Plan**).

The Macquarie Park DCP Built form Structure Plan locates density and tallest buildings at the rail stations. Taller development is situated along Waterloo Road. Some tall marker buildings are permitted at entries into the Macquarie Park Corridor.

The Macquarie Park DCP Access Structure Plan proposed new roads to address congestion and improve the amenity of the area by:

- Creating greater permeability (more ingress and egress points).
- More roads that provide route options for traffic with the effect of reducing evening peak queues at intersections.
- Reducing block size so that it is easier to walk around the Macquarie Park Corridor which will facilitate public transport usage.
- Creating new streets that provide opportunities for subdivision and new street addresses for buildings.

The Macquarie Park DCP also proposes that new open spaces are acquired through the development process. The DCP identifies an open space network that consists of the following new open spaces:

- a Central Park at 43 Waterloo Road, a site owned by the state government
- a large park set over the rail corridor on the M2 site, also owned by the state government
- a small open space fronting Talavera Road
- plaza spaces around the rail station entries
- linear open spaces on overland flow paths.

ITEM 7 (continued)**The existing planning framework: Ryde LEP 2010 controls**

Existing Macquarie Park Floor Space Ratios are between 1:1 and 3:1. Ryde LEP 2010 includes clause 4.4B which provides an incentive which states that

“the consent authority may consent to development that results in excess of the floor space ratio ... if

(a) the land contains part of the proposed access network ... and

(b) the excess floor space does not exceed the equivalent of the site area provided for the portion of the access network...”

This incentive is not included in Draft LEP 2011 as the DLEP Amendment 1 incentive scheme is intended to replace this approach.

DoPI supports changes to the planning controls

Council’s vision to create new roads and open space is supported by the NSW DoPI which has suggested an approach similar to that in place in Green Square. The LEP controls for Green Square (which set gross floor areas) are deferred until such time as an agreement is completed between developers and council to implement new infrastructure. The LEP is then “undeferred” and a DA processed.

DoPI instructed Parliamentary Counsel to draft an LEP that complied with the standard instrument format and supported Ryde Council’s vision. This draft LEP amendment forms the basis of a Planning Proposal and the Department has given approval for Ryde Council to undertake community consultation. DoPI has also given Council until 30 June 2013 to complete the LEP amendment. (Refer **ATTACHMENT 7** Gateway determination dated 21 December 2011).

The existing funding framework for Infrastructure Delivery in the Macquarie Park Corridor

Infrastructure in Macquarie Park is to be funded from a number of sources including:

- The Macquarie Park Special Rate Levy which raises approximately \$1M per annum and part funds the Transport Management Association, public domain improvements and some studies.
- Ryde Section 94 Development Contributions Plan 2007 establishes rates for development contributions to fund stormwater mitigation, improvements to existing open space and roads (such as traffic signals), regional roads and community facilities. Under the legislative framework S94 funds may only be generated if a nexus can be shown between growth and the need for new infrastructure.
- The planning incentives scheme which is the subject of this report and which will implement proposed new local roads and open space through the development process via planning agreements.

All three funding sources including Ryde Section 94 Development Contributions Plan 2007 will continue to apply to development in the Macquarie Park Corridor.

ITEM 7 (continued)**2. Review Of Planning Controls For Macquarie Park****Background**

In 2008 council exhibited and adopted a DCP that responded to the new Epping to Chatswood rail line and provided guidelines to assist Macquarie Park evolve from Business Park to urban centre. The DCP was adopted by council and became effective that same year.

Council commenced preparation of an LEP that would complement the DCP and which included planning incentives to fund the proposed new roads and open space. In 2008 DLEP Amendment 1 was submitted to DoPI for approval to publicly exhibit the plan. In December 2010, DoPI gave council permission to publicly exhibit the DLEP amendment in the form of a Planning Proposal. The delay in releasing the DLEP was due to the need for the incentive scheme to be compliant with the legislation and directions of the Department.

The Department's release of the DLEP Amendment 1 in 2010 (two years after it was submitted to them) meant that:

- Financial modelling of the original scheme was outdated.
- Traffic modelling work and the proposed internal road network required update due to development activity in the corridor including:
 - A number of large developments that exceeded the Council's controls were approved in the corridor under Part 3A
 - Commencement of redevelopment studies for the State Government Land Adjacent North Ryde Station

These factors triggered the need to review the provisions of DLEP Amendment 1 prior to placing it on public exhibition. Over 2011-2013 (under the Four Year Delivery Plan) funds have been allocated to review the planning framework for the corridor.

Purpose

The purpose of the review was to ensure that the scheme is:

- Practicable (including a review of topography and conflicts of proposed new roads with buildings etc)
- Equitable (evidence based and defensible decision making)
- Sufficiently incentivised to leverage implementation of the proposed new roads and parks.

Review Methodology

The 2011/12 review of the Macquarie Park planning controls proposes that the planning incentive is defined by upper limit floor space and height parameters and administrative guidelines. The value of the incentive is also defined so that there is a basis for planning agreements between developers and council.

ITEM 7 (continued)

The review was conducted by a multi-disciplinary team including traffic planners, land economists, urban designers planners and quantity surveyors. The review has involved:

- Updating the traffic model to:
 - Reflect changes to the roads network that occurred as a result of DAs approved by Council, the Joint Regional Planning Panel and by the Minister for Planning under Part 3A of the Act.
 - Incorporate the approved Macquarie University concept plan into the Council model so that cumulative development is considered.
 - Reflect recommendations of the pedestrian study to include traffic signals at most intersections.
- Preparing recommendations for the roads network based on:
 - Review against topography and conflicts with existing buildings (taking into account their longevity and likelihood for redevelopment).
 - Considering proposals for new roads that came out of consultation with landowners and Council's Operations Group staff.
 - Roads located on fewer allotments.
- Preparing recommendations for the open space network based on the Ryde Integrated Open Space Study.
- Testing the recommended access network using the updated traffic model
- Economic modelling to test both the recommended access and open space networks. The financial consultant has established the total cost of roads and parks and divided this by the total incentive floor space for the Corridor to arrive at a value for the incentive floor space.

Key Review Recommendations

The key recommendations of the review are:

General

- Roads and parks are located on as few sites as possible and that these sites attract the highest FSR.
- All business zoned land has the potential for incentive FSR and the ability to provide cash contributions toward roads and open space delivery.
- That the scheme is reviewed in 10 years and that the monetary funds collected are then used to purchase or acquire key parts of the road or open space network that remain undelivered.
- That the incentive / bonus floor space is valued at \$250 per sqm approximately for the purposes of negotiating a planning agreement.
- That developers are compensated for the land value for roads and open space through either financial or floor space compensation. A land value of \$250/sqm for road and parks is recommended.
- New parks and roads are funded predominantly through floor space planning incentives with maximum FSRs set between 1:1 and 3:1.
- That s94 developer contributions are applicable to all new floor space (regardless of whether or not roads and parks are delivered).

ITEM 7 (continued)**Built Form**

- The lowest FSRs are located towards the perimeter of the Macquarie Park Corridor to provide transition to residential areas. The highest FSRs are concentrated along Waterloo Road – the focus of redevelopment and the main street for the Corridor.
- Building heights consistent with the incentive FSRs are developed and incorporated in the amended LEP. Two maximum heights are proposed - 45m and 65m - with the highest fronting Waterloo Rd.

Refer **ATTACHMENT 3** Proposed Floor Space Ratios and **ATTACHMENT 4** Proposed Height of Buildings.

Access Network

- The Proposed Access Network is refined so that roads are approximately 200m apart and pedestrian ways are approximately 100m apart. (This has meant that some roads are deleted from the existing DCP Access Structure Plan and that the pedestrian network is simplified)

Refer **ATTACHMENT 5** Proposed Access Network.

Open space

- The Proposed Open Space Network is refined to
 - Include 2 new parks that will cater for active and passive recreation (one in the centre of the area (near 43 Waterloo Rd and one on the M2 site)
 - Retain urban plazas at rail stations.
 - Introduce a new public park in the area contained by Thomas Holt Drive
 - Delete linear parks located on overland flow paths based on the Ryde Integrated Open Space Study advice that “narrow natural corridors should not be seen as an alternative to offering destination reserves.”
 - Create a new “town square” along Herring Road between the shopping centre and university.
 - Delete lineal (overland flow) open space. It is intended that stormwater management will be the subject of development consent.

Refer **ATTACHMENT 6** Proposed Open Space Network.

How does the scheme work? - Administration process

LEP amendment 1 will vary the height and FSR for Macquarie Park but will be deferred. While land is deferred from the LEP, the FSR and Height cannot be accessed and a development proposal cannot be determined under the plan.

To unlock the height and FSR a developer will need to enter into an agreement with council to implement roads and / or parks as an in kind contribution or to provide a cash contribution towards new roads and parks.

ITEM 7 (continued)

The Voluntary Planning Agreement contribution will be calculated on a rate per square metre for the bonus floor space. The contribution rate is nominally \$250/sqm. It should be noted that S94 developer contributions payable under council's plan will also apply. Once the agreement is executed the greater FSR/height is made available through a minor LEP amendment relating to the site.

It is proposed that pedestrian ways will be implemented through conditions of development consent and that the landowner will make provision for public access by creating an easement in favour of Council. As a result floor space incentives will not be applicable to these.

Where land is to be dedicated to Council for roads and parks it is proposed that the scheme will acknowledge land value by setting a \$250/sqm. This will be less than the market value of the land as the developer will retain the development potential of that land.

Sample calculation for the incentive contribution

The following example is based on a theoretical block of land. It should be noted that:

- The incentive contribution is in addition to any applicable s94 contribution which is calculated on the nett floor space increase.
- If the developer is providing the road or park as an in-kind contribution the cost of construction would be subtracted from the total contribution figure.

Example:

- Site Area: 1,000sqm
- Current FSR: 1:1
- Deferred FSR 2:1
- New Road Area (in DCP): 100sqm
- Contribution Rate: \$250/sqm
- Land Value for Road Area: \$250/sqm
- Cost of Building Road: \$300/sqm

Where GFA = gross floor area

INCENTIVE CONTRIBUTION

= (bonus GFA x \$rate) – [(cost of any works provided on site) + (road area x \$land value)]

= (1000sqm x \$250) – [(100sqm x \$300) + (100 x \$250)]

= \$250,000 – [\$30,000 + \$25,000]

= \$195,000

In this example calculation the developer would pay \$195,000 for the bonus floor space and will provide the road.

Once an agreement has been reached by council and the developer, the land will be “undeferred” through a minor amending LEP and a DA may be processed.

ITEM 7 (continued)**3. Considerations For Council****Risks: impact of increased FSRs**

Macquarie Park will not have the densities of Chatswood, Central Sydney or North Sydney and will retain its “green leafy” character. Macquarie Park will differ markedly from these urban centres as the proposed incentive FSRs are between 1:1 and 3:1 and quite low for a major urban centre. The following are examples of FSRs in other urban centres in the Sydney Metropolitan region:

- Central Sydney predominantly 8:1
- Chatswood up to 8:1 (Draft LEP)
- North Sydney up to 4:1
- Rhodes generally up to 3.3:1 with one site up to 4.5:1 (Draft LEP)

Creating more floor space capacity within the Macquarie Park planning controls does not mean that the area will be flooded by new development. The Macquarie Park Corridor is predominantly zoned B3 Commercial Core and B7 Business Park. Hill PDA advise that the delivery of commercial floor space is independent of supply (i.e. the undeveloped floor space capacity within the planning controls).

Floor space delivery will continue to be gradual and market driven. The consultant, Hill PDA, has observed that approximately 30,000 sqm floor space has been delivered per annum over the last ten years and they anticipate 50,000sqm floor space to be delivered per annum over the next twenty years.

Risks: the roads may not be delivered

As the scheme is voluntary, and achieved through the development process roads may take a long time to be delivered or may be delivered piecemeal. This is an accepted part of the scheme. However, all endeavours have been taken to make the scheme attractive and controls in the DCP will ensure that land identified for roads or parks is not built upon.

To optimise delivery; the consultants have recommended that as few sites as possible are affected by the roads network. The consultants have also tested the FSRs and contribution rates to ensure they are attractive. Council will also utilise design solutions such as cul-de-sacs; which turn into roundabouts when the road is extended.

The consultant team has estimated that the scheme will take 20 years to implement. The team has recommended that a review is undertaken at the 10 year mark and that monetary contributions are used at that time to purchase key road links that have not been implemented.

ITEM 7 (continued)

Financial Implications

The proposed incentive scheme manages council's financial exposure and transfers the cost of new access infrastructure to the development sector. New road infrastructure is proposed to be funded at no-risk to council through the development process as the scheme is voluntary and new roads are to be implemented by developers in return for additional floor space.

Under the scheme it is proposed that the delivery of roads will be cost neutral to Council. However, the delivery of parks may incur a cost.

New parks are proposed to be implemented by developers and dedicated to council. As the park areas may be large (potentially 10,000sqm) it is proposed that the land value is acknowledged in the calculations for the Voluntary Planning Agreements. The costs to Council from the delivery of parks is proposed to be sourced from funds collected from the Incentive Scheme and from s94 Development Contributions, which currently identifies approximately \$44M for open space acquisition.

Options

1. Do nothing

Do nothing is an option that will see the existing open space deficiency become more marked and congestion continue – perhaps even worsen. The outcomes of this will be that Macquarie Park will be unattractive to the market and growth affected. This will in turn impact on Council's strategy to focus growth in Macquarie Park in order to lessen pressure for growth on other parts of the Ryde Local Government Area. As a result, this option is inconsistent with Council's existing policies as outlined in the Ryde Local Planning Study 2010.

2. Infrastructure funded through s94

To fund the proposed new infrastructure entirely through s94 would require an increase of the developer contributions rate to a level that would make the Macquarie Park Corridor uncompetitive with other centres. Developers would likely choose to locate in other centres and growth in Macquarie Park would slow. As a result this option is inconsistent with Council's existing Ryde Local Planning Study 2010.

4. Next Steps

Consultation

DLEP amendment has been prepared under the provisions of the legislative framework for a Planning Proposal. In issuing the gateway determination for this DLEP amendment DoPI advised that it is satisfied that all conditions precedent up to formal community consultation have been met.

This report seeks approval from Council to undertake community consultation. This would involve consultation with the community and also with state government agencies such as Transport for NSW, and the Roads and Maritime Authority.

ITEM 7 (continued)

The Department of Planning and Infrastructure has been consulted throughout the process.

It is proposed that the plan will be placed on public exhibition for a period of at least six weeks. The exhibition material will be available at Council's Ryde Planning and Business Centre, all Council libraries and on council's website. The exhibition will extend into 2013. Workshops and information sessions will also be conducted.

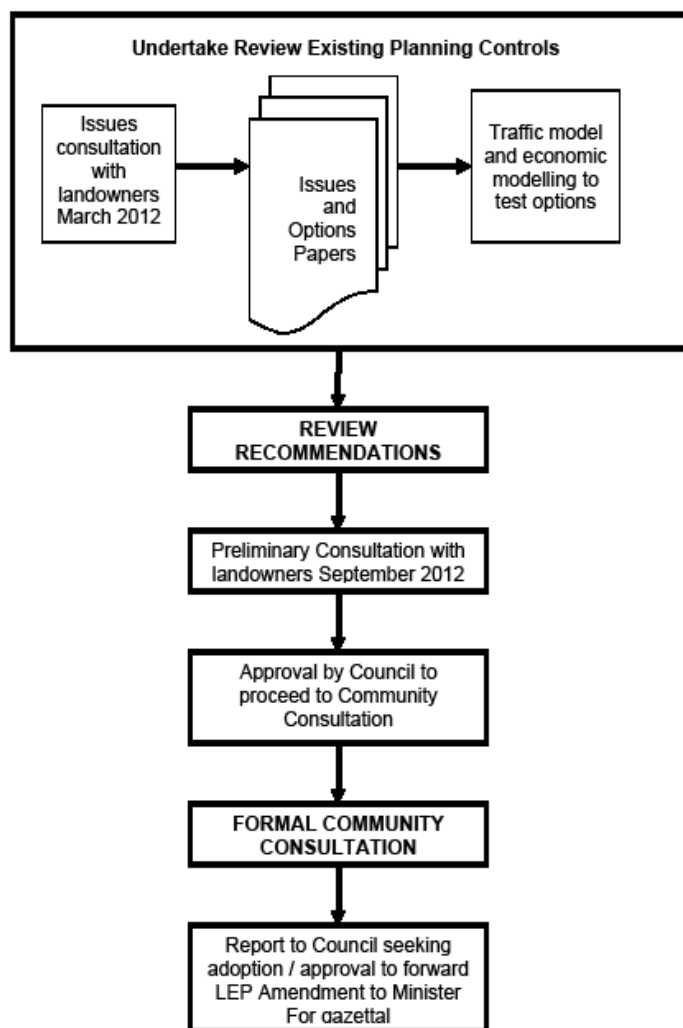


Figure 1: Process to undertake Macquarie Park planning controls review

ITEM 7 (continued)**Finalising the Plan**

As soon as practicable after the exhibition a report regarding all submissions and consultation activities will be presented to Council. At this time Council will have the opportunity to:

- Proceed with the Plan as exhibited
- Vary the Plan
- Determine not to proceed

Assuming Council determines to proceed with the Plan, it will then be submitted to DoPI for making.

ITEM 7 (continued)

ATTACHMENT 1

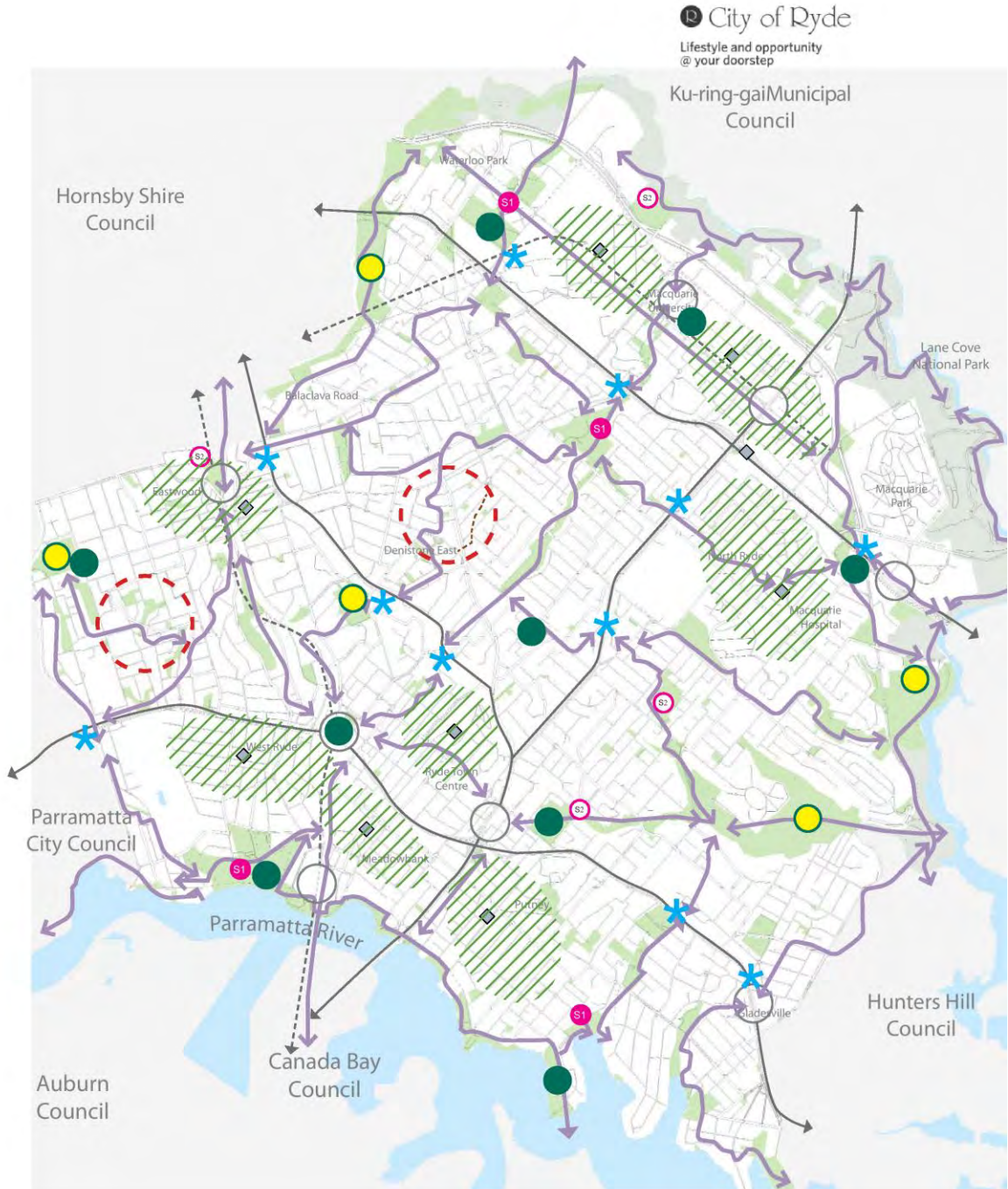


Figure OB.01 City of Ryde Open Space Structure Plan

INTEGRATED OPEN SPACE PLAN - DRAFT - ISSUE D



ITEM 7 (continued)

ATTACHMENT 1

OPEN SPACE STRUCTURE PLAN

KEY

- | | | | |
|---|--|---|--|
|  | Major Centres - Existing And Proposed |  | Local Open Space Deficit Areas Acquisition Review Areas |
|  | Citywide Sports Hub/Precinct |  | Major Arterial Roads |
|  | Level 2 Sports Park |  | Rail Lines |
|  | Primary Passive Parkland |  | Future Local Reserve Acquisition Opportunity (Review Localities) |
|  | Principal Bushland Reserve |  | Multiple Small Reserves (Rationalisation Review) |
|  | Principal Recreational Linkages (see Green Web and Green Grid) | | |
|  | Major Barrier Reduction Targets (Walking/Cycling) | | |



ITEM 7 (continued)

ATTACHMENT 2

Part	Chapter	
Macquarie Park Corridor	3.0 Structure Plan	4.5

3.0 STRUCTURE PLAN

3.1 Introduction

The Structure Plan sets out the broad framework for development within the Macquarie Park Corridor. It underpins the development controls within this Plan, and is supported by Ryde LEP 2010.

This Structure Plan is comprised of three elements:

- Street Network
- Open Space Network
- Built Form Network

Development in the Macquarie Park Corridor must occur within the framework of the Structure Plan objectives and controls, which establishes street layout and blocks, open spaces and built form. The synthesis of these elements will strengthen the existing corridor identity and character and create the public domain environment within which development of sites can occur. The Street Network Structure Plan will be tested by an Integrated Transport and Movement Study that aims to promote pedestrian activity and efficiently manage the street network. This study is being prepared in partnership with the Roads and Traffic Authority, landholders and key stakeholders. When complete the study may be reflected in an amendment to this DCP.

ITEM 7 (continued)

ATTACHMENT 2

4.5

Part
Macquarie Park Corridor

Chapter
3.0 Structure Plan

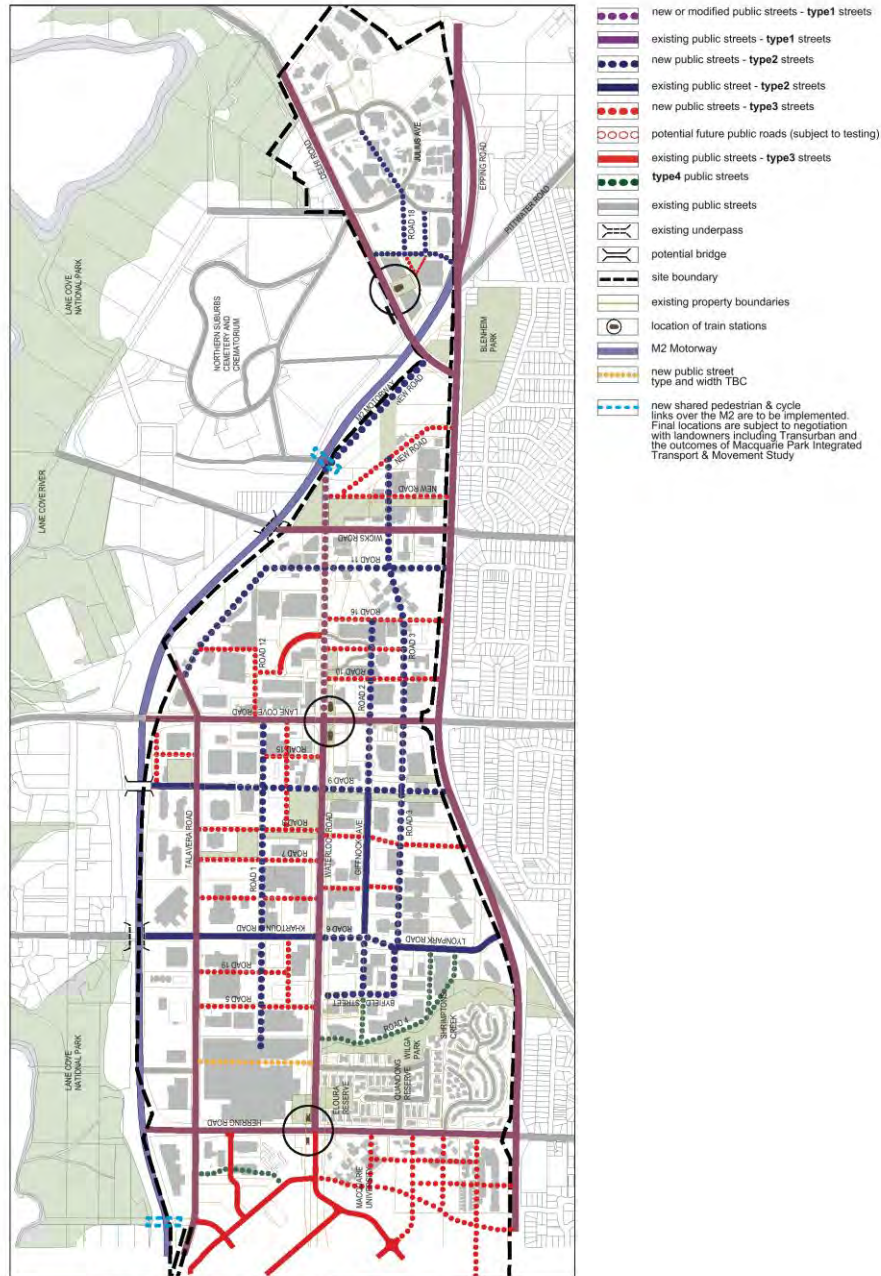


Figure 4.5.05 Street Network Structure Plan

ITEM 7 (continued)

ATTACHMENT 2

Part	Chapter	
Macquarie Park Corridor	3.0 Structure Plan	4.5

3.2 Street Network

Objectives

1. To improve pedestrian, cycle and vehicular accessibility and permeability within the Macquarie Park Corridor.
2. To improve pedestrian, cycle and vehicular connectivity between the Corridor and surrounding areas.
3. To provide a street network that responds to the constraints of topography, existing development and subdivision patterns.
4. To establish a clear hierarchy of public streets, building on the existing street hierarchy within the Corridor.
5. To improve legibility and provide way-finding opportunities within the Corridor.
6. To provide improved access to public open spaces within the Corridor.
7. To accommodate increased traffic movement within the Corridor.
8. To provide additional opportunities for on-street car parking.

Strategy

The Street Network Structure Plan provides a clear hierarchy of street types, including the extension of existing streets and a network of new streets.

The street network is made up of the following street types:

- Type 1 Streets
- Type 2 Streets
- Type 3 Streets
- Type 4 Streets

The Street Network maximises cross connections within the corridor and to surrounding areas and aims to substantially improve pedestrian and cycleway paths to enable a more permeable and amenable public domain. The layout also responds to the open space and built form structure, providing access to parks and significant public places within the Corridor.

Controls

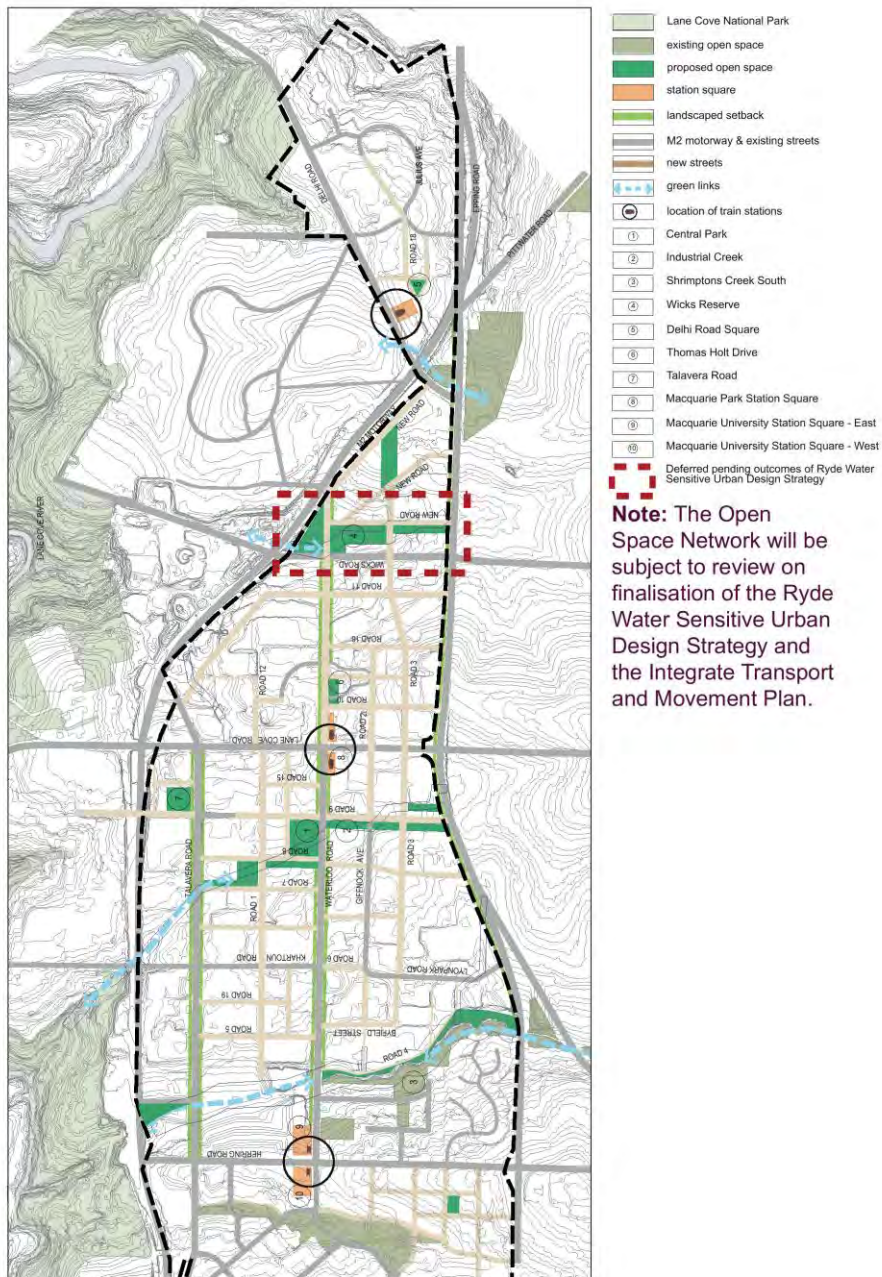
- a. Provide new public streets as shown in Street Network Structure Plan.
- b. Refer to Section 5.1 of this Plan for detailed information regarding the required width, design and location of each street type.
- c. New streets are to be dedicated to the Council.
- d. All major development shall utilise the Macquarie Park Integrated Traffic and Movement Study. Proponents should contact council early in the design phase.

ITEM 7 (continued)

ATTACHMENT 2

Part
4.5 Macquarie Park Corridor

Chapter
3.0 Structure Plan



ITEM 7 (continued)

ATTACHMENT 2



3.3 Open Space Network

Objectives

1. To provide additional open space within a network of well connected parks, plazas and green streets.
2. To rationalise the existing open space network to provide consolidated open spaces and open space corridors.
3. To accommodate a range of active and passive recreational uses.
4. To contribute to stormwater and ecological management.
5. To maximise the accessibility of public open space, and to contribute to the pedestrian and cycle network.
6. To create bio-links and canopy connections to existing vegetation communities surrounding the Corridor.

Strategy

The Public Open Space Structure Plan augments existing public open spaces within the Corridor, to create a new open space network.

The structure plan locates three spines of open space along the existing creek corridors. These run north-south at the western edge of the site on the Shrimptons Creek corridor, on the central ridge on Industrial creek and to the east on Porters creek. These linear parkland spines act as pedestrian and cycleway connections, address water quality and overland flow, provide informal gathering and recreational areas, civic squares and rehabilitated and new vegetation reserves. The location of public open space is integrated with the street network to maximise pedestrian access opportunities.

Primary east-west streets contribute to the Public Open Space structure with wide, planted street setbacks. These green streets provide connectivity between the north-south parkland spines.

The key parks included in the structure plan are:

- North Ryde Station Precinct Square
- Macquarie Park Station Square - East
- Macquarie Park Station Square - West
- Macquarie University Station Square – East
- Macquarie University Station Square – West
- Central Park
- Industrial Park
- Thomas Holt Drive
- Shrimptons Creek South

Controls

- a. Provide public open space as shown in Figure 4.5.06 Open Space Network.
- b. Refer to Part 5.1 of this Plan for detailed information regarding the design requirements for each park.
- c. Parks are to be in public ownership.

ITEM 7 (continued)

ATTACHMENT 2

<p>Part</p> <h1 style="font-size: 2em; margin: 0;">4.5</h1>	<p>Macquarie Park Corridor</p>	<p>Chapter</p> <h2 style="font-size: 1.2em; margin: 0;">3.0 Structure Plan</h2>
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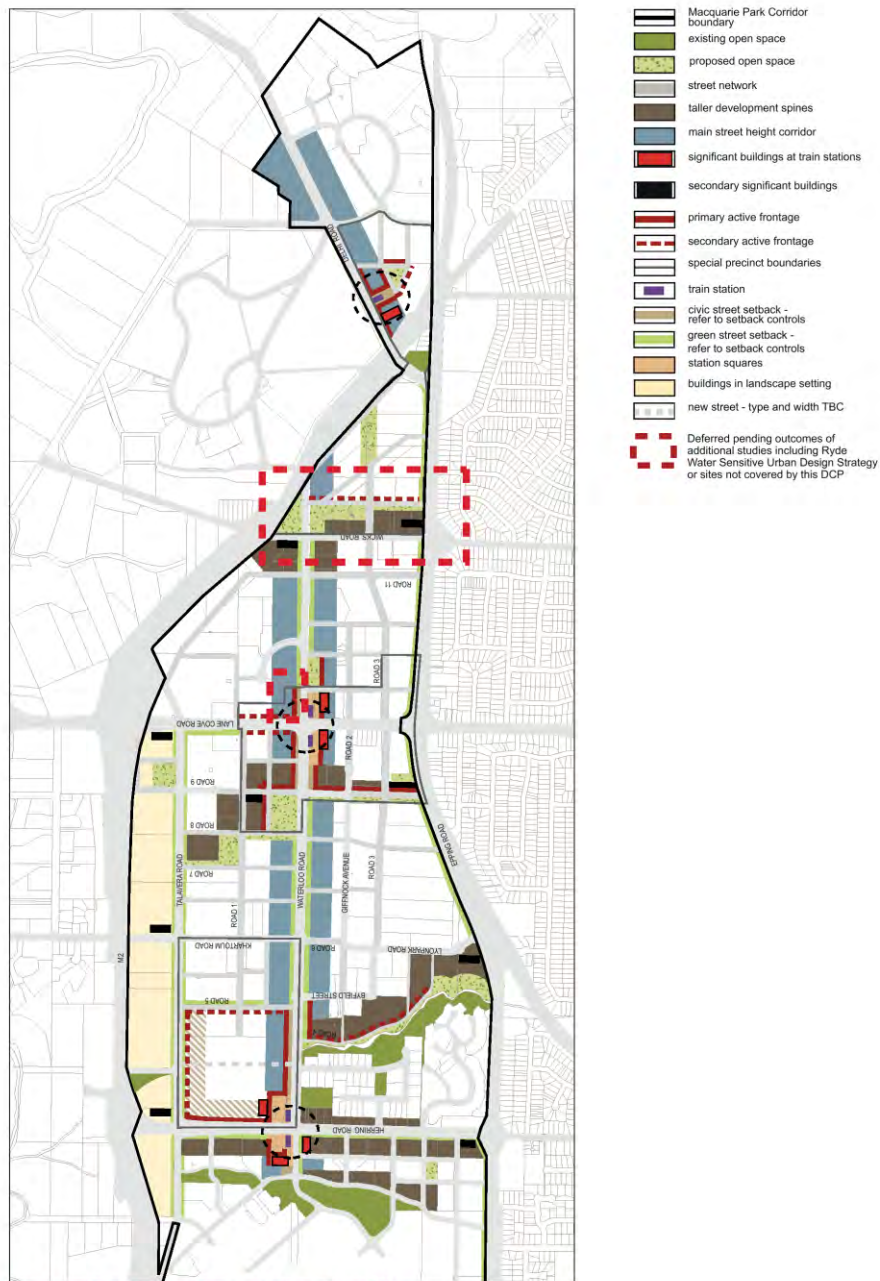


Figure 4.5.07 Built Form Structure Plan

ITEM 7 (continued)

ATTACHMENT 2

Part	Chapter	
Macquarie Park Corridor	3.0 Structure Plan	4.5

3.4 Built Form

Objectives

1. To ensure that built form relates well to streets and open spaces.
2. To strengthen the legibility of the street network and reinforce the character of Waterloo Road as a main street.
3. To assisting in way-finding, and spatially locate important public places and parks within the Corridor.
4. To provide a framework for a mix of retail and residential uses, complementing the primarily commercial focus of the Corridor.
5. To provide a foundation for the provision of public benefits in return for built form opportunities and bonuses.

Strategy

The Built Form structure plan focuses on the character and height distribution of built form within the Macquarie Park Corridor. This structure plan supports the building height and density controls contained within Ryde LEP 2010.

Taller development spines are strategically located adjacent to the open space network, defining the edges of new parks, responding to the location of existing tall buildings and reinforcing the north-south circulation network.

Opportunities for 'Locational Buildings' have been identified. These sites spatially locate important places within the corridor such as key entry points, parks and train stations. The Locational Buildings are intended to be distinct from their lower scale surroundings. Primary Locational Buildings are located adjacent to train stations. Secondary Locational Buildings are located at the ends of north-south development spines, and opportunities for buildings taller than their low-scale streetscape have been identified adjacent to links north over the M2.

Important street corridors such as Waterloo, Epping and Talavera Roads are reinforced by consistent building heights and street setbacks. Within the street network, opportunities for active frontages have been identified and controls provided for the specific relationship between buildings and the street in these locations.

Locations for consolidated active street level uses are identified around train stations and adjacent to parks. The opportunity for the Macquarie Centre to present a more active frontage at ground level has also been identified.

Controls

- a. Buildings are to be designed according to Section 6 of this Plan – Site and Building Design controls.
- b. Refer to City of Ryde LEP 2010 for Building Height and Floor Space Ratio controls.

ITEM 7 (continued)

ATTACHMENT 2

4.5 | Part
Macquarie Park Corridor

Chapter
3.0 Structure Plan

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ITEM 7 (continued)

ATTACHMENT 3

2. Urban Design Options

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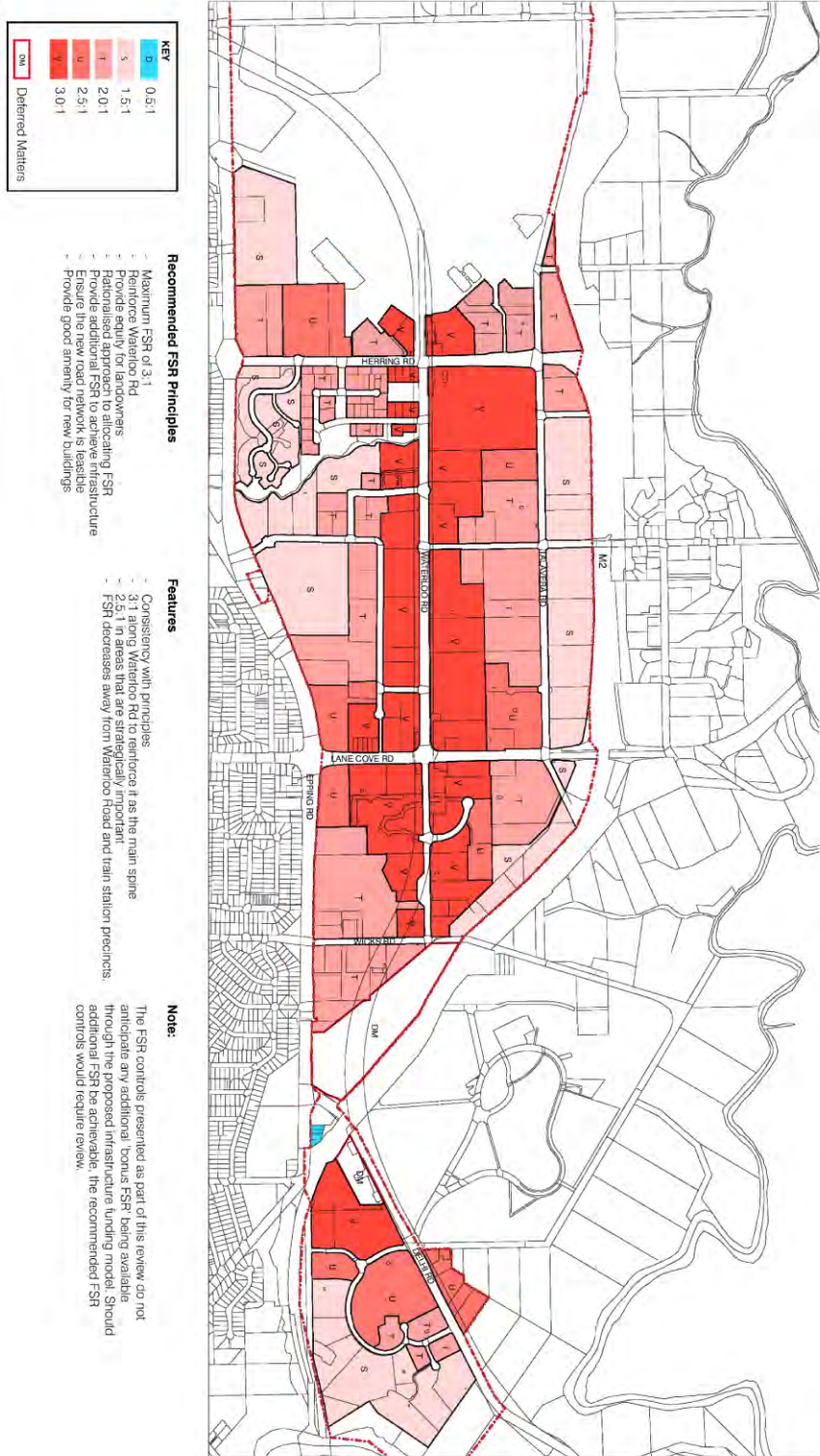


Figure 13: FSR Option 3

ITEM 7 (continued)

ATTACHMENT 4

2. Urban Design Options

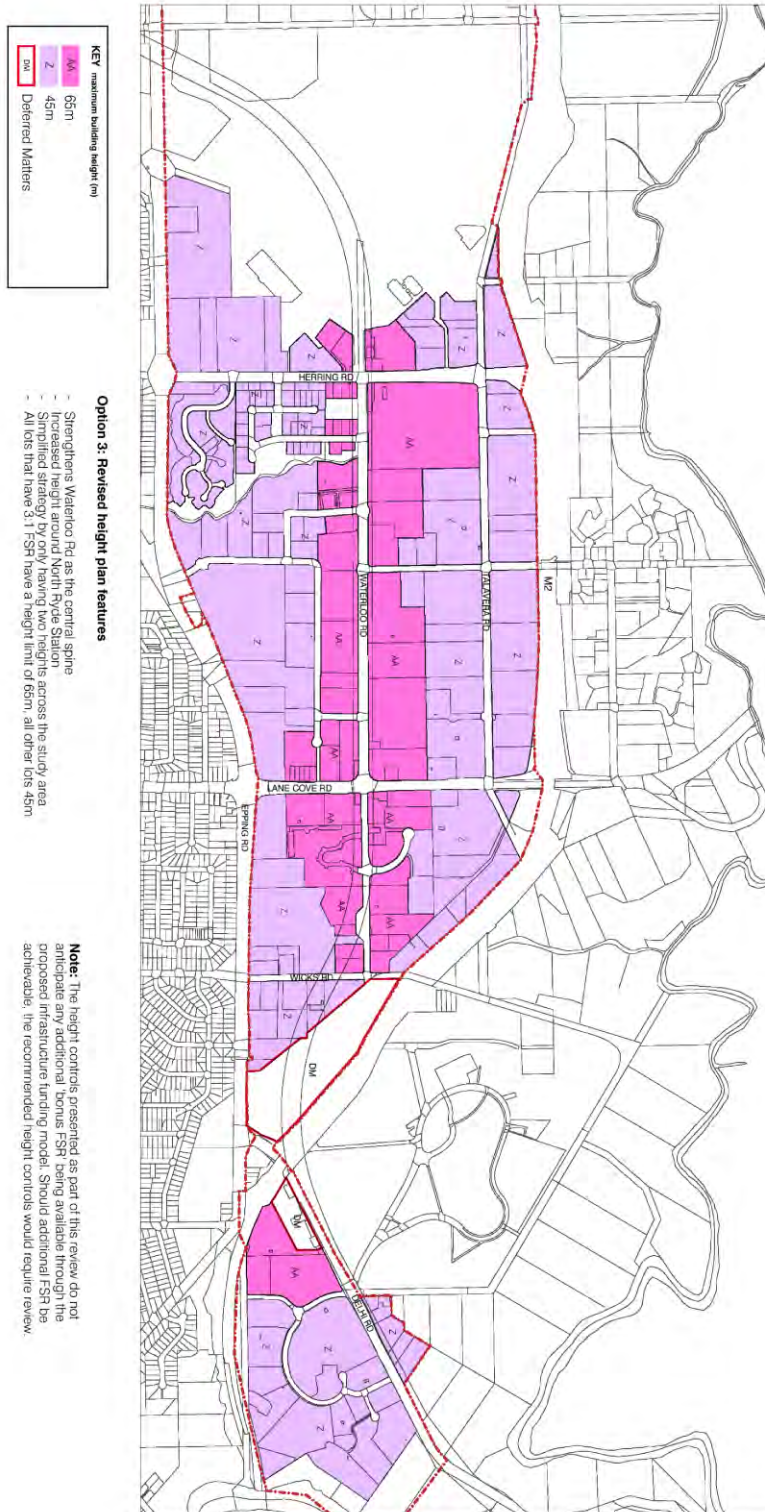


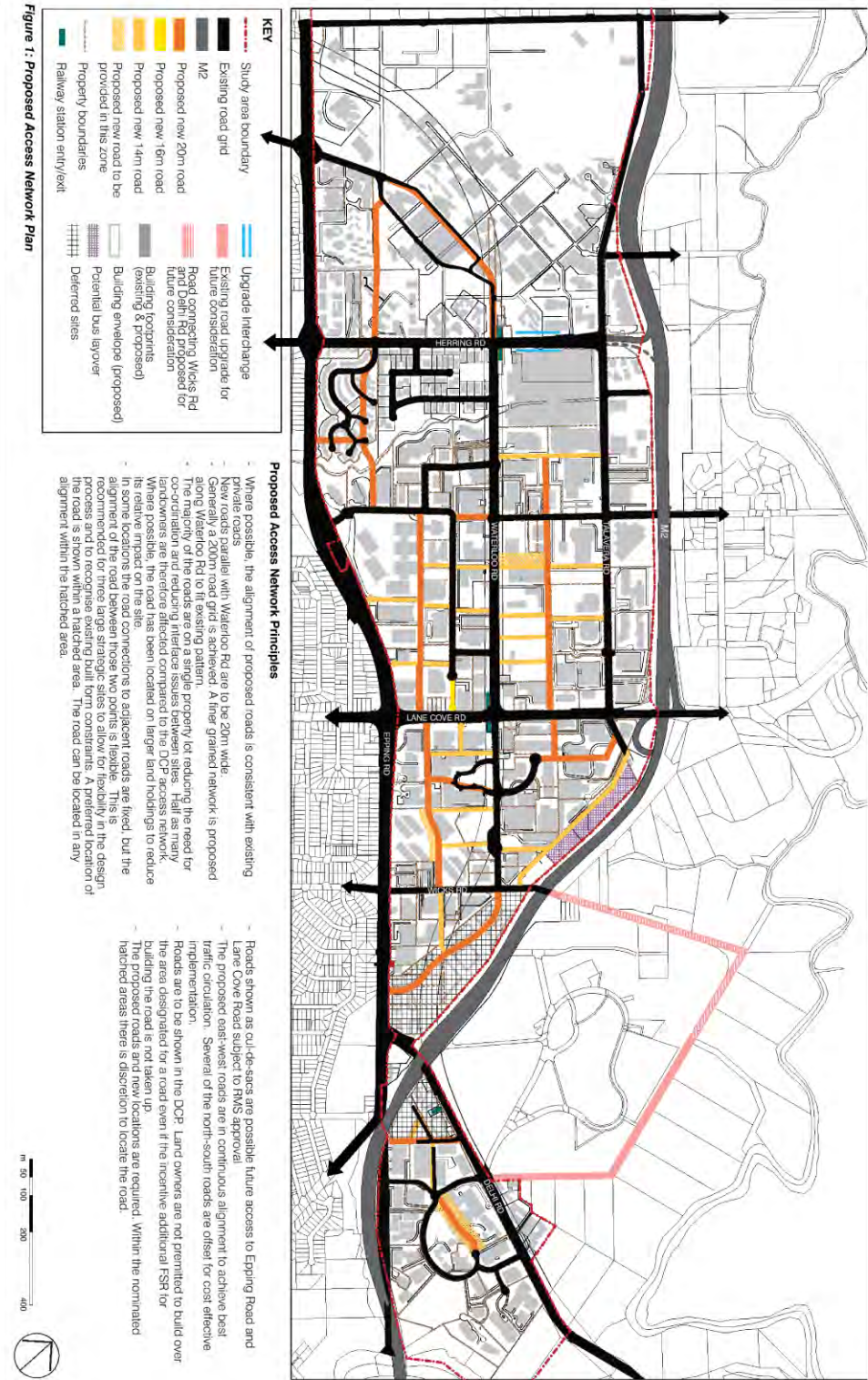
Figure 16: Proposed Building Heights

ITEM 7 (continued)

ATTACHMENT 5

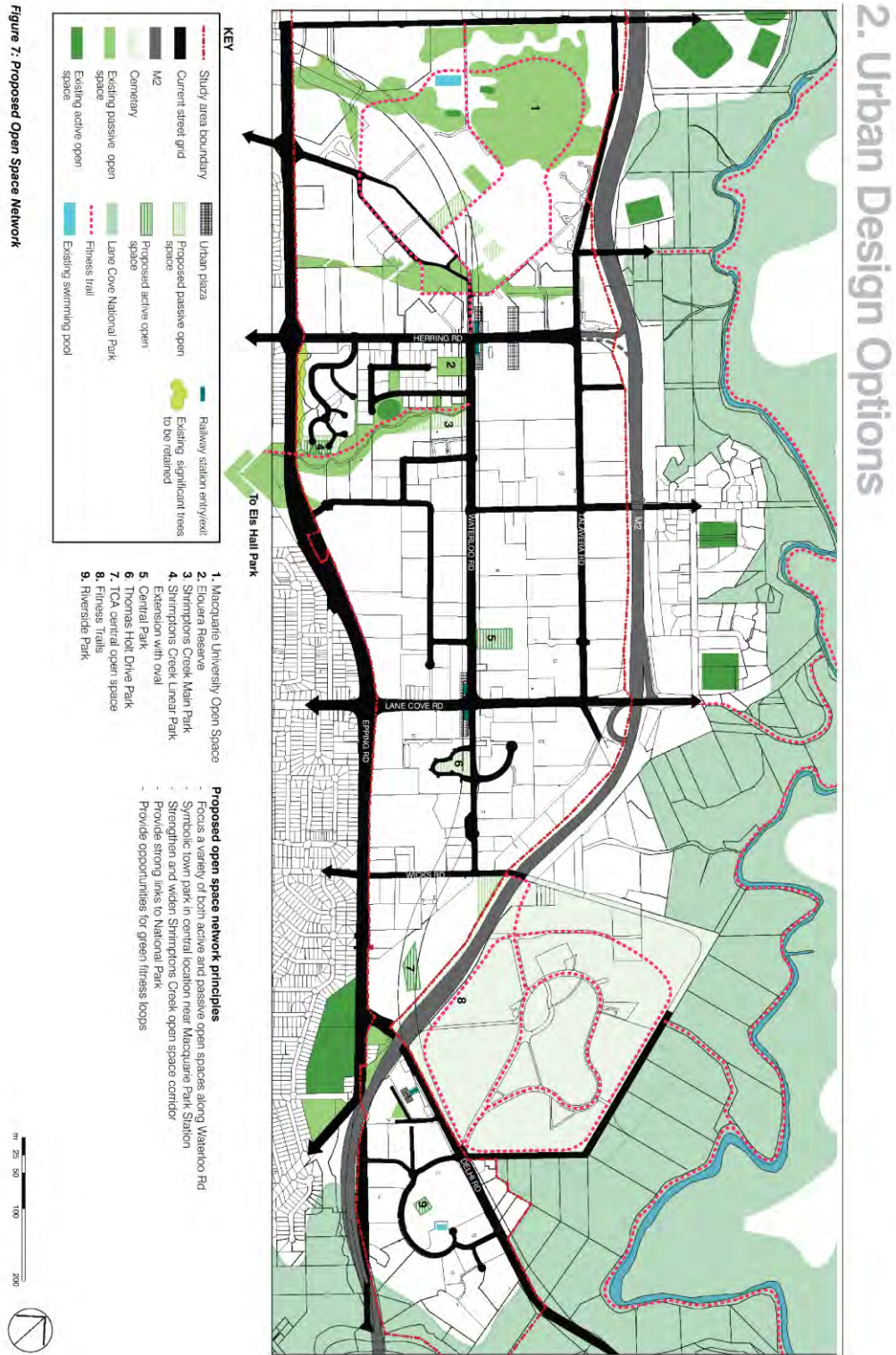
2. Urban Design Options

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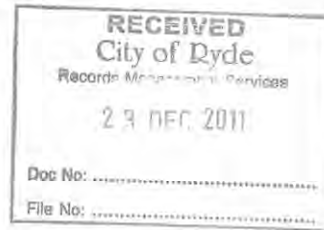
ITEM 7 (continued)

ATTACHMENT 6



ITEM 7 (continued)

ATTACHMENT 7



Mr Dominic Johnson
Group Manager Environment and Planning
Ryde Council
Locked Bag 2069
NORTH RYDE NSW 1670

11/22184

Dear Mr Johnson

Planning Proposal (Department Ref: PP_2011_RYDE_001_00): to update the planning controls for the Macquarie Park Corridor.

I refer to your letter of 17 November 2011 requesting the Department grant an extension of 18 months to finalise a Planning Proposal ('PP') for the Macquarie Park Corridor.


This letter supersedes my correspondence dated 5 December 2011 in order to rectify a referencing error. The previous letter and Gateway Determination made reference to a PP reference PP_2010_RYDE_001_00 which should have read PP_2011_RYDE_001_00. I would like to now rectify this error by reissuing the Gateway Determination.

As indicated in my letter on 5 December 2011, the completion timeframe has now been extended to 31 June 2013. Please note that all conditions precedent up to section 57 of the old Part 3 of the *Environmental Planning and Assessment Act 1979* are dispensed with. However, Council is requested to submit a detailed project workplan to the Department within 28 days from the date of this letter outlining the milestones and timeframes it seeks to achieve to ensure that Council meets the new PP deadline.

The Department is committed to working closely with Ryde Council in delivering the planning controls for this important centre.

Should you have any further enquiries about this matter, I have arranged for Ms Danijela Karac-Cooke, Plan Making and Urban Renewal - Sydney East Planning Teams, of the Department of Planning and Infrastructure to assist you. Ms Karac-Cooke can be contacted on telephone number (02) 9228 6207.

Yours sincerely


Tom Gellibrand
Deputy Director General
Plan Making and urban Renewal

Bridge St Office 23-33 Bridge St Sydney NSW 2000 GPO Box 39 Sydney NSW 2001 DX 22 Sydney
Telephone: (02) 9228 6111 Facsimile: (02) 9228 6191 Website planning.nsw.gov.au

ITEM 7 (continued)

ATTACHMENT 7



**Planning &
Infrastructure**

Gateway Determination

Planning Proposal (Department Ref: PP_2011_RYDE-001-00): to update the planning controls for the Macquarie Park Corridor.

I, the Deputy Director General, Plan Making & Urban Renewal as delegate of the Minister for Planning and Infrastructure, have determined under section 56(2) of the EP&A Act that an amendment to the Ryde Local Environmental Plan 2010 to update the planning controls for the Macquarie Park Corridor should proceed. In doing so, I have dispensed with the requirement for a planning proposal under section 55 and 56(1) under clause 122 of Schedule 6 of the *Environmental Planning and Assessment Act, 1979* (EP&A Act).

The determination is subject to the following conditions:

1. Community consultation is required under section 57 of the EP&A Act as follows:
 - (a) the Planning Proposal must be made publicly available for 28 days; and
 - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 4.5 of *A Guide to preparing LEPs (Department of Planning 2009)*.
2. No public hearing is required to be held into the matter under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or in reclassifying land).
3. The timeframe for completing the LEP is to be **18 months** (until 31 June 2013).

Dated 21 day of 12 2011.


Tom Gellibrand
Deputy Director General
Plan Making & Urban Renewal
Delegate of the Minister for Planning
and Infrastructure

8 SUBMISSION ON PROPOSED AMENDMENTS TO THE CODES SEPP

Report prepared by: Client Manager**File No.:** GRP/11/6/3/6 - BP12/1336

REPORT SUMMARY

The NSW Department of Planning and Infrastructure released on 12 October 2012 proposed amendments to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) and the *Environmental Planning and Assessment Regulation 2000* (EPA Regs 2000).

In 2008 the NSW Government created one policy for exempt and complying development standards to be used Statewide. The rules are set out in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, known as the Codes SEPP.

The Codes SEPP allows development to either proceed as:

- Exempt development which does not require planning approval.
- Complying development, which can be approved by an accredited certifier in ten days.

The NSW Government is now seeking feedback on a series of major changes that are proposed to allow a wider range of commercial, retail, industrial and residential development types to be able to obtain code based approvals.

The proposed amendments comprise:

- Inclusion of a new code that provides for new industrial buildings up to 20,000 m², and additions to existing commercial buildings up to 1000 m² for retail uses and 2,500m² for commercial uses. Other commercial and industrial development types including first use, changes of use, fitouts and ancillary development are also included in this new code.
- Expansion of the General and Rural Housing Codes to include additional residential development types and standards, including built to boundary for lots between 10m and 12.5m, allowing for basements and increased excavation for single dwellings, and allowing for detached studios on residential lots.
- Allowing internal building alterations to multi-unit developments, and minor external additions to multi-unit developments where there is no additional floor area.
- Inclusion of new types of exempt development including advertising and signage, temporary uses and structures, expanded changes of use, outdoor footpath dining up to 20 m² in area, mobile food and drink outlets and waterways structures. Changes are also proposed to existing exempt development types and development standards as a result of stakeholder consultation.

ITEM 8 (continued)

- Amending the provisions for land based exclusions and other restrictions to increase situations where exempt and complying development can be undertaken.
- Inclusion of a new Fire Safety Code to provide for alterations to a sprinkler system, other fire safety systems, and changes to fire alarm communication links as complying development. Changes are also included in the Regulation for these matters.
- Inclusion of the following as prerequisites to being considered as complying development:
 - certification by Roads and Maritime Services where a new building or additions over 5000 m² are proposed on or adjacent to a classified road,
 - certification by a qualified person where a new building or change of use are proposed on specified land which is required to be remediated, and
 - an independent report on fire safety upgrade for existing commercial and industrial buildings when considering additions and alteration to pre-1993 buildings.
- Requiring a condition to be imposed on complying development to include the payment of Section 94 contributions and damage deposit/security bond to councils for complying development, prior to the commencement of work, and
- Requiring neighbour notification for applications for complying development certificates, to be given to the occupier of dwellings within 50 metres of the site where works are proposed at least 5 days prior to determination, and amend the existing requirements for neighbour notification prior to the commencement of building works, to match the same time frame and notification area as above.

As detailed within this report, there are several areas of concerns and issues with the proposed amendments.

RECOMMENDATION:

That Council endorse the submission at **Attachment 1** to go into the Department of Planning and Infrastructure in response to the proposed amendments to the Codes SEPP.

ATTACHMENTS

- 1 Attachment 1 - Draft Submission on Codes SEPP

ITEM 8 (continued)

Report Prepared By:

Adrian Melo
Client Manager

Report Approved By:

Vince Galletto
Team Leader - Building and Development Advisory Service

Dominic Johnson
Group Manager - Environment & Planning

ITEM 8 (continued)

Discussion

The NSW Department of Planning and Infrastructure released on 12 October 2012 proposed amendments to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) and the *Environmental Planning and Assessment Regulation 2000* (EPA Regs 2000). Council was informed of the proposed changes in a Councillor Information Bulletin (CIB) dated 25 October 2012.

As advised in the CIB, in 2008 the NSW Government created one policy for exempt and complying development standards to be used Statewide. The rules are set out in the Codes SEPP.

The Codes SEPP allows development to either proceed as:

- Exempt development, which does not require planning approval.
- Complying development, which can be approved by an accredited certifier in ten days.

The Codes SEPP has assisted both home and business owners with a streamlined system of approval when undertaking to build or renovate a house or doing internal renovations to commercial and industrial buildings.

The NSW Government was seeking feedback on a series of major changes that are proposed to allow a wider range of commercial, retail, industrial and residential development types to be able to obtain code based approvals. The public exhibition period closed on 9 November 2012 providing 20 working days for considering of the proposed amendments. Council has written to the Department of Planning and Infrastructure (DoPI) advising them that Council will be making a submission following the consideration of this report by Council. Whilst it is noted that the CIB issued to Council stated that Council would not be making a submission regarding the Codes SEPP, further review of proposed amendments by staff have identified substantial areas of concern.

Proposed Amendments to Codes SEPP

The proposed amendments to the Codes SEPP, as identified within the 'Explanation of intended effects' issued by DoPI, comprise:

- Inclusion of a new code that provides for new industrial buildings up to 20,000 m², and additions to existing commercial buildings up to 1000 m² for retail uses and 2,500 m² for commercial uses. Other commercial and industrial development types including first use, changes of use, fitouts and ancillary development are also included in this new code.

ITEM 8 (continued)

- Expansion of the General and Rural Housing Codes to include additional residential development types, including built to boundary for lots between 10m and 12.5m, allowing for basements and increased excavation for single dwellings, and allowing for detached studios on residential lots. Development standards in the housing codes will also be amended to provide more flexibility and broaden the application of the codes.
- Allowing internal building alterations to multi-unit developments, and minor external additions to multi-unit developments where there is no additional floor area.
- Inclusion of new types of exempt development including advertising and signage, temporary uses and structures, expanded changes of use, outdoor footpath dining up to 20 m² in area, mobile food and drink outlets and waterways structures. Changes are also proposed to existing exempt development types and development standards as a result of stakeholder consultation.
- Amending the provisions for land based exclusions and other restrictions to increase situations where exempt and complying development can be undertaken.
- Amendments to allow exempt development under the Bathurst Local Environmental Plan to continue and include a variation to enable additional complying development to be undertaken in areas at Port Macquarie.
- Inclusion of a new Fire Safety Code to provide for alterations to a sprinkler system, other fire safety systems, and changes to fire alarm communication links as complying development. Changes are also included in the Regulation for these matters.
- Repealing provisions for exempt and complying development in specified Environmental Planning Instruments (EPIs) which are being transferred into the Codes SEPP. It is also intended that the final SEPP will repeal exempt and complying development provisions in other EPIs where these have been made redundant by the provisions now included in the Codes SEPP.

Potential areas of concern regarding the proposed amendments are detailed within this report under the section titled 'Issues with Codes SEPP Amendments'.

Issues with Codes SEPP Amendments

A review of the proposed amendments to the Codes SEPP has identified several significant areas of concern. These areas of concern have been detailed below.

ITEM 8 (continued)**Land Constraints**

Currently, several land constraints such as Flooding, Foreshore Building Areas, Environmentally Sensitive Areas or Heritage listing prevents the undertaking of Complying or Exempt Development on certain sites within Ryde. The proposed amendments to the Codes SEPP seek to loosen these limitations. The main areas of concern regarding applicable land constraints are Heritage, Environmentally Sensitive Areas and Site Compatibility Certificates.

Heritage**Proposed Amendment**

The new provisions allow for exempt and complying development to be carried on State Heritage Sites as long as it is outside the curtilage of the item. Curtilage, in relation to a heritage item means the area of land surrounding a heritage item that contributes to its heritage significance.

Consideration and Recommended Position

The definition does not provide information on who is authorised to determine what the curtilage should be or whether it has to be mapped, defined by lot and deposited plan details or whether a written description would suffice. Without this information, or further clarification on these matters, this proposed amendment is not supported.

With regards to the proposed amendments for the *Commercial and Industrial (New Buildings and Alterations) Code*, it is unclear whether new buildings or alterations to existing buildings will take into consideration locally listed heritage items. From the proposed amendments it appears that Complying Development Applications for industrial / commercial buildings will be permitted on heritage items. It is noted that the proposed changes to CI1.19 (3) refers to draft heritage items, not existing heritage items. It is recommended that Council object to this.

Environmentally Sensitive Areas**Proposed Amendment**

Under the proposed amendments, development such as decks, fences, garden sheds and other minor building alterations will be considered exempt in environmentally sensitive areas if ancillary to existing buildings or uses present on the site.

Consideration and Recommended Position

It is recommended that Council object to this. Once damage is done to an environmentally sensitive area it is often impossible to rectify. The potential damage does not justify the efficiency gains to be had by these provisions.

ITEM 8 (continued)**Site Compatibility Certificate***Proposed Amendment*

It is proposed to allow for the application of Complying Development to sites which have had a Site Compatibility Certificate issued. In the *Green Paper – A New Planning System for NSW*, site compatibility certificates are proposed to make development permissible without requiring re-zoning. The new provisions specify that the Codes SEPP may apply to land with site compatibility certificates.

Consideration and Recommended Position

This change will create complexity and uncertainty in the planning process and is not supported. There should only be one system for re-zoning otherwise the “strategic planning” which is intended to be the basis of the “new planning” system may be compromised. Accordingly, it is recommended that Council object to this proposed amendment.

Exempt Development

Exempt Development is development that can be undertaken by land owners without any formal approval subject to meeting the minimum requirements prescribed within the Codes SEPP. The proposed amendments seek to expand the application of exempt development to encompass new forms of exempt development and expand or amend existing provisions within the Codes SEPP.

Advertising & Signage*Proposed Amendment*

The proposed amendments to the Codes SEPP will allow for business signage such as under awning signs, fascia signs, top hamper signs, wall signs, projecting wall signs, and window signs as exempt development. Figure 1 below details the types of signage proposed.

ITEM 8 (continued)

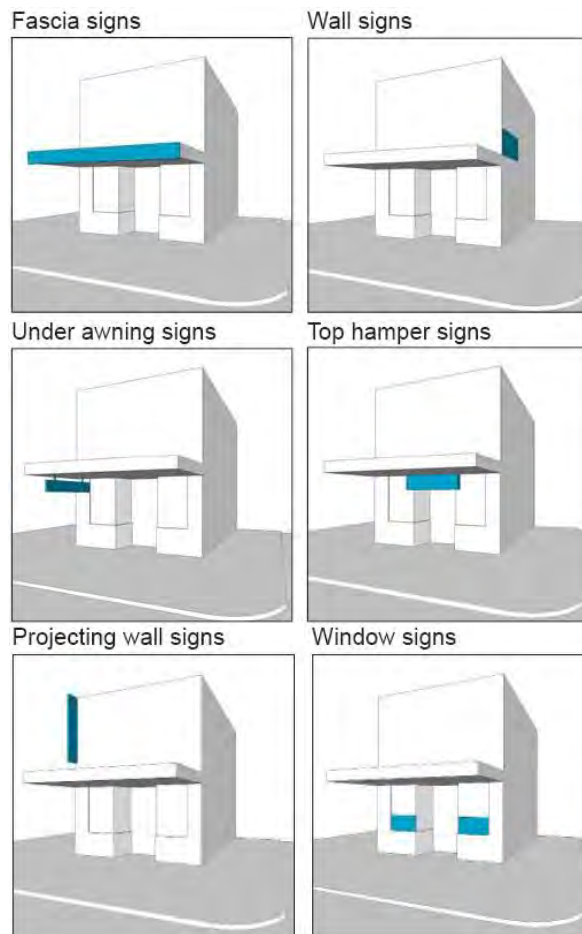


Figure 1: Proposed Exempt Signage

Consideration and Recommended Position

Concerns are raised regarding the allowing of signage as exempt development. The key area of concern is the inclusion of ‘projecting wall signs’ as exempt development. This form of signage is currently prohibited in the City of Ryde.

Also it is noted that no restrictions are imposed on the language used within the proposed signs. Council currently requires all advertising signs to include English but allows for a translation into another language using letters or characters that are no larger than the English language letters or characters. It is recommended that Council object to this proposed amendment for the reasons stated above.

Footpath Dining

Proposed Amendment

Provisions have been included in the Codes SEPP to allow footpath dining of up to 20sqm for restaurants and cafes to be considered as exempt development.

ITEM 8 (continued)**Consideration and Recommended Position**

This is not supported as it raises safety and liability issues. Currently, Council may be held liable if a resident injures themselves on the footpath or road requiring Council to constantly supervise the quality and use of these areas. Council has an existing policy that addresses footpath dining. The current policy requires a Development Application to be made to Council which will be assessed giving due regard to public safety and the liability and financial issues associated with the use of Council owned assets. It is recommended that Council object to this proposed amendment for the reasons stated above.

Waterway Structures**Proposed Amendment**

Under the new provisions non-structural maintenance, repairs and alterations to water structures such as marinas, water recreation facilities, wharves, jetties and pontoons are classified as exempt development. The new provisions include work such as repairing or replacing decking, handrails or ladders, the installation of emergency items such as lifebuoys, lighting and the installation, repair or replacement of security fencing, a security gate or security cameras.

Consideration and Recommended Position

Of particular concern is the potential impact that these structures may have on the amenity of foreshore areas when viewed from the water or surrounding areas. Whilst it is recognised that maintenance and repair work should be undertaken on waterway structures, of concern is the installation or replacement of existing structures, or their parts, that may result in added perceived bulk. Particular reference is made to handrails, decking, boatsheds, installation of security gates and installation of security fencing. The proposed development standards that are to apply to these types of structures do not include any consideration of openness of existing structures.

The exempt provisions relating to waterway structures appear to undermine the provisions of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* which has been highly successful in helping to protect the foreshores of the Harbour. Marinas, wharves, boatsheds, jetties and pontoons have an impact on the aesthetics and environment of Sydney Harbour which is a resource of national significance. Alterations to these structures warrant merit assessment. It is recommended that Council object to this proposed amendment for the reasons stated above.

Roller shutter doors adjoining lanes**Proposed Amendment**

The proposed amendment will allow for roller shutter doors adjoining lanes where they are associated with an existing hard stand area, carport or garage, have a width no greater than 4.5m and must not encroach on the lane.

ITEM 8 (continued)**Consideration and Recommended Position**

It does not appear as though due consideration has been given to sightlines or amenity impacts where the garage door is not part of structure erected along the boundary.

It is suggested that Council write to the Department to strongly urge it to reconsider this item, giving consideration to appropriate sightlines and limiting this requirement to only where carports and garages are in close proximity to the boundary.

Automatic Teller Machines**Proposed Amendment**

It is noted that the *FAQ sheet – Proposed changes to exempt development* identifies that changes have been made to the provisions for Automatic Teller Machines.

Consideration and Recommended Position

A review of the submitted legislation has not revealed any proposed changes. This should be clarified and it is recommended that this be raised in Council's submission to DoPI.

Complying Development

Complying Development is development that can be approved by Accredited Certifiers as long as the proposed development meets the development standards prescribed within the Codes SEPP. Any such development is also subject to the mandatory conditions of consent prescribed within the Codes SEPP. An Accredited Certifier can be Council or a Private Certifying Authority. The proposed amendments seek to expand the application of complying development to encompass new forms of complying development and expand or amend existing provisions within the Codes SEPP.

Construction on the Boundary**Proposed Amendment**

Currently for lots 8-10m wide complying development includes construction of homes with one wall along a side boundary. The new provisions will now allow this on lots up to 12.5m wide as long as the wall does not exceed 10m in length.

Consideration and Recommended Position

Given the existing subdivision pattern and minimum lot size controls of the Ryde Local Government Area, not many sites will be affected by this proposed amendment.

ITEM 8 (continued)

Notwithstanding this, it is recommended that the Council object to this amendment due to its potential impact upon adjoining properties and its failure to comply with Ryde's character of single detached dwelling on separate lots with adequate separation between dwellings. Whilst the amendment will only affect a small portion of the properties in Ryde, the impact of this change is likely to be substantial for these few properties. It is considered that the issue of the redevelopment of narrow lots is best addressed on merit grounds on a case by case basis as part of the assessment of a Development Application. It is recommended that Council object to this proposed amendment for the reasons stated above.

Backyard Studios*Proposed Amendment*

Currently, detached studios can be approved as complying development when the property has rear lane access. The changes propose allowing detached rear-yard studios with heights up to 4.5 m even when there is no rear lane access. Heights of 6m are allowed when there is rear lane access. The maximum size of the studios is either 20sqm or 40sqm depending on the size of the lot.

Consideration and Recommended Position

It is recommended that Council strongly oppose this change on several grounds. The proposed size of the Studio is considered excessive especially when considered in association with other possible structures that may be located on site. Given the proposed amendments and existing planning policies, any given site may have a granny flat of 60m², a detached studio of 40m² (dependant on lot size), a dwelling house, and a detached garage. The cumulative impacts of these structures is considered inappropriate and should be objected to by Council.

It is noted that the detached studio is not included in the maximum floor space of the dwelling despite constituting habitable space. It is recommended that should the Department seek to include detached studios as part of the proposed amendments, it should be included as part of the total floor space maximum permitted under CI3.10 of the Codes SEPP or tied to the Floor Space Controls contained within Local Environmental Plans.

Another area of concern is that the proposed amendments will allow studios to be built on the waterfront without any merit assessment. This is unacceptable given the importance of the harbour as a public resource. Secondly, in established urban areas, residents have an expectation of maintaining their existing views, privacy and solar access and these may be compromised if a neighbour builds a 4.5 – 6m high backyard studio. In established areas small changes can result in major impacts to neighbouring properties and therefore backyard studios are not considered suitable as a type of complying development.

ITEM 8 (continued)**Excavation & Basements***Proposed Amendment*

Under the proposed amendments, basements 3m in depth and with a maximum area of 45sqm will be permissible under any dwellings as complying development. The required setback from a boundary when excavating for a basement is half the depth of the excavation.

Consideration and Recommended Position

It is recommended that Council oppose this amendment as excavation has the potential to cause damage to neighbouring properties. Additionally, the development standards do not include provisions for the protection of heritage items, environmentally sensitive land or existing trees present on the site that are to be retained. Council's current Development Control Plan 2010 Part 3.3 allows for maximum excavation under the building footprint of 1.2m. This is required to ensure that development responds to the topography of a site and does not have significant impacts on drainage patterns, health of trees and neighbours amenity. It is recommended that Council object to this proposed amendment for the reasons stated above.

Waterway Structures*Proposed Amendment*

Under the proposed amendments, the Codes SEPP will allow for Complying Development Certificates to be issued for structural repairs to, the replacement of or the carrying out of maintenance works in relation to existing lawful boat sheds, jetties, marinas, water recreation structures, wharf or boating facilities, cranes or davits.

Consideration and Recommended Position

The development standards for the above types of works do not raise any consideration to removal or replacement of lightweight structures or materials and their replacement with solid or heavier materials which may impact upon the amenity of views enjoyed by surrounding property owners and the wider public. These forms of development, with the exception of minor maintenance and or repair work, should be subject to a merit assessment in the form of a development application to ensure that the proposal does not have significant impacts. Merit assessment is preferable when considering development of structures on or near the water as such applications invariably involve aesthetic, environmental and public access issues.

Accordingly, it is recommended that Council oppose the proposed amendments for the reasons detailed above.

ITEM 8 (continued)**Removal or Pruning of Trees***Proposed Amendment*

Under the existing provisions a tree 6m in height may be removed or pruned without any assessment if it is within 3m of a proposed complying development. Under the new provisions trees up to 8m in height can be removed or pruned without assessment if within 3m of a complying new dwelling.

Consideration and Recommended Position

It is recommended that Council oppose the existing control relating to the removal or pruning of trees and does not support any increase in the scope of this control. Council's current Development Control Plan 2010 Part 9.6 Tree Preservation requires that for trees with a height greater than 5m and / or a stem circumference of 450mm at a height of 1.4m above ground level an assessment is required prior to their pruning or removal.

Additionally, under Council's Local Environmental Plan 2012 (LEP) which is a development application is required for the removal or pruning of trees within a heritage conservation area. This LEP is in accordance with the standard instrument and as such, inconsistent with the lack of any assessment sanctioned by the Codes SEPP in relation to tree removal and pruning. Lack of consistency in controls confuses and frustrates the public and will undermine Council's ability to ensure tree preservation.

It should be noted that there have been several incidences where a Complying Development Certificate (CDC) has been issued by a Private Certifying Authority that did not seek the removal or pruning of a tree, satisfying CI 3.6A of the Codes SEPP, but resulted in severe damage to the trees which resulted in their necessary removal. It is recommended that Council raise this issue with DoPI so that this section of the Codes SEPP can be expanded to prevent the issuing of a CDC where there is a tree within 3m of the proposed building footprint.

Multi-Dwelling Housing*Proposed Amendment*

It should be noted that the 'Explanation of intended effects' issued by DoPI has identified that the Codes SEPP will be expanded to allow for internal building alterations to multi-unit developments, and minor external additions to multi-unit developments where there is no additional floor area.

Consideration and Recommended Position

A review of the proposed legislative amendments has not identified the legal mechanisms for this or a prescription of the minimum standards that would apply. It is believed that this information must be provided to the community, Councils and other stakeholders before this legislation is brought into effect.

ITEM 8 (continued)

Notwithstanding the above, given that multi-dwelling housing is a more intensive form of development that has the potential to significantly impact upon the amenity of adjoining and adjacent property owners, it is strongly recommended that Council oppose this amendment.

Industrial Buildings

Proposed Amendment

The proposed amendments seek to allow for new industrial buildings up to 20,000m² Gross Floor Area (GFA) to be approved as complying development on land zoned for industrial purposes. Any such development would need to comply with Council's height, parking and site coverage requirements. The front of new buildings will need to meet urban design standards and properly relate to the streetscape. The buildings need to be set back from any adjoining residential buildings, including a minimum landscaped buffer of at least 3m from that boundary. Additionally, new buildings will be restricted in height, with lower heights closer to any boundary with a dwelling. The code also proposes controls on the building's hours of operation, noise, light emissions and landscaping. If the new building is larger than 5000m² it will need an approval from NSW Roads and Maritime Services to ensure compatibility with surrounding road networks.

It should be noted that the proposed amendments are proposed to apply to uses such as research and development, warehousing, distribution and packaging but does not include to heavy or hazardous industry.

Consideration and Recommended Position

A key area of concern with this proposed amendment to the Codes SEPP Complying development is the maximum proposed GFA of 20,000m². This is a large GFA. Whilst it is recognised that it may be limited by the maximum height, maximum Floor Space Ratio, minimum boundary setbacks and other controls contained within the Codes SEPP or local environmental plan, the size and scope of such a project is one that is not suited to the exercise of binary assessment that is the Complying Development process. **Any such proposal should be subject to a merit assessment through the development application process.**

In addition to the above, it is believed that Complying Development with relation to industrial / commercial buildings is only suited to the alteration of existing buildings, where no new additional GFA is provided, not the construction of new buildings. A key concern with this is that the 'one size fits all' approach of complying development would apply across the entire site. It must be recognised that often Councils have undertaken detailed planning studies for specific areas that give due consideration to the capacity of an industrial precinct as a whole and the amenity of surrounding areas. To apply complying development controls to the whole of NSW and treating all industrial areas as the same is a flawed concept.

ITEM 8 (continued)

Notwithstanding the above, should DoPI proceed with the notion of Complying Development for New Industrial Buildings, it is recommended that several changes be made to the proposed controls. These changes should reflect the matters raised below.

Many of the minimum boundary setbacks to proposed buildings are somewhat minimal in scope. Particular reference is made to the following:

- A minimum setback of 3m for a building on a lot that adjoins a public reserve. This is considered unacceptable and should be significantly increased to a minimum of 10m.
- A minimum setback of 10m to land that is environmentally sensitive, with only 3m of this needing to be landscaped. The landscaped area should occupy this entire setback not only 30% of it.

Also of concern with permitting of industrial buildings as complying development are the lacklustre controls contained within the Codes SEPP relating to the external treatment of the proposed buildings. Material finishes and the urban design of buildings are matters that are not necessary well suited to the binary assessment process of Complying Development. Whilst it is recognised that industrial buildings by their very nature are likely to be located in areas that are low in amenity, the opportunity to improve the streetscape afforded by redevelopment should be taken wherever possible. Often this can only be achieved through merit assessment.

It is noted that whilst a new industrial building approved as complying development will be required to provide loading facilities meeting the minimum standards, it should be recognised that varying uses of these buildings will require varying levels of loading facilities. It is recommended that this be raised by Council for further review by DoPI to allow for the prescription of minimum loading facilities based upon the intended use of the building for its construction. Whilst it is recognised that this would be controlled by useability and desirability of a site to prospective tenants, the opportunity to improve the functionality of the building should be taken where possible.

Also of concern should be the maximum levels of excavation and retaining walls permissible under the proposed amendments to the Codes SEPP. It is proposed to allow a maximum excavation depth of 3m and a maximum retaining system height of 3m. This is considered to be excessive and should be dropped to a maximum of 2m. Additionally, the Codes SEPP seeks to allow for a series of retaining structures not higher than 3m individually as long as they are separated by a minimum distance of 2m horizontally. This horizontal distance should be increased to 5m to allow for substantial landscaping or other treatment. The amenity impacts of this to adjoining properties is significant and should be opposed by Council.

ITEM 8 (continued)**Alterations and Additions to Commercial Buildings***Proposed Amendment*

The proposed amendments to the Codes SEPP also seek to allow for alterations and additions to existing commercial buildings that comprises an addition to existing commercial premises at the rear of the premises or the external alteration of existing commercial premises. This is proposed to be limited to a maximum of 1000m² new floor space or 50% of existing GFA (whichever is the lesser) for additions to existing commercial premises for the purpose of retail and to a maximum 2,500m² new floor space or 50% of the GFA of the existing commercial premises for the purpose of any other commercial use. Notwithstanding this, the addition or alteration must not extend the GFA beyond that permissible under the maximum floor space ratio permitted under the local environmental planning instrument or is no maximum applies, beyond an FSR of 1:1.

Consideration and Recommended Position

A key area of concern with this proposed amendment to the Codes SEPP Complying development is the level of development permissible. Whilst it is recognised that the proposed development may be limited by the maximum height, maximum Floor Space Ratio, minimum boundary setbacks and other controls contained within the Codes SEPP or local environmental plan, the size and scope of such a project is one that is not suited to the exercise of binary assessment that is the Complying Development process. **Any such proposal should be subject to a merit assessment through the development application process.**

A key concern with this is that the 'one size fits all' approach of complying development would apply across the entire site. It must be recognised that often individual commercial areas have their own unique identity that varies significantly across all of NSW. Individual Councils have often undertaken detailed planning studies for specific areas that give due consideration to the size, scope and character of an area as a whole and the amenity of surrounding areas. To apply complying development controls to the whole of NSW and treating all commercial areas as the same is a flawed concept.

Notwithstanding the above, should DoPI proceed with the notion of Complying Development for commercial buildings, it is recommended that several changes be made to the proposed controls. These changes should reflect the matters raised below.

The setbacks for any proposed addition must be provided within the Codes SEPP. Key areas of concern are as follows:

- A minimum rear setback to a parallel classified road of 3m is proposed. This is not considered appropriate as setbacks should be determined in response to the streetscape. This is required for non-classified roads.
- A minimum boundary setback is proposed of 1.5m for a building up to 3m height to residential lots. This is not considered appropriate and should be increased.

ITEM 8 (continued)

- A minimum boundary setback is proposed of 3m for a building between 3m and 6m in height to residential lots. This is not considered appropriate and should be increased.
- A minimum boundary setback is proposed of 4.5m for a building that exceeds 6m height to residential lots. This is not considered appropriate and should be increased.

It should be noted that the Codes SEPP will require setbacks contained within an environmental planning instrument to be applied however Council's setback requirements are contained within Development Control Plans which are not legally identified or recognised as Environmental Planning Instruments. This will be the case with most Councils as the Department's own Standard Instrument does not allow for setbacks to be contained within the Local Environmental Plan.

As identified with respect to industrial buildings, also of concern should be the maximum levels of excavation and retaining walls permissible under the proposed amendments to the Codes SEPP. It is proposed to allow a maximum excavation depth of 3m and a maximum retaining system height of 3m. This is considered to be excessive and should be dropped to a maximum of 2m. Additionally, the Codes SEPP seeks to allow for a series of retaining structures not higher than 3m individually as long as they are separated by a minimum distance of 2m horizontally. This horizontal distance should be increased to 5m to allow for substantial landscaping or other treatment. The amenity impact of this to adjoining properties is significant and should be opposed by Council.

Home Businesses**Proposed Amendment**

It is proposed to allow for Home Businesses that include food preparation as Complying Development. It should be recognised that a development standard would require compliance with the Australian Standards for food premises and Food Act 2003.

Consideration and Recommended Position

Of particular concern with this proposed amendment is that there are no development standards provided that relate to hours of operation or potential impacts upon amenity of adjoining properties by way of odour, noise, number of employees, delivery of goods or other matters necessary and consequential to a home business. This must be considered and it is strongly recommended that Council seek its inclusion as part of the proposed amendments to the Codes SEPP.

ITEM 8 (continued)**Proposed Amendments to the EPA Regs 2000**

The proposed amendments to the EPA Regs 2000, as identified within the 'Explanation of intended effects' issued by DoPI, comprise:

- Inclusion of the following as prerequisites to being considered as complying development:
 - certification by Roads and Maritime Services where a new building or additions over 5000 m² are proposed on or adjacent to a classified road,
 - certification by a qualified person where a new building or change of use are proposed on specified land which is required to be remediated, and
 - an independent report on fire safety upgrade for existing commercial and industrial buildings when considering additions and alteration to pre-1993 buildings.
- Requiring a condition to be imposed on complying development to include the payment of Section 94 contributions and damage deposit/security bond to councils for complying development, prior to the commencement of work,
- Requiring neighbour notification for applications for complying development certificates, to be given to the occupier of dwellings within 50 metres of the site where works are proposed at least 5 days prior to determination, and amend the existing requirements for neighbour notification prior to the commencement of building works, to match the same time frame and notification area as above.

Potential areas of concern regarding the proposed amendments are detailed within this report under the section titled 'Issues with EPA Regs 2000 Amendments'.

Issues with EPA Regs 2000 Amendments

A review of the proposed amendments to the EPA Regs 2000 has identified an area of concern relating to neighbour notification as detailed below.

Neighbour Notification***Proposed Amendment***

Currently no neighbour notification is required prior to approval of a complying development application. However, 2 days before construction of a complying development starts adjoining property owners must be notified.

Under the proposed amendments, occupiers of all dwellings within 50m of a proposal for complying development will be notified of the application at least 5 days before approval is issued. The notification letter will specify that the Certifier is not legally obligated to consider any submissions. It is also then required that the same residents be re-notified 5 days prior to construction commencing.

ITEM 8 (continued)***Consideration and Recommended Position***

The new provisions are intended to support discussions taking place between neighbours. However Council is sceptical as to how effective this will be. This is a superficial attempt to address the community's concerns for increased consultation as there is no incentive for the applicant or the Certifier to listen to the concerns of neighbours. Once drawings have been submitted to the Certifier the opportunity for significant alterations has passed, especially considering the Certifier must approve the development within 5 days of sending the notification letters.

Notwithstanding the above, it will still allow for advance notice being given to neighbours of development occurring near them and is recommended to be supported on these grounds only.

Next Steps

Should Council endorse this report which establishes Council's position regarding the proposed amendment, a submission will be prepared addressing the issues raised by the Group Manager, Environment and Planning for forwarding to the Department of Planning and Infrastructure. A draft submission based on the concerns raised within this report has been provided as **Attachment 1**.

Consultation, Critical Dates and Requirements

As noted elsewhere in this report, the exhibition period for the proposed amendments to the Codes SEPP closed on 9 November 2012. Council has written to DoPI advising them that Council will be making a submission following the consideration of this report by Council. This letter raised the concerns regarding the minimal exhibition period provided to Councils in which to make a submission regarding the proposed amendments.

Financial Implications

Adoption of the recommendation will have no financial impact.

Options

That Council resolves not to make any submission on the matter.

ITEM 8 (continued)

ATTACHMENT 1

The Hon Brad Hazzard MP
C/o- Code SEPP Amendments Team
GPO Box 39
SYDNEY NSW 2001

D12/89961

XX November 2012

Submission on Proposed Amendments to the Codes SEPP

Dear Mr. Hazzard

I am writing in response to the exhibition of the latest proposed changes to the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP).

Whilst Council thanks you for the opportunity to comment on the proposed changes, it is disappointing that only 20 working days has been provided to consider the changes. This timeframe does not allow for sufficient time to adequately consider the proposed changes.

Despite the short time frame, Council has identified several concerns regarding the proposed amendments to the Codes SEPP are detailed below.

Land Constraints

Currently, several land constraints such as Flooding, Foreshore Building Areas, Environmentally Sensitive Areas or Heritage listing prevents the undertaking of Complying or Exempt Development on certain sites within Ryde. The proposed amendments to the Codes SEPP seek to loosen these limitations. The main areas of concern regarding applicable land constraints are Heritage, Environmentally Sensitive Areas and Site Compatibility Certificates.

Heritage

The new provisions allow for exempt and complying development to be carried on State Heritage Sites as long as it is outside the curtilage of the item. Curtilage, in relation to a heritage item means the area of land surrounding a heritage item that contributes to its heritage significance. The definition does not provide information on who is authorised to determine what the curtilage should be or whether it has to be mapped, defined by lot and deposited plan details or whether a written description would suffice. Without this information, or further clarification on these matters, this proposed amendment is not supported.

ITEM 8 (continued)

ATTACHMENT 1

With regards to the proposed amendments for the *Commercial and Industrial (New Buildings and Alterations) Code*, it is unclear whether new buildings or alterations to existing buildings will take into consideration locally listed heritage items. From the proposed amendments it appears that Complying Development Applications for industrial / commercial buildings will be permitted on heritage items. It is noted that the proposed changes to CI1.19 (3) refers to draft heritage items, not existing heritage items. Council objects to this proposed amendment.

Environmentally Sensitive Areas

Under the proposed amendments, development such as decks, fences, garden sheds and other minor building alterations will be considered exempt in environmentally sensitive areas if ancillary to existing buildings or uses present on the site. Council objects to this proposed change. Once damage is done to an environmentally sensitive area it is often impossible to rectify. The potential damage does not justify the efficiency gains to be had by these provisions.

Site Compatibility Certificate

It is proposed to allow for the application of Complying Development to sites which have had a Site Compatibility Certificate issued. In the *Green Paper – A New Planning System for NSW*, site compatibility certificates are proposed to make development permissible without requiring re-zoning. The new provisions specify that the Codes SEPP may apply to land with site compatibility certificates.

This change will create complexity and uncertainty in the planning process and is not supported. There should only be one system for re-zoning otherwise the “strategic planning” which is intended to be the basis of the “new planning” system may be compromised. Accordingly, Council objects to this proposed amendment.

Exempt Development

Advertising & Signage

The proposed amendments to the Codes SEPP will allow for business signage such as under awning signs, fascia signs, top hamper signs, wall signs, projecting wall signs, and window signs as exempt development.

Concerns are raised regarding the allowing of signage as exempt development. The key area of concern is the inclusion of ‘projecting wall signs’ as exempt development. This form of signage is currently prohibited in the City of Ryde. Also it is noted that no restrictions are imposed on the language used within the proposed signs. Council currently requires all advertising signs to include English but allows for a translation into another language using letters or characters that are no larger than the English language letters or characters. Council objects to this proposed amendment for the reasons stated above.

Footpath Dining

Provisions have been included in the Codes SEPP to allow footpath dining of up to 20sqm for restaurants and cafes to be considered as exempt development.

ITEM 8 (continued)

ATTACHMENT 1

This is not supported as it raises safety and liability issues. Currently, Council may be held liable if a resident injures themselves on the footpath or road requiring Council to constantly supervise the quality and use of these areas. Council has an existing policy that addresses footpath dining. The current policy requires a Development Application to be made to Council which will be assessed giving due regard to public safety and the liability and financial issues associated with the use of Council owned assets. Council objects to this proposed amendment for the reasons stated above.

Waterway Structures

Under the new provisions non-structural maintenance, repairs and alterations to water structures such as marinas, water recreation facilities, wharves, jetties and pontoons are classified as exempt development. The new provisions include work such as repairing or replacing decking, handrails or ladders, the installation of emergency items such as lifebuoys, lighting and the installation, repair or replacement of security fencing, a security gate or security cameras.

Of particular concern is the potential impact that these structures may have on the amenity of foreshore areas when viewed from the water or surrounding areas. Whilst it is recognised that maintenance and repair work should be undertaken on waterway structures, of concern is the installation or replacement of existing structures, or their parts, that may result in added perceived bulk. Particular reference is made to handrails, decking, boatsheds, installation of security gates and installation of security fencing. The proposed development standards that are to apply to these types of structures do not include any consideration of openness of existing structures.

The exempt provisions relating to waterway structures appear to undermine the provisions of the *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* which has been highly successful in helping to protect the foreshores of the Harbour. Marinas, wharves, boatsheds, jetties and pontoons have an impact on the aesthetics and environment of Sydney Harbour which is a resource of national significance. Alterations to these structures warrant merit assessment. Accordingly, Council objects to this proposed amendment for the reasons stated above.

Roller shutter doors adjoining lanes

The proposed amendment will allow for roller shutter doors adjoining lanes where they are associated with an existing hard stand area, carport or garage, have a width no greater than 4.5m and must not encroach on the lane.

It does not appear as though due consideration has been given to sightlines or amenity impacts where the garage door is not part of structure erected along the boundary. It is suggested that the Department reconsider this item, giving consideration to appropriate sightlines and limiting this requirement to only where carports and garages are in close proximity to the boundary.

ITEM 8 (continued)

ATTACHMENT 1

Automatic Teller Machines

It is noted that the *FAQ sheet – Proposed changes to exempt development* identifies that changes have been made to the provisions for Automatic Teller Machines. A review of the submitted legislation has not revealed any proposed changes. This should be clarified.

Complying Development

Construction on the Boundary

Currently for lots 8-10m wide complying development includes construction of homes with one wall along a side boundary. The new provisions will now allow this on lots up to 12.5m wide as long as the wall does not exceed 10m in length. Given the existing subdivision pattern and minimum lot size controls of the Ryde Local Government Area, not many sites will be affected by this proposed amendment.

Notwithstanding this, Council objects to this amendment due to its potential impact upon adjoining properties and its failure to comply with Ryde's character of single detached dwelling on separate lots with adequate separation between dwellings. Whilst the amendment will only affect a small portion of the properties in Ryde, the impact of this change is likely to be substantial for these few properties. It is considered that the issue of the redevelopment of narrow lots is best addressed on merit grounds on a case by case basis as part of the assessment of a Development Application.

Backyard Studios

Currently, detached studios can be approved as complying development when the property has rear lane access. The changes propose allowing detached rear-yard studios with heights up to 4.5 m even when there is no rear lane access. Heights of 6m are allowed when there is rear lane access. The maximum size of the studios is either 20sqm or 40sqm depending on the size of the lot.

Council opposes this change on several grounds. The proposed size of the Studio is considered excessive especially when considered in association with other possible structures that may be located on site. Given the proposed amendments and existing planning policies, any given site may have a granny flat of 60m², a detached studio of 40m² (dependant on lot size), a dwelling house, and a detached garage. The cumulative impacts of these structures is considered inappropriate and should be objected to by Council.

It is noted that the detached studio is not included in the maximum floor space of the dwelling despite constituting habitable space. It is recommended that should the Department seek to include detached studios as part of the proposed amendments, it should be included as part of the total floor space maximum permitted under C13.10 of the Codes SEPP or tied to the Floor Space Controls contained within Local Environmental Plans.

ITEM 8 (continued)

ATTACHMENT 1

Another area of concern is that the proposed amendments will allow studios to be built on the waterfront without any merit assessment. This is unacceptable given the importance of the harbour as a public resource. Secondly, in established urban areas, residents have an expectation of maintaining their existing views, privacy and solar access and these may be compromised if a neighbour builds a 4.5 – 6m high backyard studio. In established areas small changes can result in major impacts to neighbouring properties and therefore backyard studios are not considered suitable as a type of complying development.

Excavation & Basements

Under the proposed amendments, basements 3m in depth and with a maximum area of 45sqm will be permissible under any dwellings as complying development. The required setback from a boundary when excavating for a basement is half the depth of the excavation.

Council opposes this amendment as excavation has the potential to cause damage to neighbouring properties. Additionally, the development standards do not include provisions for the protection of heritage items, environmentally sensitive land or existing trees present on the site that are to be retained. Council's current Development Control Plan 2010 Part 3.3 allows for maximum excavation under the building footprint of 1.2m. This is required to ensure that development responds to the topography of a site and does not have significant impacts on drainage patterns, health of trees and neighbours amenity. It is recommended that Council object to this proposed amendment for the reasons stated above.

Waterway Structures

Under the proposed amendments, the Codes SEPP will allow for Complying Development Certificates to be issued for structural repairs to, the replacement of or the carrying out of maintenance works in relation to existing lawful boat sheds, jetties, marinas, water recreation structures, wharf or boating facilities, cranes or davits.

The development standards for the above types of works do not raise any consideration to removal or replacement of lightweight structures or materials and their replacement with solid or heavier materials which may impact upon the amenity of views enjoyed by surrounding property owners and the wider public. These forms of development, with the exception of minor maintenance and or repair work, should be subject to a merit assessment in the form of a development application to ensure that the proposal does not have significant impacts. Merit assessment is preferable when considering development of structures on or near the water as such applications invariably involve aesthetic, environmental and public access issues.

Accordingly, Council opposes the proposed amendments for the reasons detailed above.

ITEM 8 (continued)

ATTACHMENT 1

Removal or Pruning of Trees

Under the existing provisions a tree 6m in height may be removed or pruned without any assessment if it is within 3m of a proposed complying development. Under the new provisions trees up to 8m in height can be removed or pruned without assessment if within 3m of a complying new dwelling.

Council opposes the existing control relating to the removal or pruning of trees and does not support any increase in the scope of this control. Council's current Development Control Plan 2010 Part 9.6 Tree Preservation requires that for trees with a height greater than 5m and / or a stem circumference of 450mm at a height of 1.4m above ground level an assessment is required prior to their pruning or removal.

Additionally, under Council's Local Environmental Plan 2012 (LEP) which is a development application is required for the removal or pruning of trees within a heritage conservation area. This LEP is in accordance with the standard instrument and as such, inconsistent with the lack of any assessment sanctioned by the Codes SEPP in relation to tree removal and pruning. Lack of consistency in controls confuses and frustrates the public and will undermine Council's ability to ensure tree preservation.

It should be noted that there have been several incidences where a Complying Development Certificate (CDC) has been issued by a Private Certifying Authority that did not seek the removal or pruning of a tree, satisfying Cl 3.6A of the Codes SEPP, but resulted in severe damage to the trees which resulted in their necessary removal. It is recommended that Council raise this issue with DoPI so that this section of the Codes SEPP can be expanded to prevent the issuing of a CDC where there is a tree within 3m of the proposed building footprint.

Multi-Dwelling Housing

It should be noted that the 'Explanation of intended effects' issued by DoPI has identified that the Codes SEPP will be expanded to allow for internal building alterations to multi-unit developments, and minor external additions to multi-unit developments where there is no additional floor area.

A review of the proposed legislative amendments has not identified the legal mechanisms for this or a prescription of the minimum standards that would apply. It is believed that this information must be provided to the community, Councils and other stakeholders before this legislation is brought into effect.

Notwithstanding the above, given that multi-dwelling housing is a more intensive form of development that has the potential to significantly impact upon the amenity of adjoining and adjacent property owners, Council opposes this amendment.

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ATTACHMENT 1

Industrial Buildings

The proposed amendments seek to allow for new industrial buildings up 20,000m² Gross Floor Area (GFA) to be approved as complying development on land zoned for industrial purposes. Any such development would need to comply with Council's height, parking and site coverage requirements. The front of new buildings will need to meet urban design standards and properly relate to the streetscape. The buildings need to be set back from any adjoining residential buildings, including a minimum landscaped buffer of at least 3m from that boundary. Additionally, new buildings will be restricted in height, with lower heights closer to any boundary with a dwelling. The code also proposes controls on the building's hours of operation, noise, light emissions and landscaping. If the new building is larger than 5000m² it will need an approval from NSW Roads and Maritime Services to ensure compatibility with surrounding road networks.

It should be noted that the proposed amendments are proposed to apply to uses such as research and development, warehousing, distribution and packaging but does not include to heavy or hazardous industry.

A key area of concern with this proposed amendment to the Codes SEPP Complying development is the maximum proposed GFA of 20,000m². This is a large GFA. Whilst it is recognised that it may be limited by the maximum height, maximum Floor Space Ratio, minimum boundary setbacks and other controls contained within the Codes SEPP or local environmental plan, the size and scope of such a project is one that is not suited to the exercise of binary assessment that is the Complying Development process. **Any such proposal should be subject to a merit assessment through the development application process.**

In addition to the above, it is believed that Complying Development with relation to industrial / commercial buildings is only suited to the alteration of existing buildings, where no new additional GFA is provided, not the construction of new buildings. A key concern with this is that the 'one size fits all' approach of complying development would apply across the entire site. It must be recognised that often Councils have undertaken detailed planning studies for specific areas that give due consideration to the capacity of an industrial precinct as a whole and the amenity of surrounding areas. To apply complying development controls to the whole of NSW and treating all industrial areas as the same is a flawed concept.

Notwithstanding the above, should DoPI proceed with the notion of Complying Development for New Industrial Buildings, it is recommended that several changes be made to the proposed controls. These changes should reflect the matters raised below.

Many of the minimum boundary setbacks to proposed buildings are somewhat minimal in scope. Particular reference is made to the following:

- A minimum setback of 3m for a building on a lot that adjoins a public reserve. This is considered unacceptable and should be significantly increased to a minimum of 10m.

ITEM 8 (continued)

ATTACHMENT 1

- A minimum setback of 10m to land that is environmentally sensitive, with only 3m of this needing to be landscaped. The landscaped area should occupy this entire setback not only 30% of it.

Also of concern with permitting of industrial buildings as complying development are the lacklustre controls contained within the Codes SEPP relating to the external treatment of the proposed buildings. Material finishes and the urban design of buildings are matters that are not necessary well suited to the binary assessment process of Complying Development. Whilst it is recognised that industrial buildings by their very nature are likely to be located in areas that are low in amenity, the opportunity to improve the streetscape afforded by redevelopment should be taken wherever possible. Often this can only be achieved through merit assessment.

It is noted that whilst a new industrial building approved as complying development will be required to provide loading facilities meeting the minimum standards, it should be recognised that varying uses of these buildings will require varying levels of loading facilities. It is recommended that this be further reviewed by DoPI to allow for the prescription of minimum loading facilities based upon the intended use of the building for its construction. Whilst it is recognised that this would be controlled by useability and desirability of a site to prospective tenants, the opportunity to improve the functionality of the building should be taken where possible.

Also of concern should be the maximum levels of excavation and retaining walls permissible under the proposed amendments to the Codes SEPP. It is proposed to allow a maximum excavation depth of 3m and a maximum retaining system height of 3m. This is considered to be excessive and should be dropped to a maximum of 2m. Additionally, the Codes SEPP seeks to allow for a series of retaining structures not higher than 3m individually as long as they are separated by a minimum distance of 2m horizontally. This horizontal distance should be increased to 5m to allow for substantial landscaping or other treatment. The amenity impacts of this to adjoining properties is significant and is opposed by Council.

Alterations and Additions to Commercial Buildings

The proposed amendments to the Codes SEPP also seek to allow for alterations and additions to existing commercial buildings that comprises an addition to existing commercial premises at the rear of the premises or the external alteration of existing commercial premises. This is proposed to be limited to a maximum of 1000m² new floor space or 50% of existing GFA (whichever is the lesser) for additions to existing commercial premises for the purpose of retail and to a maximum 2,500m² new floor space or 50% of the GFA of the existing commercial premises for the purpose of any other commercial use. Notwithstanding this, the addition or alteration must not extend the GFA beyond that permissible under the maximum floor space ratio permitted under the local environmental planning instrument or is no maximum applies, beyond an FSR of 1:1.

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A key area of concern with this proposed amendment to the Codes SEPP Complying development is the level of development permissible. Whilst it is recognised that the proposed development may be limited by the maximum height, maximum Floor Space Ratio, minimum boundary setbacks and other controls contained within the Codes SEPP or local environmental plan, the size and scope of such a project is one that is not suited to the exercise of binary assessment that is the Complying Development process. **Any such proposal should be subject to a merit assessment through the development application process.**

A key concern with this is that the 'one size fits all' approach of complying development would apply across the entire site. It must be recognised that often individual commercial areas have their own unique identity that varies significantly across all of NSW. Individual Councils have often undertaken detailed planning studies for specific areas that give due consideration to the size, scope and character of an area as a whole and the amenity of surrounding areas. To apply complying development controls to the whole of NSW and treating all commercial areas as the same is a flawed concept.

Notwithstanding the above, should DoPI proceed with the notion of Complying Development for commercial buildings, it is recommended that several changes be made to the proposed controls. These changes should reflect the matters raised below.

The setbacks for any proposed addition must be provided within the Codes SEPP. Key areas of concern are as follows:

- A minimum rear setback to a parallel classified road of 3m is proposed. This is not considered appropriate as setbacks should be determined in response to the streetscape. This is required for non-classified roads.
- A minimum boundary setback is proposed of 1.5m for a building up to 3m height to residential lots. This is not considered appropriate and should be increased.
- A minimum boundary setback is proposed of 3m for a building between 3m and 6m in height to residential lots. This is not considered appropriate and should be increased.
- A minimum boundary setback is proposed of 4.5m for a building that exceeds 6m height to residential lots. This is not considered appropriate and should be increased.

It should be noted that the Codes SEPP will require setbacks contained within an environmental planning instrument to be applied however Council's setback requirements are contained within Development Control Plans which are not legally identified or recognised as Environmental Planning Instruments. This will be the case with most Councils as the Department's own Standard Instrument does not allow for setbacks to be contained within the Local Environmental Plan.

As identified with respect to industrial buildings, also of concern should be the maximum levels of excavation and retaining walls permissible under the proposed amendments to the Codes SEPP. It is proposed to allow a maximum excavation depth of 3m and a maximum retaining system height of 3m. This is considered to

ITEM 8 (continued)

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be excessive and should be dropped to a maximum of 2m. Additionally, the Codes SEPP seeks to allow for a series of retaining structures not higher than 3m individually as long as they are separated by a minimum distance of 2m horizontally. This horizontal distance should be increased to 5m to allow for substantial landscaping or other treatment. The amenity impact of this to adjoining properties is significant and is opposed by Council.

Home Businesses

It is proposed to allow for Home Businesses that include food preparation as Complying Development. It should be recognised that a development standard would require compliance with the Australian Standards for food premises and Food Act 2003.

Of particular concern with this proposed amendment is that there are no development standards provided that relate to hours of operation or potential impacts upon amenity of adjoining properties by way of odour, noise, number of employees, delivery of goods or other matters necessary and consequential to a home business. This must be considered and it is strongly recommended that Council seek its inclusion as part of the proposed amendments to the Codes SEPP.

Neighbour Notification

Currently no neighbour notification is required prior to approval of a complying development application. However, 2 days before construction of a complying development starts adjoining property owners must be notified.

Under the proposed amendments, occupiers of all dwellings within 50m of a proposal for complying development will be notified of the application at least 5 days before approval is issued. The notification letter will specify that the Certifier is not legally obligated to consider any submissions. It is also then required that the same residents be re-notified 5 days prior to construction commencing.

The new provisions are intended to support discussions taking place between neighbours. However Council is sceptical as to how effective this will be. This is a superficial attempt to address the community's concerns for increased consultation as there is no incentive for the applicant or the Certifier to listen to the concerns of neighbours. Once drawings have been submitted to the Certifier the opportunity for significant alterations has passed, especially considering the Certifier must approve the development within 5 days of sending the notification letters.

Notwithstanding the above, it will still allow for advance notice being given to neighbours of development occurring near them and is supported on these grounds only.

Conclusion

The Codes SEPP is predicated on the view that in the interest of efficiency a "one-size-fits-all" approach is acceptable. However, given the diverse natural and built environments in NSW they must be treated differently.

ITEM 8 (continued)

ATTACHMENT 1

Currently, there is a lack of awareness amongst community and industry practitioners about the extent of the provisions in the Codes SEPP. Council believes that the State Government needs to undertake a comprehensive public information program to fully inform all stakeholders about the Codes SEPP and its implications. It also needs to identify those physical areas and categories of the built environment that are so important to long term social and environmental wellbeing that their protection is considered more important than cutting processing times for development applications.

Yours sincerely

Dominic Johnson
Group Manager, Environment and Planning
City of Ryde Council

9 PLAN MAKING PROCESS - DELEGATIONS AND INDEPENDENT REVIEWS OF PLAN MAKING DECISIONS

Report prepared by: Strategic Planner
File No.: COR2006/1087 - BP12/1341

REPORT SUMMARY

Two changes have been put in place by the State Government to improve the plan making processes under Part 3 of the Environmental Planning and Assessment Act (EP&A) 1979.

The changes which came into effect on 2 November 2012 include :

- delegating the making of some local environmental plans (LEPs) to councils and
- allowing for independent review of some council and departmental decisions in the plan making process.

The State Government believes the changes will increase transparency, provide greater certainty and increase councils' roles and responsibilities in plan making.

This report provides background to the subject changes in particular where the delegations will operate, the need for Council to nominate those officers who will be granted the proposed delegations and the Gateway review processes to be introduced.

The report recommends that Council advises the Department of Planning and Infrastructure that they accept the new delegations and nominate the General Manager or his representative as the relevant persons to be granted the proposed plan making delegations.

RECOMMENDATION:

- (a) That Council advises the Department of Planning and Infrastructure it accepts the Ministers delegations with respect to *Section 59 Making of local environmental plans by Minister* of the Environmental Planning and Assessment Act 1979.
- (b) That the General Manager or his representative be approved to accept the Ministers delegations with respect to *Section 59 Making of local environmental plans by Minister* of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

There are no attachments for this report.

ITEM 9 (continued)

Report Prepared By:

Susan Wotton
Strategic Planner

Report Approved By:

Meryl Bishop
Manager - Urban Planning

Dominic Johnson
Group Manager - Environment & Planning

ITEM 9 (continued)

Background

Council on the 14 February 2012 resolved to endorse a submission to be made on behalf of the City of Ryde to the review being undertaken by the State Government of the Environmental Planning and Assessment Act 1979 (the Issues Paper).

In that submission the following comments were made:-

- *Local Environmental Plans (LEPs):The approval of LEPs by the Department of Planning and Infrastructure should continue, however delegations could be issued to councils for approval of minor LEPs. Criteria for delegations should include consideration of adopted local planning studies reflecting metropolitan and subregional planning.*
- *Right of Appeal: A right of appeal for decisions on local environmental plans/planning proposals is not supported. It is considered the current system works best for sound planning practice as the proposal and decision would be linked to a strategic plan for which consultation has already been undertaken.*

A report was then presented to Council on the 24 April 2012 advising that the NSW Government was seeking additional feedback on some specific proposed changes to the plan making process (draft Policy – *More local, more accountable plan making*) that would come into place prior to the completion of the overall review of the EP&A Act.

The proposed changes included:

- increased local government involvement in the process by allowing councils to have the final approval role for some local environmental plans (LEPs), and
- allowing the independent review of decisions made at key stages of the process.

The report recommended that a submission be made supporting changes to the proposed delegation of approval functions to Council but not supporting proposed changes to the right of appeal to a Council refusal or delayed assessment of Planning Proposals.

Council resolved on the 24 April that a submission in line with the report be made to DoPI.

Discussion

A letter was received by Council from the Minister of Planning and Infrastructure accompanied by a Planning Circular (PS 12 – 006) and Ministerial media statement on 29 October 2012 advising the following:

ITEM 9 (continued)

LEP Delegations

The making of some LEPs will now be delegated back to councils. The Minister has delegated the following powers to councils:-

- to make an LEP
- to not make an LEP
- to defer inclusion of certain matters in an LEP
- to identify which matters must be considered and which stages of the plan making process must be carried out again prior to resubmission if a matter is deferred from an LEP.

The changes will give council responsibility for LEPs of local significance and streamline the processing of LEPs by removing duplicative steps.

The following types of draft LEPs will routinely be delegated to council to prepare and make following a Gateway determination that the Planning Proposal (PP) can proceed:

- mapping alterations
- minor amendments referencing documents /agencies, minor errors and anomalies
- reclassifications of land
- heritage LEPs related to specific local heritage items when supported by an endorsed study
- spot rezoning consistent with endorsed strategy

Council is required to formally accept the delegation before the department will issue an Authorisation in respect of any draft LEP .

Accordingly Council has been requested to:-

- advice DoPI whether council chooses to accept the delegation,
- nominate the officer of council who will be granted the proposed delegation.

It is proposed that the General Manager be nominated by Council to carry out the subject delegations.

Gateway reviews

The government has formalised two existing administrative review (appeal) processes for planning proposals (PP):

1. *Pre gateway reviews* – these may be requested by a proponent/applicant before a PP has been submitted to the DoPI for a Gateway determination.

The basis for requesting a review includes:

- Council has notified the applicant that the request for a PP has not been supported (the request for review must be submitted to DoPI within 40 days of Council notifying the applicant).

ITEM 9 (continued)

- The PP has not been determined by Council 90 days after it has been submitted with complete information (the request for review maybe made any time after the 90 days).

All reviews will be determined by the relevant regional panel i.e. Joint Regional Planning Panel Sydney East.

2 *Gateway reviews* – these may be requested by a council or an applicant following a Gateway determination, but before community consultation on the PP has commenced.

A review maybe requested to alter a Gateway determination when:-

- The determination is that the PP should not proceed
- The determination is that the PP should be amended and resubmitted to Gateway

(the request for review in the above instances must be submitted to DoPI within 40 days of being notified by DoPI)

- The determination imposes requirements (other than consultation requirements) or makes variation to the proposal that council or applicant believes should be reconsidered (the request for review must be submitted to DoPI within 14 days of Council being notified by DoPI).

The Planning Assessment Committee (PAC) will provide advice on whether the original Gateway determination should be altered. This advice with other information will inform the Ministers final decision to make any changes.

Financial Implications

Adoption of the recommendation will have no financial impact.

10 CHANGES TO OPERATIONAL PROCEDURES AND OTHER MATTERS FOR JOINT REGIONAL PLANNING PANEL (JRPP)

Report prepared by: Client Manager

File No.: COR2009/1137 - BP12/1373

REPORT SUMMARY

The Minister for Planning and Infrastructure (The Hon Brad Hazzard MP) has written to all Councils in NSW to advise that revised versions of the Operational Procedures, Code of Conduct and Complaints Handling Policy for Joint Regional Planning Panels have been released.

This report provides an overview of the main changes and any implications seen to arise for Council.

RECOMMENDATION:

That the contents of this report be noted.

ATTACHMENTS

- 1** JRPP Operational Procedures
- 2** JRPP Code of Conduct
- 3** JRPP Complaints Handling Policy

Report Prepared By:

Glenn Ford
Client Manager

Report Approved By:

Vince Galletto
Team Leader - Building and Development Advisory Service

Dominic Johnson
Group Manager - Environment & Planning

ITEM 10 (continued)

Discussion

The Minister for Planning and Infrastructure (The Honourable Brad Hazzard MP) has written to all Councils in NSW to advise that revised versions of the Operational Procedures, Code of Conduct and Complaints Handling Policy for Joint Regional Planning Panels (JRPP) have been released. The JRPPs were established by the NSW Government to act as the determining authority for development applications with regional significance. Since its inception, the Sydney East JRPP has dealt with 26 development applications (including two modifications) from City of Ryde. The current panel members for Council are Councillor George Simon and Councillor Sarkis Yedelian OAM with Councillor Terry Perram as an alternate member.

Some of the changes made to the operational procedures include:

Council nominations - Council nominees need to be appointed for a minimum of 14 days before attending a panel meeting at which they will act as a panel member. City of Ryde's members already meet this qualification and it will only be an issue if both members are unable to attend any future panel meeting.

Registration of Development Applications with a Capital Investment Value (CIV) between \$10million and \$20million – Upon receipt by Council, DAs worth more than \$20million are referred to the JRPP. Previously DAs with a CIV between \$10million and \$20million were notified to the JRPP but Council remains the consent authority unless a request is received from an applicant – only after 120 days has elapsed - to refer it to the JRPP for determination. The procedures now require this category of DA to be notified to the JRPP only after the above request has been made and the JRPP becomes the determining authority.

Expected assessment timeframes - The procedures now include an expectation that Council complete its assessment report on a JRPP DA by 60 days after the close of the public exhibition period. The previous expectation was 90 days from the lodgement date.

Draft conditions of consent – Under the new procedures, where Council's assessment report recommends that an application be refused, the JRPP chair in consultation with other panel members, may request that Council staff provide *without prejudice* draft conditions of consent before or during the panel meeting. It is important not to misconstrue the compliance of Council staff in providing draft conditions as undermining any recommendation for refusal and to recognise the importance of having strong conditions of consent if the JRPP does make a contrary determination.

Code of Conduct for panel members – Among the matters that would be expected to be contained within a Code of Conduct for the JRPP is included a requirement that panel members must not represent an applicant or person making a submission at a JRPP panel meeting for a regional panel of which they are a permanent member or have been used regularly as an alternate member.

ITEM 10 (continued)

Six monthly reporting on complaints - The JRPP secretariat will prepare a six monthly report on complaints and make this publicly available. It will be published in January and July.

A copy of the Operational Procedures, Code of Conduct and Complaints Handling Policy for the JRPP are **ATTACHED**.

Financial Implications

Adoption of the recommendation will have no financial impact.

Conclusion

The above policies and procedures are of interest to Council in its dealings with major development applications and the JRPP as the approval authority for those applications. In particular, Councillors nominated as Panel members need to be familiar with the subject matter of each document.

ITEM 10 (continued)

ATTACHMENT 1



Joint Regional
Planning Panels

Operational Procedures

September 2012



ITEM 10 (continued)

ATTACHMENT 1

These procedures are provided for general guidance and information only and are made available on the understanding that the NSW Department of Planning and Infrastructure (department) is not providing legal advice. The department has compiled the procedures in good faith, exercising all due care and attention.

The procedures do not affect or replace relevant statutory requirements. Where an inconsistency arises between the provisions of the procedures and relevant statutory provisions, the statutory requirements prevail.

While every reasonable effort has been made to ensure that this document is correct at the time of printing, the State of New South Wales, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document. The procedures are not intended to give rise to any rights, claims, benefits, privileges, liabilities or obligations with respect to matters the subject of the Procedures.

It should be noted that the procedures may be affected by changes to legislation at any time and/or be subject to revision without notice.

It is recommended that independent advice be sought in respect of the operation of the procedures and the statutory requirements applying to Joint Regional Planning Panels under the *Environmental Planning and Assessment Act 1979*.

Joint Regional Planning Panels Operational Procedures
© State of New South Wales through the NSW Department of Planning and Infrastructure
September 2012
NSW Department of Planning and Infrastructure
23-33 Bridge Street Sydney NSW Australia
www.planning.nsw.gov.au
ISBN 978-0-7313-3590-8

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Definitions

Council means the council for the local government area in which the development the subject of an application is located and any other council whose area is potentially significantly impacted by the proposal

Department means the Department of Planning & Infrastructure

Development Application (DA) means an application for consent under Part 4 to carry out development but does not include an application for a complying development certificate

EP& A Act means the *Environmental Planning & Assessment Act 1979*

EP& A Regulation means the *Environmental Planning & Assessment Regulation 2000*

LGSA refers to the Local Government and Shires Association

Minister means the Minister for Planning and Infrastructure

Regional Panel means the Joint Regional Planning Panel

Secretariat refers to the Regional Panels Secretariat which provides technical and administrative support to the Joint Regional Planning Panels

SRD SEPP refers to the State Environmental Planning Policy (State and Regional Development) 2011

ITEM 10 (continued)

ATTACHMENT 1

September 2012

1. Introduction

The Joint Regional Planning Panels (regional panels) were introduced in NSW on 1 July 2009 to strengthen decision making on regionally significant development applications (DAs) and certain other planning matters.

The regional panels are independent bodies representing the Crown and are not subject to the direction of the Minister, except on matters relating to regional panel procedures.

These procedures have been developed to explain the means of operating regional panels and to clarify the roles of various parties in the process.

The procedures should be read in conjunction with the regional panels' Code of Conduct which explains the standard of conduct expected of panel members.

These procedures relate to the operation of the regional panels under the *Environmental Planning and Assessment Act 1979* (EP&A Act), and extend to regional panels if they are undertaking any functions conferred on them under the EP&A Act or any other Act.

These procedures will be kept under review and may be amended periodically.

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September 2012

2. Functions of regional panels

2.1 Functions

The principal function of regional panels is to determine regionally significant DAs. Additional functions of regional panels include:

- acting as the relevant planning authority for the purpose of preparing a local environmental plan when appointed to do so by the Minister,
- determining Crown DAs that have been referred to the regional panel by the council or the applicant which have not been determined by the council within the time prescribed in the Environmental Planning and Assessment Regulation 2000 (the EP&A Regulation),
- determining applications to modify a consent for regionally significant development under section 96(2) of the EP&A Act, and
- providing advice on planning or development matters when requested to do so by the Minister.

The EP&A Act provides that if a regional panel has not been appointed for a particular part of the State, any function that is conferred on a regional panel is to be undertaken by the Planning Assessment Commission (PAC).

2.2 Membership of regional panels

Regional panels consist of five members, comprising one chair appointed by the Minister with the concurrence of the Local Government and Shires Associations of NSW (LGSA), two other members appointed by the Minister and two council-appointed members. The Regional Panels Secretariat (secretariat) is responsible for the maintenance of a register of all panel members.

At a meeting of a regional panel, matters in a number of different council areas may be considered. The members of individual councils will join the members appointed by the Minister to comprise the regional panel whenever it is considering a matter that is located in that council's area.

Panel members can be appointed to more than one region, either as a panel member and/or as an alternate member.

When a vacancy in office of a regional panel member occurs, the Minister in the case of a member appointed by the Minister, and the relevant council in the case of a council member, would fill such a vacancy in accordance with the EP&A Act.

Chair and deputy chair

The Minister will appoint one member as the chair for each regional panel. The Minister is required to obtain the concurrence of the LGSA to the appointment unless the LGSA:

- do not notify their concurrence or refusal within 21 days of being requested to do so, or
- have previously refused to give concur for two different persons nominated by the Minister for the appointment.

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At any time, the members may determine to elect a member appointed by the Minister to be deputy chair for any term. The role of a deputy chair is to act as the chair at any time the chair is absent from the meeting.

The chair (or, in the absence of the chair, a person elected by the members) presides at meetings of regional panels. The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Expertise requirements for members appointed by the Minister

All regional panel members, including alternates, appointed by the Minister are required to have expertise in one or more of the following areas: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering, tourism or government and public administration.

Two members are appointed by the Minister, each having expertise in one or more of the areas mentioned above.

Council members

Two council members are appointed by each council. At least one council member is required to have expertise in one or more of the following areas: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism.

• **Selection of council members**

Each council identifies how their members are selected. In selecting members, councils should have regard to the conflict of duties that would be created for a person nominated to the regional panel if they were in any way responsible or involved in the assessment and recommendation of a DA to be determined by the panel.

Councils are not restricted to nominating people from the council's local area. They can appoint, terminate, and reappoint members at any time, and can determine the duration of each appointment. Generally, so as to ensure the greatest degree of continuity for the regional panels, councils should consider appointing members for the maximum term of three years provided for under the EP&A Act. However, councils should reconsider if the nominations to the regional panels are appropriate within 12 months following a council election.

Following a change to its nominees, council is to forward the new member's personal details to the secretariat as soon as possible and this must be a minimum of 14 days before any meeting at which they will act as a panel member.

If a council fails to nominate one or more council members, a regional panel may still exercise its functions in relation to the area of the council concerned.

• **Payment of council members**

Councils determine the fees they pay their panel members. The Minister has provided guidance to all councils on appropriate rates of remuneration for travel and subsistence allowances for their members.

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Each council is responsible for making payments to their panel members when they attend regional panel meetings.

Alternate members

The Minister may at any time appoint a person to be the alternate of another member appointed by the Minister, and may revoke any such appointment.

A council may also at any time appoint a person to be the alternate of a member nominated by the council, and may revoke any such appointment. Any changes are to be notified in writing to the secretariat as soon as possible and at least 14 days before any regional panel meeting at which they will act as a panel member.

A person may be appointed as the alternate of more than one panel member and to more than one regional panel.

The alternate will act in the place of the member with all the powers of the member.

2.3 Defining the regions

Regional panels are constituted by the Minister by order published in the Government Gazette. The local government areas (LGA) covered by each panel are also identified in the order. The Minister may revoke an order and make new orders at any time.

The regional panel provisions do not apply in the City of Sydney, where the Central Sydney Planning Committee operates.

Regional panels operate in the following six regions: Sydney East, Sydney West, Hunter and Central Coast, Southern, Northern, and Western.

2.4 Classes of regional development and regional panel functions

Schedule 4A of the EP&A Act identifies the types of development for which regional panels exercise consent authority functions of councils.

The capital investment value (CIV) is relevant for some development which is determined by a regional panel. CIV is defined in clause 3 of the EP&A Regulation. The Department of Planning and Infrastructure (the department) has issued Planning Circular 10-008 to assist applicants and councils in the calculation of CIV. If there is doubt about the CIV of an application, councils should consider requesting the applicant to provide a quantity surveyor's certificate or similar expert assessment that addresses the definition of CIV.

The State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP) sets out the functions to be exercised by regional panels, including determination of specified:

- classes of development applications,
- staged development applications, and
- section 96(2) modification applications where the regional panel granted consent to the original development, except where the development is no longer a class of regional development.

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Section 96(1) and section 96(1A) modification applications to development consents granted by the regional panel are to be determined by the relevant council.

2.5 Administration

Administration and support for the regional panels is provided by the secretariat. Such support is in relation to:

- scheduling of meetings,
- preparing and issuing meeting agendas and business papers,
- notification of meetings,
- arranging for travel and accommodation for panel members,
- arranging accommodation for panel members;
- taking of meeting minutes (with assistance from council); and
- record keeping for the regional panels.

Councils are responsible for the notification of applications, preparing the assessment reports (including the consideration of submissions) and the post-determination functions including notification of determinations to the applicant and any person who made a submission

Councils may be requested to assist regional panels with the provision of meeting venues, arrangements for site visits and briefings, and the provision of a minute taker for meetings.

The secretariat is the first point of contact for all regional panel matters and publishes a wide range of information on its website: www.jrpp.nsw.gov.au. The contact details for the secretariat are:

phone: (02) 9228 2060

email: jrppenquiry@jrpp.nsw.gov.au

The secretariat deals with applications for information under the *Government Information (Public Access) Act 2009 (NSW)*, however councils may also be required to respond to an application in relation to information it may have, in accordance with the legislation.

2.6 Monitoring of applications

The secretariat will monitor the progress of DAs referred to the regional panels to ensure panel meetings are scheduled as soon as practicable following the submission of the assessment report by the relevant council.

Councils should actively monitor regional applications they have received to ensure they meet expected timeframes for processing and determination. It is expected that council will complete their assessment report within 60 days after the close of the public exhibition period. The secretariat will also monitor the progress and reporting of applications to ensure timeframes are met.

The performance of the regional panels will be monitored and reported in the department's annual monitoring report of local councils which will include a section about the regional panels.

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Performance statistics for the regional panels will be published annually in the department's Local Development Performance Monitoring Report.

2.7 Regional panel users group

A regional panel users group has been established to act as a reference group to advise on regional panel operations. The user group meets twice a year and consists of all six regional panel chairs, plus representatives from industry and stakeholder groups.

2.8 Availability of information

The secretariat will make a range of information publicly available on its website, including:

- regional panel meeting agendas with dates, locations and times (at least 7 days before the panel meeting),
- the relevant council's assessment report and recommendation (at least 7 days before the panel meeting),
- any amended or supplementary information submitted by council,
- records of public briefing meetings, minutes of regional panel determination meetings, and meetings where business is transacted by electronic means, and
- a schedule of meeting dates reserved for panel business, including briefing meetings, site visits or panel meetings.

Councils remain responsible for receiving, notifying and exhibiting DAs and supporting documents in accordance with statutory provisions and council's own notification and exhibition policy.

2.9 Liability and indemnification

Section 158 of the EP&A Act provides that panel members are excluded from personal liability as long as the act or omission was done in good faith for the purpose of carrying out their duties as panel members under the EP&A Act.

The NSW Government extends insurance indemnity cover to panel members. The usual provisions for indemnification apply i.e. that persons subject to that cover must, at all times, act honestly and in accordance with the regional panels' Code of Conduct in the performance of their responsibilities.

3. Roles of councils and other panels

3.1 Role of councillors and council staff

The elected council and council staff have distinctly different roles in the handling of DAs. Section 352 of the *Local Government Act 1993* (LG Act) provides for the independence of council staff in the preparation of advice and recommendations. The LG Act provides that a member of staff is not subject to direction by the council or by a councillor as to the content of any advice or recommendation made by the staff member. Equally, a council or councillor is not bound by the advice or recommendation made by a member of staff.

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Assessment role

The role of council staff is to undertake the assessment of the DA. The assessment of a DA requires undertaking various statutory functions such as accepting the DA, public notification, advertising, consultation, concurrence and obtaining general terms of approval from an agency if required, and consideration of the matters set out in the EP&A Act including section 79C. The assessment is documented in an assessment report with recommendations. The report is subsequently considered by the person or body whose role it is to determine the application.

Determination role

The role of the elected council is to determine, or make decisions on, DAs in their capacity as a consent authority. There are occasions, however, where the determination role is performed by other people or bodies either because the council has delegated that function, or because it has been conferred upon another person or body. Section 23G of the EP&A Act has conferred upon regional panels the function of elected councils to determine regionally significant DAs and certain other types of DAs.

The elected council is able to make a submission to the regional panel on a DA within their LGA that is to be determined by that regional panel (refer to 4.11).

Post-determination role

Council staff are responsible for post-determination functions including issuing the notice of determination, advising any person who made a submission on the DA of the determination, and the monitoring and enforcement of compliance with conditions of the development consent.

3.2 Support provided to regional panels by councils

The EP&A Act provides that regional panels are entitled to use the staff and facilities of the relevant council for the purpose of carrying out their functions, and that a General Manager of a council must carry out any reasonable direction of a regional panel when it is carrying out any of the functions of that council.

It is expected that use of council facilities such as meeting rooms would be arranged prior to meetings of regional panels.

Support such as the taking of minutes for panel meetings, copying of documents and the provision of professional advice may also be required.

Generally, the relevant council bears the administrative and council staff costs associated with the regional panel meetings. Administrative costs may include those associated with the meeting venue and set up, the attendance of council staff, as well as the minute taker.

The chair and members of a regional panel will need to be mindful of the regular duties and responsibilities of council staff when requests for assistance are made. Requests by members of regional panels for support and assistance from councils should be made through the chair to the general manager (or other person nominated by the general manager) of the council concerned.

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3.3 Role of design review panels

Design review panels are established by councils either formally, under the provisions of *State Environmental Planning Policy No. 65 - Quality of Residential Design* (SEPP 65) with the approval of the Minister, or informally, to bring special design expertise to the assessment of certain types of DAs.

Design review panels that are properly integrated in the assessment process are an effective tool which helps to improve the quality of design. The quality of design has a bearing on many, but not all, of the matters considered in the assessment of a DA.

The role of design review panels in the assessment of applications is not changed by the fact that the application is to be determined by a regional panel. However, it is generally more effective in terms of design quality outcomes and timeliness, if the design review panel is convened at the pre-DA stage or early in the assessment phase.

3.4 Role of Independent Hearing and Assessment Panels

A number of councils have voluntarily established Independent Hearing and Assessment Panels (IHAPs). The purpose of IHAP's is to provide an independent review of DAs referred to the IHAP as well as an opportunity for people with an interest in DAs to raise and discuss issues in a public forum before a decision is made on the application.

The roles of IHAPs and the role of regional panels overlap in so much as regional panels provide the opportunity for people with an expressed interest in a DA to be properly heard. Regional panels also bring independent expertise to the assessment process.

Applications determined by a regional panel are not referred to IHAPs or any other similar type of public review of the DA or assessment report. The only exception to this is IHAPs which are established under section 23 I(2) of the EP&A Act, where the applicable environmental planning instrument requires assessment by an IHAP.

Note: Section 23 I(2) of the EP&A Act requires councils to constitute IHAPS if an assessment by a panel is required by an environmental planning instrument.

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4. Assessment

4.1 Pre-development application meetings

Pre-DA meetings between applicants and assessment officers are commonly used to agree on assessment requirements before applications are submitted to the consent authority.

The regional panel encourages applicants to meet with council before lodging a DA, and to respond to the advice of council when preparing the DA.

To avoid any apprehension of bias, it is not appropriate for determining bodies, such as regional panels or their members to participate in pre-DA meetings.

4.2 Representations to regional panel members

If a panel member is approached by any person about a DA that is to be determined by the regional panel, the panel member must not discuss the development.

Any person that approaches a panel member should be encouraged to make a written submission about the DA to the council planning staff during the notification period. Issues raised in submissions will be addressed in the assessment report to be provided to the regional panel and there will be an opportunity for the applicant and any person who made a submission to address the regional panel at its meeting.

4.3 Making of development applications

Development applications, including staged DAs, are made in the ordinary manner to the relevant local council. In addition to council's requirements for lodging a DA, applicants are requested to submit a CD copy of the application and supporting material for referral to the secretariat. The secretariat may request a hard copy of the application from council.

Note: This requirement does not apply to DAs between \$10 million and \$20 million unless a referral is accepted by the chair (see 4.8).

The SRD SEPP provides that a regional panel is to determine the separate DAs that form part of a staged DA if the whole of the development meets the specified regional development thresholds. This information on staged development must be included with the Stage 1 DA. In the case of development located in two or more LGAs, a separate DA must be lodged with the councils of each LGA.

Additionally:

- each DA should only address that part of the development located on land in the relevant LGA,
- neighbouring councils may wish to consider setting up joint assessment procedures, if appropriate,
- the regional panel will determine each DA separately (although the determinations may be made concurrently), and

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- councils are able to make a submission and register to address the regional panel at its meeting.

4.4 Notification to the secretariat

Council is to notify the secretariat within 7 days of receiving a DA for regional development for which the regional panel is the determining body.

The notification is to be made via the regional panels' website (www.jrpp.nsw.gov.au). The notification is to include all the information required on the website notification page.

The secretariat will advise regional panel members of the DA once the referral is accepted. The DA documents will generally be sent to panel members in CD form or panel members will be advised of how these documents can be viewed through the regional panel website. These documents are provided to allow panel members to become familiar with the development and background information, prior to their review of the assessment report and before attending the panel meeting to consider the application in public.

No decision about the proposed development is made until the regional panel meeting is held to consider the application.

4.5 Public notification of development applications by council

Public notification of the application, and re-notification if required, is undertaken by council staff in accordance with the requirements of the EP&A Act and EP&A Regulation, including the provisions of any development control plan or policy the council has for the notification or advertising of DAs.

Public notification, including letters and advertisements, should contain appropriate statements to advise:

- that the {name of relevant} Council is the consent authority, and the {name of relevant} Joint Regional Planning Panel has the function of determining the application,
- that submissions made in respect of the application should be made to {name of relevant} Council, but will be provided to the regional panel and may be viewed by other persons with an interest in the application, and
- such other information as may be required for the particular application by the EP&A Act or EP&A Regulation.

4.6 Requests for additional information

It is the applicant's responsibility to provide adequate information and technical reports on potential impacts of the proposed development.

Holding a pre-DA meeting with council staff will often clarify council requirements for the lodgement of an application. However, the applicant may be requested by council staff to provide further information or reports to properly address all relevant aspects of the development, or to enable an assessment report to be completed.

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The regional panel may identify issues at a briefing meeting that must be addressed or clarified in council's assessment report, and for which council may request further information.

Amended plans or additional information on a DA must be lodged with council.

Where council requests additional information, such requests should:

- be in writing to the applicant, with a copy to the secretariat,
- be made as early as possible after lodgement or, in the case of a request for amendments, as early as possible after the end of the exhibition period,
- identify all matters in one request for information or amendments,
- be for information that is essential for the assessment of the application and not for matters that can be dealt with by condition or after the application has been determined,
- specify a clear and reasonable date for the submission of the information or amendments to council, and
- indicate that if the applicant is unable to meet the deadline, the council will proceed to assess the application in its current form and/or without the requested information.

Status reports

Councils must advise the secretariat as soon as it is evident that there are difficulties in assessing the application or if the assessment report will not be completed within the timeframe indicated in the referral notification.

Councils will be required to provide the secretariat with an application status report for all applications that have been lodged for 70 days or more. A template is available on the regional panels' website.

The status report must detail the processing of the application to date and provide a commitment to a final reporting timeframe. The council may be requested to provide further formal or informal updates as necessary, on the progress of the application and its recommendation.

Where a response or concurrence from public agencies is delaying the assessment of the application, the secretariat will seek assistance from the Project Delivery Unit of the department to ensure the agency responds to council in a timely manner.

Where there is an ongoing and unreasonable delay in the processing of an application, council may be requested by the regional panel to complete its assessment without further delay.

4.7 Assessment of the development application

The council that received the application (including applications for staged development and to modify a consent) is responsible, through its staff, for undertaking the assessment of the application in accordance with the provisions of the EP&A Act.

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It is council's responsibility to prepare an assessment report addressing all statutory requirements and properly considering all issues. Usually councils would rely on their own professional staff, however where they do not have the technical expertise required in-house, they may engage external expertise in the assessment of aspects of, or the whole, DA. All costs associated with the preparation of the assessment report are to be covered from application fees, which are retained by council.

The assessment report must clearly identify how the proposal meets the relevant requirements for regional development under the EP&A Act, and that the regional panel is responsible for determining the application.

The assessment report must include a recommendation on the proposed development.

- If the recommendation is for approval of the application, the report must include recommended conditions of consent.
- If the recommendation is for refusal, the report must include reasons for refusal based on the assessment in the report.

The chair, following consultation with the regional panel, may also request without prejudice draft conditions of consent, where council's report recommends refusal. The panel may do this before or at the regional panel meeting where the DA is being considered.

The assessment report should clearly identify if there are any outstanding issues and steps to be taken to address such issues.

In considering an application, a regional panel may request additional information to assist in its determination of the application.

Varying development standards

Where a DA includes a variation to a development standard as defined in the EP&A Act, an objection under *State Environmental Planning Policy No 1—Development Standards* (SEPP 1), or application under clause 4.6 of the Standard Instrument, is required. Council's assessment report is to include an assessment of the objection or application against the relevant statutory provisions.

The function of obtaining concurrence from the Director-General is a matter for the council. However where concurrence is assumed, the council does not need to obtain concurrence. The function of determining that a SEPP 1 objection or clause 4.6 application is well founded is a matter for the regional panel.

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Local infrastructure contributions

The assessment report should address contributions required under section 94 and section 94A of the EP&A Act in accordance with the council's adopted contributions plan applicable to the DA. The regional panel cannot impose any additional contributions that are inconsistent with council's contributions plan. For Crown developments, councils should address contributions in accordance with the relevant planning circular (Circular No. D6, issued September 1995 or as amended).

4.8 Development subject to delays in determination

Schedule 4A, Clause 10 of the EP&A Act provides that an applicant can refer the DA to the relevant regional panel for determination if it remains undetermined for 120 days after being lodged with council. The referral process is outlined below.

- when making a referral, applicants must use the referral form available on the regional panels' website,
- the applicant is required to complete the relevant part of the form and submit it **to both** the relevant council and the secretariat,
- once the council receives the referral form it cannot determine the DA until a decision has been made regarding whether the regional panel will have the function of determining the DA, however council can continue to assess the DA,
- once a referral is made the council must provide the completed referral form and copies of all DA documents such as the Statement of Environmental Effects, to the secretariat within 7 days. Council should also provide their explanation for delay in completing their assessment,
- the chair will consider the information in the referral form and advise the secretariat if the referral is accepted (i.e. the applicant is not responsible for a delay in the application) generally within 14 days of the applicant making the referral. In making this decision, the chair will consider a number of matters, including:
 - permissibility and zoning, including whether the determination is dependent on a rezoning,
 - whether the determination is dependent on a voluntary planning agreement or the approval of a masterplan,
 - whether the landowner's consent has been provided,
 - whether the required referrals and concurrences have been obtained,
 - whether there have been requests for further information, and what the responses were to those requests, and
 - if council has considered the DA and the outcome of that consideration,
- once the chair makes a decision, the secretariat will notify the council and the applicant,

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- if the referral is not accepted the chair must advise the reason(s) for not accepting the referral,
- if the referral is accepted, council completes the assessment of the application and prepares an assessment report for submission to the secretariat, and
- a briefing meeting with council may be held prior to determination.

4.9 Panel briefings and site visits

Prior to an assessment report for a DA being submitted to a regional panel, the chair may agree to a site visit or a briefing meeting on the matter by council staff, by other persons undertaking the assessment, or by other persons providing advice to the regional panel .

At site visits or briefing meetings, the regional panel is not able to offer an opinion on the overall merits of the proposal or to direct the person undertaking the assessment in relation to the content of any advice or recommendation provided in their report. However, the panel may identify issues that they expect to be addressed or clarified in the assessment report.

Briefings with council staff

The purpose of a briefing with council staff is to inform the regional panel about the DA and its key issues. Briefings may include a presentation by council staff on the DA, its key elements and the planning controls that affect it (such as zoning), and an overview of issues of concern arising through the assessment process or raised in submissions. In addition, the timing of the submission of the assessment report and tentative date for a regional panel meeting to consider the application may also be discussed. Council's assessment officer should have available a set of large scale DA plans (including amended plans) at the briefing meeting.

Only panel members who will sit on the regional panel to determine the DA are required to attend the briefing meeting.

It is not mandatory that the regional panel be briefed prior to considering the matter. Where there is a briefing, it is preferable that it takes place after the close of the public notification period and before council makes any major request for further information from the applicant. Although council can request further information before the exhibition. The assessment of the application should not be delayed in order to conduct a briefing.

Panel members may identify further issues for which they require clarification or further information. A regional panel may request a further briefing with council staff to clarify any element of the DA and assessment report prior to the public regional panel meeting.

Briefings are not determination meetings and panel members should not make any comment that would indicate pre-determination of the application. To avoid any apprehension of bias, no other parties can be involved in the briefing. Formal minutes are not taken for briefings and presentations between council officers and the regional panel, however a record of the

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briefing meeting will be made including time, date, attendees and key issues discussed. The secretariat will maintain a record of the briefing meeting.

Public briefing meetings

If the DA attracts significant community interest, the regional panel may consider holding a public briefing meeting prior to the finalisation of council's assessment report. The public briefing meeting is held to hear submitters in a public forum and to meet with key stakeholders to discuss unresolved issues. These public meetings are held at the discretion of the panel chair.

The applicant and all persons who have made a submission are invited to attend the public briefing meeting. The council assessment officer is expected to attend, and record any issues raised which need to be addressed in the council assessment report.

Representatives of community groups interested in the proposal can register to speak to the regional panel at the public briefing meeting.

For those people who are of the view that they would not be appropriately or adequately represented by any groups, they may register to speak to the regional panel as individuals.

A record of each public briefing meeting held will be published on the regional panels' website. Panel members should not make any comment that would indicate pre-determination of the application at a public meeting.

Site visits

A regional panel may visit the site of a DA prior to a briefing or regional panel meeting (see 5.1 below), at the discretion of the chair. The chair will also invite the council assessment officer and other persons engaged in the assessment of the matter to attend a site visit. The regional panel may conduct the site visit on the same day as the regional panel meeting or at some other time, determined on a case-by-case basis with regard to circumstances such as location and available time.

In some circumstances, other parties including the applicant and people who made submissions on the DA, may also be invited to attend a site visit provided all parties are invited. Whether other parties are invited is at the discretion of the chair.

In deciding to conduct a site visit, the chair should take into consideration the availability of all members of the regional panel and any other persons also invited to attend the site visit.

Entry to any private land may only take place with the express permission of the owner of the land, and it is the responsibility of council staff to seek owner's consent when required.

Briefings with the applicant

The regional panel will not normally engage the applicant outside of a public meeting.

However, there may be some circumstances where it would be appropriate for the applicant to meet with the regional panel, including where:

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- the regional panel could benefit from additional technical explanation on a complex DA
- development options are still being considered (e.g if a major re-design has been requested by the council)
- material to be presented may be commercially sensitive or confidential.

Any meetings between the applicant and the regional panel should be held after the exhibition period closes but before the assessment report is provided to the regional panel. These meetings should only be conducted where the chair considers it is necessary and appropriate, and following consultation with council's planning director.

A record of the meeting, including attendees and matters discussed, should be made and be publicly available.

It is generally not appropriate for the panel to meet with the applicant at the pre-DA stage, except where the application relates to a subsequent stage of a staged DA which the panel has previously determined.

4.10 Other public meetings about the proposed development

To avoid any perception of bias, panel members should avoid attending public meetings about a proposed development organised by members of the community or council, unless the meeting has been organised at the request of the regional panel.

In order for all panel members to hear the concerns of the public as part of the consideration of the application, panel members should decline the invitation and advise the meeting organisers to make a submission to council and register to address the regional panel at its meeting.

All members of the regional panel are required to observe the regional panels Code of Conduct which requires determinations to be made impartially and based on merit.

4.11 Council representation to the regional panel

An elected council may make a submission on a DA within their LGA that is to be determined by a regional panel up to seven days before the regional panel meeting. The applicant may consider it appropriate to provide a briefing to council prior to the council framing its submission to the panel.

After the assessment report has been forwarded to the secretariat, it may be provided to the elected council to assist in its decision as to whether it will be making a submission to the regional panel. The elected council's submission should not be prepared by persons involved in the assessment of the application, and should be prepared by another council officer, or a consultant.

A council submission should not be specifically addressed in the assessment report or recommendations prepared by the council staff. If council makes a submission, a staff representative or individual Councillors may register to address the regional panel at the meeting to express the views of council.

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Councillors who are also panel members have an independent role because they have been nominated by their council as its nominee to the regional panel. They should declare any interest in a DA for regional development that comes before their council and not participate in the deliberations or voting on the matter at the council (or council committee) meeting. They should also not remain in the council chamber during the council's deliberations.

4.12 Submission of assessment report to the secretariat

The completed assessment report and recommendation is to be immediately forwarded, via electronic means and in Microsoft Word format, to the secretariat.

The assessment report is not to be endorsed or presented to the elected council before being forwarded to the secretariat.

The following items are to be forwarded in a digital format to the secretariat:

- assessment report and any attachments and recommendations (including conditions),
- any plans, drawings or other material submitted with the application if they have not previously been submitted to the secretariat,
- copies of each submission received in respect of the DA along with a table containing the names, postal addresses and email addresses (if provided) of every person or body who made a submission, and
- in the case of petitions, only the name and address of the head petitioner should be provided, if that person can be identified.

Note: Council's assessment report must include a summary and assessment of all submissions to enable the regional panel to consider the submissions for the purposes of section 79C of the EP&A Act. Based on the details provided by council, the secretariat will notify persons who made submissions of the time, date and venue of the regional panel meeting at which the relevant application will be considered. Councils should also provide the secretariat with copies of any late submissions and, where necessary, provide further assessment if the issues are not already covered in council's assessment report.

4.13 Written submissions to the regional panel

All written submissions must be sent directly to council.

Any material submitted to the secretariat for the regional panel to consider in making a determination will be made publicly available and provided to council for assessment. Regional panels will not normally accept information provided in confidence that is not also provided to council. However, if confidentiality is requested, the reason must be clearly stated.

At the regional panel meeting, it is acceptable to provide the panel with written material which summarises the matters to be presented to the panel by the speaker. However, this written material must be kept to a minimum.

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4.14 Rezoning, master plans and voluntary planning agreements

If a proposed development requires approval to a rezoning application, it is the responsibility of the council to consider and process any such rezoning proposal. Where a DA has been lodged concurrently with a rezoning proposal, the regional panel requires council's assessment report to address the DA against the proposed zoning, and cannot make a determination to approve any DA until the rezoning process has been completed (gazetted).

Where the provisions of an environmental planning instrument require a master plan to be adopted by the council before granting development consent, it is the responsibility of council to adopt the master plan prior to providing the assessment report to the regional panel. In such circumstances, the regional panel will not determine the application until the master plan is adopted by the council.

If a Voluntary Planning Agreement (VPA) is proposed, it should be negotiated by council staff. VPAs may only be entered into by the council, and the assessment report would normally make reference to any VPA and its relationship to the DA.

4.15 Referral of Crown development applications with a CIV less than \$5 million

Crown DAs with a CIV greater than \$5 million are regional development. Crown DAs with a CIV under \$5 million can be referred to the regional panel under section 89(2) of the EP&A Act by either:

- the applicant where council has not determined in the prescribed period, or
- the council at any time including before the end of the prescribed period.

Before the end of the prescribed period, only a council (not the applicant) can refer an application to the regional panel.

For Crown DAs with a CIV less than \$5 million where a council seeks to refuse consent or impose a condition to which the applicant has not provided their agreement, the application is also to be referred by council to the regional panel under section 89(2) of the EP&A Act. Planning Circular PS 09-017 outlines the Crown DA provisions.

The referral to the secretariat should take the form of a letter, with a request that under section 89(2) of the EP&A Act the matter be referred to the regional panel for determination. Sections 89(6) and section 89(7) then set out additional procedures for the referral, including the requirement to notify the council in writing that the application has been referred.

Following receipt of the letter, the secretariat will review the documentation. If accepted, the applicant or council will be requested to lodge the referral on the notification page of the regional panels' website.

Where a report or other documentation has been prepared by council, this is to be provided to the regional panel for consideration. The secretariat will review that report or otherwise prepare an assessment report for the regional panel. Section 5.8 below discusses the determination of Crown DAs.

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5. Determination

5.1 Regional panel meeting

Regional panels exercise the consent authority functions of elected councils to determine regionally significant development in accordance with section 23G of the EP&A Act.

A regional panel meeting is where the regional panel meets in public to consider DAs. Refer to **Schedule 1** for more information on the detailed procedures for panel determination meetings.

The purpose of the meeting is for the regional panel to hear those who wish to express their view on the DA before the panel makes a decision.

Following public submissions being heard and after considering the recommendation in council's assessment report and hearing the views of the public, the panel may determine the application or defer its decision for reasons that will be stated in the minutes of the meeting.

5.2 Meeting dates and agendas

A regular schedule of proposed meeting dates is determined at the beginning of each year by the secretariat in consultation with the chair. The meeting dates are listed on the regional panels' website and are reserved for public briefing meetings, briefings with council staff, site visits, or regional panel meetings. A regional panel meeting will generally be arranged within 14 days of receiving council's assessment report.

Additional meetings of a regional panel may be organised at the discretion of the chair. These additional dates will be posted on the website as soon as they become available.

The agenda for each meeting is approved by the chair who may consult with the general managers (or their nominee) of the relevant councils as necessary.

The council is to notify the secretariat of any revised date for completion of the assessment report as soon as it is aware of any delay and advise reasons for the delay.

5.3 The meeting venue

The meeting venue is determined by the chair in consultation with relevant councils, and taking into account:

- the location of the proposed developments to be considered at the regional panel meeting,
- the number of persons who have expressed an interest in the different matters to be considered at the regional panel meeting,
- the availability of a suitable venue and the accessibility of the proposed venue for those persons, and
- local considerations and logistics.

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The meeting venue should:

- maximise accessibility to people who have expressed an interest in the matters to be considered at the meeting, and
- facilitate the open exchange of information between the panel members and other parties.

Items from a number of different LGAs might be considered at one meeting provided the venue is reasonably accessible to most interested parties.

In regional areas, the chair may need to convene meetings in a number of locations to ensure they are accessible to the greatest number of people with an interest in the application being considered.

5.4 Notice of meeting

Notice of a regional panel meeting is to be given by the secretariat at least 7 days before the meeting. Notice is provided to the panel members, the general managers (or their nominee) of the councils in that region, every person who made a submission to the council in respect of an item to be considered at the meeting and the applicants for those items. A notice is placed on the regional panel website and may be placed in the local newspaper.

The notice is to include details of:

- the time and date of the meeting,
- the venue for the meeting,
- the development applications,
- the availability of agenda and business papers, which will include the assessment report and recommendations, and
- other matters to be considered at the meeting.

5.5 Distribution of meeting agenda and business papers

The meeting agenda, business papers/assessment reports and attachments, including any representations made by councils, are to be distributed to members of the regional panel and uploaded on the regional panels' website by the secretariat no less than 7 days prior to the meeting.

A hard copy of the agenda and business papers are to be posted via overnight express post to those panel members who will have a decision-making role on the DA.

5.6 Obligation to consult council – if adverse financial impacts

A regional panel must not make a decision that will have, or that might reasonably be expected to have, a significantly adverse financial impact on a council until after it has consulted with the council.

The consultation may be in writing, with the council being given a specified time to respond in writing. Where a meeting with the general manager (or nominee) is to be held to discuss the matter, all panel members should be present and minutes kept of the meeting and its outcomes, which shall be forwarded to the secretariat.

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5.7 Determining Crown development applications

A consent authority for Crown development cannot refuse consent to a Crown DA except with the approval of the Minister, or impose a condition on its consent to a Crown DA except with the approval of the applicant or the Minister.

This requirement applies to Crown development that is to be considered by a regional panel, whether the application is for 'Regional Development' in terms of Schedule 4A of the EP&A Act, or where it is an application referred to the panel by an applicant or the council under section 89(2) of the EP&A Act. Refer to section 4.15 for more information.

Where the regional panel wishes to either refuse an application or impose conditions not agreed to by the applicant, or where a regional panel fails to determine the DA within the prescribed period, the applicant or the regional panel may refer the DA to the Minister. In these instances, a further report will be prepared by the department for the Minister's consideration.

The PAC may function as a regional panel to determine Crown DAs within the City of Sydney (where the regional panels do not operate) which are not determined by council within the time prescribed in the EP&A Regulation.

5.8 Delegation to council to determine applications

If the Minister agrees, regional panels may delegate the determination of applications to councils. Delegation may be for development in a specified area, for a class of application, or be made on a case-by-case basis.

The *Local Government Act 1993* provides that the regional panels can only delegate to the elected council, and it is then at the discretion of the council to delegate to the general manager, and in turn to senior staff.

In situations where the determination is delegated, councils are still required to:

- register the application on the regional panel website,
- inform and update the secretariat on the processing of the application as requested, and
- provide a copy to the secretariat of all determination documents, including the assessment report and Notice of Determination.

A council may be requested by the chair of the relevant regional panel not to exercise delegation in certain circumstances.

Any determination made by council under delegation remains a decision of the regional panel.

6. Post determination

6.1 Issuing the notice of determination

The notice of determination is issued by the council that received the DA, following the decision of the regional panel and in accordance with the EP&A Act and EP&A Regulation, and the council's normal procedures.

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The notice should not be issued until a copy of the endorsed and final minutes have been received by council. The notice of determination must include all conditions imposed by the regional panel, including any additional or amended conditions.

Enquiries about the determination should be directed to the council planning officer responsible for the assessment report. Council is also responsible for advising any person who made a submission on the DA of the determination.

6.2 Monitoring of and compliance with conditions of approval

The council as the consent authority will continue to be responsible for the monitoring of, and enforcing compliance with, any conditions of the development consent.

Where an application has been approved subject to a 'deferred commencement' condition under section 80(3) of the EP&A Act, the council is responsible for determining whether the requirements of the condition have been met. Under clause 123E(2) of the EP&A Regulation, council is required to advise the chair of the regional panel in writing when the matter specified in the condition has been satisfied.

6.3 Appeals against a regional panel determination

Merit appeals

An applicant who is dissatisfied with an actual or deemed determination of an application may lodge a merit appeal to the Land and Environment Court within six months against the decision as provided for in the EP&A Act.

If the development is designated development, then an objector to the development who is dissatisfied with a determination may also lodge a merit appeal in the Land and Environment Court within 28 days as provided for in the EP&A Act.

A merit appeal against a panel determination is brought against the relevant council. This is because council legally remains the consent authority for the development in the EP&A Act. Merit appeals against the determination of a regional panel are generally defended and managed by the council that received the DA.

Council must notify the secretariat of any merit appeals lodged in the Land and Environment Court against a determination made by a regional panel, as soon as possible. Details about the council's proposed defence of such an appeal, including how it proposes to deal with a deemed refusal appeal, should also be provided to the secretariat.

The panel will determine its level of involvement in an appeal on a case-by-case basis.

A regional panel can still determine a DA even though it is subject to a deemed refusal appeal. In these cases, council's assessment officer is encouraged to complete their assessment report so that the regional panel can determine the DA.

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Judicial review and civil enforcement proceedings

Any person may commence judicial review or civil enforcement proceedings in the Land and Environment Court against a panel determination.

A submitting appearance may be filed by the regional panel if the grounds of challenge are not related to the powers or procedures of the panel in determining the application.

6.4 Appeals against determination where council is applicant

The EP&A Regulation provides that, where a council is the applicant and makes an appeal or otherwise commences Land and Environment Court proceedings concerning a regional panel determination in respect of the council's application, the regional panel will be the relevant respondent in such proceedings.

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Schedule 1: Regional panel meetings

1. General

Regional panel meetings are to be conducted in public, unless otherwise directed by the Minister, or unless the chair is of the opinion there are justifiable reasons to conduct any part of the meeting in closed session.

At the meeting, the chair will introduce the members, and make any relevant announcements such as changes to the agenda or apologies. The chair will also ask for any declarations of interest on the DA.

The chair may also briefly summarise the key issues that have arisen in council's assessment report.

2. Quorum for a regional panel meeting

A quorum for a determination meeting of a regional panel is a majority of its members, including the chair, i.e. a total of three members. The determination meeting is to be deferred if a quorum is not present.

Where conflicts of interest are known before the meeting, alternate members will be used to ensure there is a quorum.

3. Presentations at a regional panel meeting

The chair will determine the order of presentations to the panel. Panel members may ask questions of those making presentations. The amount of time given to each speaker will be at the discretion of the chair.

At the regional panel meeting, it is acceptable to provide the panel with written material which summarises the matters to be presented to the panel by the speaker. However, this written material must be kept to a minimum.

(a) Presentation by council assessment officer

The chair may request that the council assessment officer responsible for preparing the assessment report (or a representative) presents a summary of the DA and outlines any relevant assessment issues at the start of the presentations. Council's assessment officer should have available at the panel meeting a set of large scale DA plans (including any amended plans).

The council assessment officer (or representative) should inform the chair of any late submissions received, and of any issues raised which may not have been addressed in the assessment report.

The council assessment officer (or representative) should be present throughout the panel meeting, so that the panel chair can seek clarification where necessary of assessment issues that may arise during the course of the meeting. Other technical experts from the council may also be present (such as traffic engineers) and the panel chair may ask for clarification of specific issues. Any questions to council staff can only be made by panel members and are to be directed through the panel chair.

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(b) Presentation by the applicant

The applicant will be given the opportunity to outline the proposal and respond to council's assessment report. The applicant may also be required to respond to submissions made at the meeting. The time allocated to the applicant, including their consultant(s), will be at the discretion of the chair, but will generally be 15 minutes. Additional time may be allocated where professional consultants have been engaged by the applicant to present at the meeting.

(c) Presentation by people or groups who made submissions

Regional panel meetings enable people or groups to make a presentation to the panel meeting. People who wish to address the regional panel must register with the secretariat prior to the meeting by contacting the secretariat by telephone or email within the timeframe specified in the notification letter (generally two days before the panel meeting).

The chair will advise on the time allocated for verbal submissions which will vary from meeting to meeting depending on a number of considerations such as the number of registered speakers.

As a guide:

- individual submitters will have 3 minutes to speak,
- a speaker for a community organisation/group will have 10 minutes to present. Additional time may be allocated where professional consultants have been engaged by community groups to present at the meeting.

In addition, where a large group of people have common issues to raise at the meeting, the chair may ask that a spokesperson be appointed to speak on behalf of the group. In such cases, the spokesperson will generally be allocated more time than individual speakers.

The chair will seek to ensure that all groups or individuals who request to address the panel will be heard. Any requests for extending time limits should be made to the panel at the meeting and may be granted at the discretion of the panel chair.

Speakers should focus their oral presentations on the assessment report and its recommendation rather than re-stating information outlined in their earlier written submissions. The regional panel will have read all submissions and associated documents before the regional panel meeting.

(d) Presentation by people or groups that have not made a submission

The chair has the discretion to allow any member of the public to address the Regional Panel, even if they have not made a submission or registered to speak by the relevant deadline. Considerations may include the number of persons that made submissions and have requested to address the meeting and the available time.

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(e) Presentation by a panel appointed expert

For the purpose of determining an application, a regional panel may obtain independent assessment reports, advice and assistance that the panel may require, particularly in relation to complex technical matters. This would be in addition to any assessment report or other information provided by the relevant council in assessing the application.

Selection of such experts is to be determined by the chair in consultation with the other panel members.

Depending on the circumstances, the expert may submit a report with recommendations directly to the regional panel. In addition, the expert may be invited to present the outcomes of their report at the regional panel meeting.

The independent assessment report should be made available on the regional panels' website prior to the meeting, except where this information includes legal advice provided to the regional panel and is subject to legal professional privilege.

4. Closed sessions

A regional panel may decide to conduct any part of the meeting in closed session if it considers that the matter to be discussed includes:

- commercial information of a confidential nature that would, if disclosed:
 - prejudice the commercial position of the person who supplied it, or
 - reveal a trade secret,
- advice concerning litigation or regional panel advice that would otherwise be privileged from production in legal proceedings or for other purposes on the ground of legal professional privilege,
- information concerning the nature and location of a place or item of Aboriginal significance on community land,
- a potential conflict of interest of a member, or
- any other reason deemed appropriate by the regional panel.

Only the regional panel members should be present during the closed session. However, the chair may request council assessment staff to attend if they require any issues to be clarified. The chair may also request that the minute taker is present during the closed session.

Before the chair decides to conduct any part of a regional panel meeting in closed session, the chair may allow members of the public to make representations as to whether that part of the meeting should be closed.

Where a chair decides to close any part of a regional panel meeting, the reasons for closing that part of the meeting must be recorded in the minutes of the meeting.

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5. Adjourning during a regional panel meeting

After hearing from registered speakers, the regional panel may adjourn the meeting to confer amongst themselves, before reconvening the public meeting to make their decision. Before the adjournment, the panel chair must publicly state the reasons for adjournment which should be recorded in the meeting minutes.

Only the regional panel members should be present during the adjournment. However, the chair may request council assessment staff to attend the adjournment if they require any issues to be clarified.

During the adjournment, the panel members may deliberate on their decision and formulate a resolution.

The chair may request that the minute taker is present during the adjournment to assist in recording a resolution, where necessary. However, minutes of the adjournment will not be recorded because this is not part of the meeting.

After reconvening, the panel chair should briefly summarise the matters discussed in the adjournment, including any questions asked of council's assessment officer (and any responses given). The regional panel may then discuss the matter in the public meeting and/or make their determination in the public meeting.

6. Deferring a decision at a regional panel meeting

A panel may decide to defer its determination of the matter for a subsequent meeting. A decision may be deferred for any reason including to obtain additional information or advice.

The chair will inform the meeting of the reasons for the deferral of a decision and will advise of the procedures to be followed for the determination of the DA. This may include the decision to conduct any further meetings via electronic means following the conclusion of business transacted substantially in a public meeting. Refer to section 9.

If there are matters raised in the regional panel meeting that were not addressed in the assessment report, these will be recorded in the minutes of the panel meeting, and the panel may refer the matter to the council's officer for a supplementary report.

The regional panel may engage experts to obtain independent advice and assistance as the panel thinks fit, to ensure adequate and appropriate information is available for consideration in making a subsequent determination.

Council must address all issues raised by the regional panel in their supplementary report. The regional panel may also request a supplementary assessment report to be provided within a specified timeframe.

The minutes of the panel meeting, including the reasons for deferral, will be placed on the regional panel website, and a copy will be provided to the council.

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It is the council's responsibility to follow up on any requests for additional information or amendments from the applicant, and to report these to the regional panel in a supplementary report.

7. Making the determination

Where possible the regional panel will make its decision in an open forum and by consensus. Where a decision cannot be made by consensus, the decision will be made by majority vote. The chair will have a second or casting vote if required because of an equality of votes.

The regional panel is required to provide reasons for its decision, which are to be recorded in the minutes of the meeting. The reasons for decision may rely on the conclusions and recommendation(s) within council's assessment report.

If the regional panel resolves to approve an application that is recommended for refusal, the panel may seek a further report from the council's planning officer providing recommended conditions of consent. As outlined in section 4.7, the regional panel may also request without prejudice conditions of consent before a regional panel meeting if council's report recommends refusal.

The decision of the regional panel is not subject to a 'Rescission Motion' as in local government. Reviews under section 82A of the EP&A Act are not available in respect of determinations by regional panels.

8. Recording of meeting minutes

The chair is responsible for ensuring that full and accurate minutes are kept of the proceedings of public briefing meetings and regional panel meetings.

A copy of the unconfirmed minutes will be provided to all panel members who participated in the regional panel meeting. Panel members may submit any proposed corrections to the unconfirmed minutes to the secretariat for confirmation by the chair.

Alternatively, a regional panel may choose to complete and endorse the final minutes immediately after completing the meeting. In this case, draft minutes will not be circulated.

When the minutes have been confirmed and endorsed by the chair of that meeting, the minutes will be placed on the regional panels' website and provided to council to issue the notice of determination.

The confirmed minutes must be available within 7 days of the regional panel meeting which determined the application.

The minutes must record:

- the opening and closing times of the meeting,
- the names of members appointed by the Minister (or their alternates) present at the meeting, including the chair,
- the names of the council members (or their alternates) in respect of each item,

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- any disclosure of interest made by a member, the reason for that disclosure of interest and whether the member making the disclosure participated in the discussion or determination of the matter,
- the names of each person heard by the regional panel in respect of an item,
- the decision of the regional panel for each item - where the determination is not consistent with the recommendation in council's assessment report, the following must be provided:
 - reasons for the decision, and
 - any new conditions of consent or changes to the recommended conditions of consent, and
- the names of each member who voted for or against the DA, and reasons for dissent, where the decision is not unanimous.

The secretariat, with assistance from the relevant council, is responsible for taking meeting minutes for the regional panel meetings.

9. Transaction of business outside regional panel meetings

Clause 268I of the EP&A Regulations provides that a regional panel can transact its business at a meeting at which members participate by electronic means including telephone, email, and videoconference.

Following consultation with council's General Manager and the applicant, the chair may determine that is unnecessary to hold a meeting in public to consider a DA.

Circumstances where a public determination meeting may not be required includes:

- where the assessment report recommends approval and there are no submissions by way of objection, or
- where the regional panel has held a public meeting and deferred its decision to request specific additional information from an applicant or council (such as amended drawings). In this case, an electronic meeting should only occur if council, after having accepted the amended drawings, has decided that re-exhibition of the amended drawings is not required.

When an electronic meeting is proposed, the council report and recommendation must be made available on the regional panels' website seven days prior to the DA being determined.

The secretariat will distribute business papers (including the assessment report and attachments) to regional panel members for consideration and advise that the determination will be made via electronic means.

Following consideration of the business papers, regional panel members will advise the secretariat of their decision on the DA and a record of decision will be completed and endorsed by the chair.

The chair and each panel member will have the same voting rights as they have at public determination meeting.

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ATTACHMENT 2



Code of Conduct

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JOINT REGIONAL PLANNING PANELS

Code of Conduct

Introduction

This Code of Conduct (Code) applies to all members of Joint Regional Planning Panels (regional panels), including:

- state appointed members,
- council nominees, and
- alternates acting for regional panel members.

The Code outlines the standards of conduct expected of regional panel members. It is the personal responsibility of each regional panel member to comply with this Code. The Code will be kept under review and will be subject to changes that may be required to reflect the experience of the implementation and operation of the regional panels.

Purpose of the Code

This Code sets out the minimum requirements of behaviour for regional panel members in carrying out their functions. The Code has been developed to assist regional panel members:

- a) understand the standards of conduct that are expected of you,
- b) enable you to act honestly, ethically and responsibly,
- c) enable you to exercise a reasonable degree of care and diligence, and
- d) act in a way that enhances public confidence in the integrity of the role of regional panels in the planning system.

Application of the Model Code of Conduct for Local Councils in NSW (Model Code)

Councils are required under the *Local Government Act 1993* to adopt a code of conduct. Such codes must incorporate the provisions of the 'Model Code' prescribed under the *Local Government (General) Regulation 2005*.

Council's adopted code applies to, amongst others, councillors, the general manager and council staff. The Model Code does not apply to regional panel members. However parts of the Model Code have been used to assist in the development of this Code, along with other relevant codes of conduct applying to members of state boards and other statutory bodies.

It is recognised that councillors and council staff may undertake functions as a member of a regional panel separate to their ordinary functions as a councillor or member of council staff. When exercising functions as a regional panel member, councillors and council staff must ensure that they comply with this Code.

Council staff responsible for dealing with development matters under the *Environmental Planning and Assessment Act 1979* (EP&A Act), preparing assessment reports and/or otherwise assisting a regional panel in the exercise of its functions are not subject to this Code. The Model Code requires that council staff act lawfully, ethically and fairly. In relation to development decisions, council staff must ensure decisions are properly made and parties involved in the development process are dealt with fairly. People must not use their position to influence other council officials in the performance of their duties or to obtain a private benefit for themselves or for somebody else.

Other obligations

Regional panel members are subject to the *Independent Commission Against Corruption Act 1988* and the *Ombudsman Act 1974*.

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Code of Conduct

1. Key principles

Integrity

- 1.1 You must not place yourself under any financial or other obligation to any individual or organisation that might be reasonably thought to influence you in the exercise of your functions as a regional panel member.

Leadership

- 1.2 You have a duty to promote and support the key principles of this Code by demonstrating leadership and maintaining and strengthening the public's trust and confidence in regional panels and their role in the planning system.

Selflessness

- 1.3 You have a duty to make decisions in the public interest. You must not make a decision or take action that causes or results in you obtaining:
- a financial benefit (including avoiding a financial loss), or
 - other benefits for yourself, your family, friends or business interests.

Impartiality

- 1.4 You should make decisions on merit and in accordance with your statutory obligations when carrying out your functions as a regional panel member.

Accountability

- 1.5 You are accountable to the public for your decisions and actions and should consider issues on their merits, taking into account the views of others.

Openness

- 1.6 You have a duty to be open as possible about your decisions and actions.

Honesty

- 1.7 You have a duty to act honestly and in good faith for the proper purpose.

Respect

- 1.8 You must treat others with respect at all times.

2. General conduct obligations

General conduct

- 2.1 You must not conduct yourself in carrying out your functions as a regional panel member in a manner that is likely to bring the regional panel into disrepute. Specifically, you must not act in a way that:
- a) contravenes the EP&A Act¹,
 - b) is improper or unethical,
 - c) is an abuse of power,
 - d) causes, comprises or involves intimidation, harassment or verbal abuse, or
 - e) causes, comprises or involves discrimination, disadvantage or adverse treatment.
- 2.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions as a regional panel member, having regard to the statutory obligations under the EP&A Act.

¹ A reference to the *Environmental Planning and Assessment Act 1979* (EP&A Act) includes a reference to the *Environmental Planning and Assessment Regulation 2000*.

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Fairness and equity

- 2.3 You must consider issues consistently, promptly, conscientiously and fairly.
- 2.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

Making decisions and taking actions

- 2.5 You must ensure that decisions and actions are reasonable, fair and for the proper purpose and that parties involved in the development process are dealt with fairly.
- 2.6 You must ensure that no action, statement or communication between yourself and others (such as applicants, objectors and councillors) conveys any suggestion of willingness to provide improper concessions or preferential treatment.
- 2.7 You should attend all meetings of the regional panel as far as is possible, and allow the necessary time to prepare for meetings.

3. Conflicts of interests

General

- 3.1 A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your functions as a regional panel member.
- 3.2 You must avoid or appropriately manage any conflicts of interests. The onus is on you to identify a conflict of interests and take appropriate action.
- 3.3 Any conflicts of interests must be managed to uphold the probity of regional panel decision making. When considering whether or not you have a conflict of interests you should consider how others would view your situation.
- 3.4 Private interests can be of two types: pecuniary or non-pecuniary.

Disclosure of pecuniary interests

- 3.5 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person².
- 3.6 A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision that person might make³.
- 3.7 A member has a pecuniary interest in a matter if the pecuniary interest is the interest of the member, the member's spouse or de facto partner or a relative⁴ of

² The term 'pecuniary interests' adopted by this Code is based on the definition of that term in s.442(1) of the *Local Government Act 1993*.

³ See s.442(2) *Local Government Act 1993* or if it is an interest referred to in s.448(a), (b), (e) or (g) of the *Local Government Act 1993*.

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the member, or a partner or employer of the member, or a company or other body of which the member, or a nominee, partner or employer of the member, is a member.

- 3.8 The obligation on regional panel members with respect to pecuniary interests are set out in clause 12 of Schedule 4 of the EP&A Act (attached at **Appendix A**). All regional panel members must comply with the requirements set out in this provision. In particular:
- (a) If a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of a regional panel and the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter, the member must, as soon as possible after the relevant facts have come to the member's attention, disclose the nature of the interest at or before a meeting of the regional panel.
 - (b) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the regional panel otherwise determines:
 - be present during any deliberation of the panel with respect to the matter, or
 - take part in any decision of the panel with respect to the matter.

- 3.9 As a member of a government board or committee, all regional panel members are also required to adhere to the Department of Premier and Cabinet's Guidelines 'Conduct Guidelines for Members of NSW Government Boards and Committees' ("the DPC Guidelines").

In accordance with the DPC Guidelines, regional panel members are required to disclose interests which include positions and pecuniary interests in corporations, partnerships or other businesses that may be relevant to the activities of the regional panel.

These declarations will be required to be made by panel members on an annual basis. Taken together, schedule 4 of the EP&A Act and the requirements of the DPC Guidelines ensure that the pecuniary interest disclosure requirements for regional panel members are the same as those for local government councillors.

Disclosure of non-pecuniary interests

- 3.10 A non-pecuniary interest is a private or personal interest that a person has that may, for example, be based on a family or personal relationship, membership of an association, society or trade union or involvement or interest in an activity which may include an interest of a financial nature⁵.
- 3.11 You should consider possible non-pecuniary interests that may arise while carrying out your duties as a regional panel member. Where possible, the source of potential conflict should be removed.
- 3.12 However, where this is not possible, if a member has a non-pecuniary interest in a matter and the interest appears to raise a conflict with the proper performance of

⁴ The term 'relative' adopted by this Code is the definition of that term under s 3 of the *Local Government Act 1993*.

⁵ The term 'non-pecuniary interest' as adopted by this Code is based on the meaning of that term under the Local Government Model Code of Conduct.

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the member's duties, the member must follow the procedures set out in clause 12 of schedule 4 of the EP&A Act in the same manner as if the interest was a pecuniary interest.

Register of declarations of interest

- 3.13 Where any pecuniary or non-pecuniary interest in a matter before the regional panel has been disclosed by a member, whether declared before or at the commencement of the panel meeting, this will be noted in the minutes of the relevant panel meeting, even when the member is not in attendance.

The minutes of all panel meetings will be made available on the regional panel website.

- 3.14 A register of the annual declarations made by regional panel members under clause 3.9 of this Code and in accordance with the DPC Guidelines, will be maintained by the Regional Panels Secretariat (secretariat).

Upon request, the register of declarations, including all other declarations made by panel members will be available for inspection at the secretariat during normal office hours.

Political Donations

- 3.15 Regional panel members should be aware that political contributions or donations may give rise to a pecuniary or non-pecuniary interest. It is the responsibility of regional panel members to determine in each instance whether such an interest arises and whether the provisions of this Code and clause 12 of schedule 4 of the EP&A Act applies.

- 3.16 Where a regional panel member makes a disclosure under clause 12(1)(b) of schedule 4 to the EP&A Act with respect to an interest which arises because of a political donation, the regional panel is required to take this into consideration in determining under clause 12(6) whether it is appropriate for the member to be present during any deliberations or take part in any decision with respect to the matter.

Other business or employment

- 3.17 You must ensure that any outside employment or business you engage in will not:
- a) conflict with your functions as a regional panel member,
 - b) involve using confidential information or resources obtained through your role as a regional panel member, or
 - c) discredit or disadvantage the regional panel.

- 3.18 Members of a particular regional panel will have a close working relationship with each other. Therefore, to avoid a perception of bias, a regional panel member must not represent an applicant or submitter at a regional panel meeting for a regional panel of which you are a permanent member or have been used regularly as an alternate member.

Personal dealings with council

- 3.19 You may have reason to have private dealings with a council that is within the regional panel region where you are a regional panel member (for example as a

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ratepayer). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your role as a regional panel member. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

4. Personal benefit

Gifts and benefits

4.1 You must not:

- a) seek or accept a bribe or other improper inducement,
- b) seek gifts or benefits of any kind,
- c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty,
- d) accept any gift or benefit of more than token value, or
- e) accept an offer of money, regardless of the amount.

4.2 Generally speaking token gifts and benefits include:

- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - i. the discussion of matters before the regional panel,
 - ii. conferences, or
 - iii. social functions organised by groups.
- b) invitations to and attendance at local social, cultural and sporting events,
- c) gifts of single bottles of reasonably priced alcohol at end of year functions and public occasions, and
- d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers.

4.3 Gifts and tokens that have more than a token value include, but are not limited to, tickets to major sporting events, corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

4.4 As a general rule, any gift from an applicant, objector or associate of an applicant or objector in relation to a matter to be determined by a regional panel would fall into a category referred to in paragraph 4.1(c) and therefore should not be accepted.

4.5 The panel secretariat is to maintain a register of gifts for each regional panel to ensure the receipt and disposal of gifts is conducted in an open and transparent manner. When offered a gift or benefit regional panel members must inform the panel secretariat of the following information for the purposes of making a recording on the register of gifts:

- the person who made the offer and the date on which the offer was made,
- whether or not you accepted the gift/benefit,
- whether the gift or benefit was allocated to another person or body, and
- the value of the gift or benefit.

You should also advise the regional panel chair of any such notification to the panel secretariat.

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5. Relationship between regional panel members, council and council staff

Obligations of regional panel members

5.1 Section 23N of the EP&A Act provides that a regional panel is entitled:

- a) to have access to, and to make copies of and take extracts from records of a council relevant to the exercise of the regional panels' functions, and
- b) to the use of staff and facilities of a relevant council in order to exercise the regional panels' functions.

All such requests for assistance will be made by the regional panel chair to the general manager (or such other staff member nominated by the general manager).

5.2 You have a responsibility to promote and support an effective and co-operative working relationship with the council, General Manager and council staff and contractors.

Inappropriate interactions

5.3 You must not engage in inappropriate interactions when exercising your functions as a regional panel member.

5.4 In relation to council staff⁶ you must not:

- a) approach, make requests of, make enquiries or issue instructions to council staff other than through the panel secretariat and in accordance with this Code,
- b) be overbearing or threatening to council staff,
- c) make personal attacks on council staff in a public forum,
- d) direct or pressure council staff in the performance of their work or recommendations they make, or
- e) influence or attempt to influence staff in the preparation of assessment reports or other information to be submitted to the regional panel.

5.5 If a panel member is approached by any person about a development application that is to be determined by the regional panel, the panel member must not discuss the development.

5.6 Section 4.2 and 4.9 of the regional panels' Operational Procedures recognises that there may be some circumstances where it is appropriate for the regional panel to meet with applicants in private. Where this occurs, a record of the meeting, including attendees and matters discussed, will be made and be publicly available.

However, individual members of the regional panel must not hold private meetings, briefings, site visits or discussions in respect of the matter.

Where meetings, briefings or site visits occur you should not express any views that would indicate pre-judgement of the matter.

⁶ A reference in this clause to council 'staff' includes a reference to council contractors or consultants.
Joint Regional Planning Panels Code of Conduct 7

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Council staff - avoiding the potential for a conflict of duties

- 5.7 In selecting its members to a regional panel, council should have regard to the conflict of duties that may be created for a person nominated to the regional panel if they were in any way responsible for or involved in the assessment and recommendation of a matter to be determined by the regional panel.

Should a council nominate staff to be members of a regional panel, the following provisions of the Code must be taken into consideration to ensure any potential conflicts of duties between being a council staff member and fulfilling the obligations of a panel member are avoided.

- 5.8 Council employees (including general managers and other senior staff) who are nominated to sit as a member of the regional panel should carefully consider what measures must be put in place to ensure they will be able to comply with the requirements of this Code.⁷
- 5.9 A conflict of duties may arise for council employees (including general managers and other senior staff) who are nominated to sit as a member of the regional panel. A conflict of duties is a conflict between competing and incompatible public duties. For example, a conflict of duties arises where public officials hold more than one official position which requires them to address competing objectives or interests. Conflicts of duties should be avoided in most circumstances. Therefore council employees who are nominated to sit on a regional panel must ensure that appropriate measures are in place to ensure potential conflicts are appropriately managed.
- 5.10 Council employees who are nominated to sit as regional panel members must also seek to avoid situations in which their interests as a council employee might reasonably be perceived by members of the community to conflict with the impartial fulfilment of their functions as a regional panel member either because:
- a) they have been directly or indirectly involved in the preparation of the assessment report for the regional panel, or
 - b) they adopt a view, without providing independent reasoning, that is perceived to be consistent with the view of the elected council in its submission to the regional panel.

6. Relationship between regional panel members and others

- 6.1 You must adhere to the Key Principles and General Conduct Obligations contained in this Code when dealing with others, including council staff, councillors, Department of Planning and Infrastructure staff and the secretariat.

7. Protecting and using information

- 7.1 Information must be handled in accordance with section 148 of the EP&A Act.
- 7.2 In addition to the obligations under section 148 of the EP&A Act you must:
- a) protect confidential information,
 - b) only release confidential information if you have authority to do so,
 - c) only use confidential information for the purpose it is intended to be used,

⁷ In particular Part 5 of the Code.

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- d) not use confidential information gained through your position as a regional panel member for the purpose of securing a private benefit for yourself or for any other person,
- e) not use confidential information with the intention to cause harm or detriment to the regional panel or any other person or body, and
- f) not disclose any information discussed during a confidential session of a regional panel.

7.3 When dealing with personal information you must comply with the *Privacy and Personal Information Protection Act 1998*.

8. Use of public resources

8.1 You may be provided with equipment and other resources to perform regional panel functions. All such resources are to be used only for regional panel purposes and in accordance with any guidelines or rules about the use of those resources.

9. Public Comment/Media

9.1 The regional panel chair is responsible for speaking to the media on behalf of the regional panel, to allow its decisions to be properly represented and communicated. The chair can authorise another regional panel member to speak to the media on behalf of the regional panel at any time. Other non-authorised members can speak to the media about regional panel matters however, in doing so, they do not represent the views of the regional panel.

10. Reporting breaches

10.1 Regional panel members are required to report suspected breaches of the Code to the regional panel chair. If the suspected breach is by the regional panel chair, you should report the suspected breach to the member of the Planning Assessment Commission (PAC) nominated for this purpose. If the regional panel chair suspects a breach of the Code s/he should report the suspected breach to the nominated PAC member.

10.2 The regional panel chair or nominated PAC member, as the case may be, may take such steps as s/he thinks appropriate to investigate and take action in respect of the alleged breach.

10.3 A person who is alleged to have breached the Code must be given:

- a) the full particulars of the alleged breach⁸,
- b) an opportunity to respond to the allegations, and
- c) the right to have a legal or other representative present during any meetings/discussions in respect of the matter.

10.4 Serious breaches of the Code may be referred to the Minister in respect of state members or the relevant council with respect to council nominees. Proven breaches of the Code may warrant removal from office (see item 12 below)

11. Reporting possible corrupt conduct

11.1 The *Protected Disclosures Act 1994* provides protection to public officials who voluntarily report suspected corrupt conduct. Regional panel members can make

⁸ These particulars should not include the details of the person who made the allegation.

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reports concerning suspected corrupt conduct⁹ to the regional panel chair.¹⁰ The regional panel chair is under a duty to report to the Independent Commission Against Corruption any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct¹¹.

11.2 Regional panel members can also report directly to the following investigative bodies:

- Corrupt conduct should be made to the Independent Commission Against Corruption¹²,
- Maladministration¹³ should be made to the NSW Ombudsman, and
- Serious and substantial waste of public money should be made to the NSW Auditor General.

12. Removal from office

12.1 The Minister may remove state members from office at any time and without notice.

12.2 The relevant council may remove its nominee/s from office at any time and without notice. If so, the council must notify the panel secretariat.

12.3 The Minister may remove any member if the Independent Commission Against Corruption recommends that consideration be given to the removal of the member because of corrupt conduct by the Member.

13. Complaint handling

13.1 Complaints against regional panel members are handled in accordance with the regional panels' Complaints Handling Policy.

⁹ Corrupt conduct has the meaning given to that term under the *Independent Commission Against Corruption Act 1988* ('ICAC Act').

¹⁰ or nominated PAC member if the suspected conduct is by the regional panel chair or the chair is reporting suspected corrupt conduct.

¹¹ Section 11, ICAC Act.

¹² Section 10 of the ICAC Act allows any person to make a complaint to the Independent Commission Against Corruption about a matter that concerns or may concern corrupt conduct.

¹³ Maladministration is defined in s 11(2) of the *Protected Disclosures Act 1994*

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Appendix A

Extract from Schedule 4 of the *Environmental Planning and Assessment Act 1979*

12 Disclosure of pecuniary interests

(1) If:

- (a) a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of the regional panel, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the regional panel.

(2) A member has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- (a) the member, or
- (b) the member's spouse or de facto partner or a relative of the member, or a partner or employer of the member, or
- (c) a company or other body of which the member, or a nominee, partner or employer of the member, is a member.

(3) However, a member is not taken to have a pecuniary interest in a matter as referred to in subclause (2) (b) or (c):

- (a) if the member is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
- (b) just because the member is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
- (c) just because the member is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the member has no beneficial interest in any shares of the company or body.

(4) A disclosure by a member at a meeting of the regional panel that the member, or a spouse, de facto partner, relative, partner or employer of the member:

- (a) is a member, or is in the employment, of a specified company or other body, or
- (b) is a partner, or is in the employment, of a specified person, or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(5) Particulars of any disclosure made under this clause must be recorded by the regional panel in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the regional panel.

(6) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the regional panel otherwise determines:

- (a) be present during any deliberation of the panel with respect to the matter, or
- (b) take part in any decision of the panel with respect to the matter.

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- (7) For the purposes of the making of a determination by the regional panel under subclause (6), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the panel for the purpose of making the determination, or
 - (b) take part in the making by the panel of the determination.
- (8) A contravention of this clause does not invalidate any decision of the regional panel.

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ATTACHMENT 3



Complaints Handling Policy

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ATTACHMENT 3

JOINT REGIONAL PLANNING PANELS

Complaints handling policy

The Joint Regional Planning Panels (regional panels) are committed to addressing and resolving any enquiries and complaints that may be raised in regard to their operation. This policy aims to promote an accessible, fair and equitable complaints handling process that will:

- help resolve any public dissatisfaction,
- reduce dissatisfaction and complaints about procedural aspects of the regional panels in the future, and
- identify procedural aspects of the regional panel operations that may need improvement.

The regional panels will ensure (where possible) that every complaint is received courteously, investigated and acted on quickly and appropriately.

The role of the regional panels

Regional panels were introduced in NSW from 1 July 2009 to strengthen decision making on regionally significant development applications and certain other planning matters.

The regional panels:

- exercise certain council consent authority functions for the classes of development identified in Schedule 4A of the *Environmental Planning and Assessment Act 1979* (EP&A Act),
- exercise other consent authority functions in respect of Crown development applications under Part 4 Division 4 of the EP&A Act,
- exercise other functions of council where appointed to do so under section 118 of the EP&A Act, and
- advise the Minister in relation to planning and development matters or environmental planning instruments where requested.

Regional panels are statutory bodies and operate independently of councils. This policy applies to all regional panel members. In some instances, councillors may be nominated to sit on a regional panel. Council nominated regional panel members (whether or not they are councillors) have a duty to the regional panel when they are performing the role and functions of a regional panel member.

You may use this policy to make a complaint about a regional panel member (including a member who is a councillor) in the exercise of their regional panel functions. This policy **does not** apply to councillors acting in their capacity as an elected councillor or to council staff. Complaints about a council, councillor or council staff should be made to the relevant council or other relevant body (such as the Department of Local Government, Ombudsman or the Independent Commission Against Corruption).

The types of complaints covered by this policy are outlined below.

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ATTACHMENT 3

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What is a complaint?

The regional panels and the Regional Panels Secretariat (secretariat) are required to respond to complaints from people who are dissatisfied with the regional panels policies, procedures or quality of service.

This policy applies to:

- a) the actions of (or a failure to act by) the regional panel chair, regional panel members and secretariat staff at regional panel meetings, in written communications from regional panel members or secretariat staff or in telephone calls. Examples of complaints may include rudeness or a lack of responsiveness.
- b) the policies and procedures applying to regional panel members.
- c) circumstances where a member of the public suspects that a regional panel member has breached the regional panels' Code of Conduct and/or Operational Procedures.

What will not be regarded as a complaint?

This policy does not extend to complaints about:

- dissatisfaction with determinations of the regional panels,
- government policy and legislative powers, or
- decisions of government.

It is noted that complaints may arise from simple misunderstandings about the role of the regional panels. Where possible the resolution of these types of complaints may involve providing information about the role of regional panels or directing complainants to the relevant council or other body.

General enquiries and suggestions

The regional panels are also interested in hearing from you in relation to general enquiries and suggestions.

If you:

- would like to make a general suggestion about the regional panels,
- have a request for information, or
- would like an explanation of regional panel policies or procedures.

The secretariat is the first point of contact for all regional panel matters. Its contact phone number is 02 9228 2060 or email irppenquiry@irpp.nsw.gov.au.

The mutual obligations of the secretariat, regional panel chairs and complainants in respect of this policy are outlined below.

Obligations of secretariat and regional panel chairs

The secretariat and regional panel chairs should:

1. respond to the complaint promptly and, where appropriate, promptly refer the matter in accordance with this policy,
2. keep the complainant informed of what happening with their enquiry or complaint,
3. record in detail all actions and outcomes relating to the complaint,

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4. treat all complainants with respect, courtesy and sensitivity.

Obligations of complainants

In order for the regional panels to provide an accessible, fair and equitable complaints handling process, complainants have the following obligations:

1. to not make complaints that are frivolous, vexatious, not in good faith or concerning a trivial matter,
2. to provide adequate and accurate details about the complaint,
3. to follow the procedural steps in this policy on how to make and progress a complaint (including informing the regional panels of what action has already been taken in response to the matter),
4. to allow the person considering the complaint adequate time to address the enquiry or complaint, and
5. to provide the person considering the complaint with suggestions or views as to any actions or outcomes they believe will assist in resolving the issue.

How to make a complaint?

Step 1

If you have already been in contact with somebody in relation to the complaint, try and resolve the issue with the relevant person you have been in contact with (or their immediate supervisor), if it is appropriate to do so.

Step 2

If you are not satisfied, or if Step 1 is not applicable, write to the secretariat and clearly identify the nature of the complaint (for example an alleged breach of the Code of Conduct or Operational Procedures). The secretariat may be contacted by email at jrppenquiry@jrpp.nsw.gov.au; by mail, addressed to the Regional Panels Secretariat, GPO Box 39, Sydney NSW 2001; or by fax on 02 9228 2066.

- The relevant contact person or secretariat staff will:
 - acknowledge receipt of your complaint promptly,
 - ensure that they understand the complaint - if there is any doubt at all, they will contact you and seek clarification, and
 - inform you what will happen next and who will be dealing with the matter and how they may be contacted.
- Where the complaint relates to the services of the secretariat itself, the secretariat will refer the complaint to the relevant person in accordance with Step 3 below.
- If the complaint is in relation to a matter that falls outside of this policy, the secretariat will try and address the issue where it can be satisfied by providing information. The secretariat will advise you of this in writing, including advice on the other options that may be available to you.

Step 3

If the secretariat is not able to resolve the complaint, the secretariat will refer the matter to:

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- a) the relevant regional panel chair - if the complaint is about a regional panel member (other than the chair) or the secretariat, or
- b) another relevant body for action (such as the Ombudsman and/or Independent Commission Against Corruption).

If the complaint is referred to the relevant regional panel chair, the secretariat may conciliate the matter by arranging a meeting between you and the person against whom the complaint has been made, and will confirm the outcome of any meeting or discussion with you in writing.

Step 4

If the complaint is unresolved, you can write to the Ombudsman or the Independent Commission Against Corruption requesting further action. Complaints may also be lodged with external bodies (the Ombudsman; the Independent Commission Against Corruption; or the Department of Local Government) without a prior referral of the complaint to the secretariat (see below – *Complaints Alleging Corrupt Conduct*).

General principles

It may be appropriate for the person dealing with the complaint to engage an external mediator or agency to assist in the resolution or investigation of the complaint.

The outcomes of the complaint handling process may include:

- an apology,
- review of the matter generally or of a particular decision,
- provision of further information,
- a suggested change to policy or procedure to improve services,
- referral to either an appropriate agency or integrity body for appropriate action, or
- dismissal of the complaint if it is considered to be without reasonable basis.

Complaints alleging corrupt conduct

You may make allegations of corrupt conduct in accordance with this policy or directly to the Independent Commission Against Corruption.

The regional panel chairs are under a duty to report any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct to the Independent Commission Against Corruption.¹

Affording procedural fairness

When considering complaints, the relevant regional panel member and secretariat will adhere to the principles of procedural fairness. The person considering the complaint will:

- inform the person of the complaint made against them,
- give that person a right to be heard,
- not have a personal interest in the outcome or have been involved in handling the complaint, and
- act only on the basis of logically probative evidence.

¹ Section 11, Independent Commission Against Corruption Act

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Confidentiality

Confidentiality can be a very important issue in dealing with complaints. Depending upon the circumstances of each case there may be a need for confidentiality in relation to some or all of the following:

- the fact that a complaint has been made,
- the nature of the allegations,
- the identity of the complainant,
- the identity of any persons the subject of a complaint;
- the identity of any witnesses; and
- any evidence gathered.

In some instances, confidentiality may be maintained for a finite period or it may be important that it is maintained absolutely. For example, the nature of allegations may be kept confidential initially but not forever.

Who the information should be kept confidential from may also be a consideration. Information may be kept confidential from the public generally, or from particular individuals.

In making decisions about confidentiality, the person handling the complaint is obligated to consider a range of circumstances where it would, or may be, inappropriate to disclose information. These circumstances may include:

- to minimise detrimental impact on individuals,
- to minimise detrimental impact on current or future investigations,
- to minimise prejudice to the future supply of information to the agency or government;
- to minimise or prevent substantial adverse impact on the management or assessment of an agency's personnel,
- to minimise prejudice to occupational health and safety,
- in various circumstances (in relation to complaints by third parties) whether there are specific considerations such as disciplinary proceedings and child protection,
- to comply with privacy requirements under the Privacy and Personal Information Protection Act 1998, and
- to maintain confidentiality and complying with obligations under the *Protected Disclosures Act 1994* (see below).

There may be specific circumstances where protected disclosure applies. For example, a regional panel chair is the head of a statutory body, therefore a complaint against a chair made by council staff or councillors will have protected disclosure and the confidentiality guidelines in section 22 of the *Protected Disclosure Act 1994* will apply.

Acknowledgement and resolution of complaints

Each complaint will be acknowledged in writing within 7 days of receipt of the complaint. Where possible all complaints will be resolved within 4 weeks of this acknowledgement. If this is not possible, the complainant will be informed of an estimated resolution date.

Register of complaints

The secretariat is required to maintain a register of complaints including the following information:

- date the complaint was made,

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September 2012

- the nature of the complaint including the issues or allegation by the complainant and the names of any persons the subject of the complaint,
- summary of any comment from the people who are the subject of the complaint,
- whether the complaint was referred on and if so, to whom,
- how it was dealt with and by whom,
- the time taken to resolve the complaint, and
- the outcome of the complaints handling process.

Requests to access the register of complaints should be directed to the secretariat.

Report on complaints

The secretariat will prepare a six-monthly report (published in January and July) on the complaints received, detailing the number and scope of the complaints, key issues and any policy or operational response that has been taken to address the concerns raised.

The report on complaints will be made publicly available on the regional panels website.

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- 11 7-9 RUTLEDGE STREET, EASTWOOD, LOT 23 DP 4231 and LOT 24 DP 653568. Local Development Application for a mixed use development, containing 6 retail/commercial tenancies, 79 units & basement parking for 155 cars & strata subdivision. LDA 2011/0612.**

Report prepared by: Senior Town Planner; Team Leader - Major Development Team

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

Report dated: 13 November 2012

Previous Items: 3 - 7-9 RUTLEDGE STREET, EASTWOOD, LOT 23 DP 4231, LOT 24 DP 653568. Construction and strata subdivision of a mixed use building with 6 retail / commercial tenancies, 79 units and associated basement parking for 155 cars. LDA 2011/0612. - Planning and Environment Committee - 17 July 2012

File Number: GRP/12/5/5/5 - BP12/1356

1. Report Summary

Applicant: Morris Bray Martin Ollmann.

Owner: Rutledge Properties Pty Ltd.

Date lodged: 28/11/2011

This report has been prepared to enable Council's further consideration of Local Development Application No. 2011/0612, which proposes the construction and strata subdivision of a mixed-use development at 7-9 Rutledge Street, Eastwood.

LDA 2011/0612 was considered by the Planning and Environment Committee on 17 July 2012 and at the Council Meeting held on 24 July 2012. On 24 July 2012 Council resolved that the matter be deferred for the Group Manager – Environment and Planning to negotiate this development application with particular regard to addressing the following:

- (a) an increase in the voluntary planning agreement;
- (b) the non-compliances as outlined in the officer's report; and
- (c) meeting the needs of both the developer and community with regards to amenity.

At the Council Meeting held on 9 October 2012 a Notice of Rescission to rescind the above resolution was considered by Council. The Rescission Motion was lost and accordingly the above resolution still stands.

ITEM 11 (continued)

RECOMMENDATION:

That Council determine the matter in accordance with one of the options provided in the report.

ATTACHMENTS

- 1 Proposed deferred commencement conditions
- 2 Previous report to Planning & Environment Committee 17 July 2012
- 3 A3 plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Sandra McCarry
Senior Town Planner

Sandra Bailey
Team Leader - Major Development Team

Report Approved By:

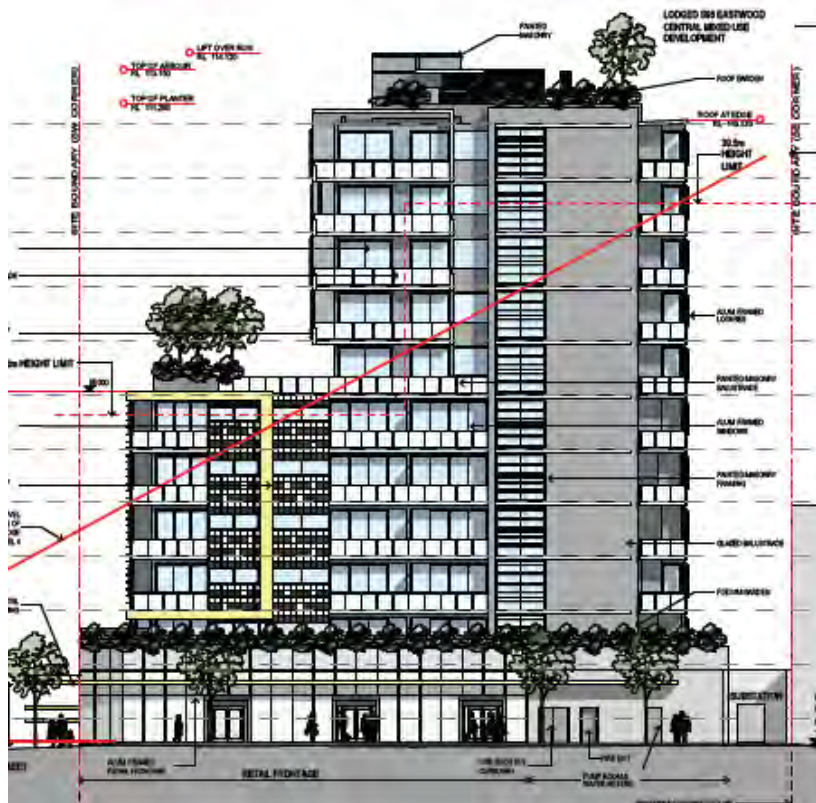
Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 11 (continued)

On 26 October 2012 a meeting was held between Council's Group Manager Environment & Planning, Team Leader Major Developments and Client Manager and representatives of the applicant – Mr Andy Ludvik, Consultant Town Planner, Mr Terry Morris from Morris Bray Martin Ollmann Architects, Mr William Rothwell and Mr Chris Ryan from Winten Property Group. On 6 November 2012 the applicant advised that they were willing to agree to the following changes:

- Level 10 units are to be deleted. This will reduce the number of proposed apartments in the development from 79 units to 74 units, or by 6.3%. This will reduce the height non-compliance as well as ensuring that the height of the building is consistent with the approved height of the Eastwood Shopping Centre. This is demonstrated on the following diagram.



South elevation (Rutledge Street) – current proposal

ITEM 11 (continued)



South elevation – after amendment – top level deleted.



Western elevation (Trelawney Street) – current proposal.

ITEM 11 (continued)



Western elevation – after amendment with top level deleted.



Photomontage of 7-9 Rutledge Street and 3-5 Trelawney Street with top storey deleted.

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- It has been agreed with the Group Manager Environment & Planning that an effective means of facilitating this would be to use a deferred commencement condition that requires plans to be submitted prior to the consent becoming operative.
- The cash contribution element of \$205,315 of the Voluntary Planning Agreement to be increased by 10% to \$225,000 with the Section 94 Contribution being amended to reflect the reduced number of apartments in the proposal.

With the deletion of the level 10 units, the S94 contribution will change. The previous S94 Contribution of \$1,029,242 was calculated on the basis of 79 units comprising 16 x 1 bedroom, 43 x 2 bedroom, 20 x 3 bedroom and 912.34m² of retail. This was calculated on the basis of the contribution rates current for June 2012 Consumer Price Index quarter. The amendment will reduce the total number of units to 74 comprising of 15 x 1 bedroom and 43 x 2 bedroom and 16 x 3 bedroom with the retail component unaltered. The new contribution of \$975,673.60 has been calculated on the basis of the contribution rates current for the September 2012 CPI quarter.

Condition 32 has been amended to reflect this.

The above change will reduce the height non-compliance and it can be addressed as a deferred commencement consent. Conditions of consent including the deferred commencement conditions have been **ATTACHED** for Council's consideration. The consent would not become operative until the applicant has submitted amended plans to the satisfaction of the Group Manager Environment and Planning that address all matters in Part 1 of Attachment 1.

If Council is of a mind to approve LDA 2011/0612 subject to the conditions contained in Attachment 1, Council should also resolve to give "in principle" support to the Voluntary Planning Agreement made by Rutledge Properties Pty Ltd with a reference of PJAC-100970-017.DOC dated 8 June 2012.

Options:

1. Approve the development application in accordance with the conditions included Attachment 1. If this option is adopted, Council should also accept the developer's current VPA offer.
2. Defer the development application pending receipt of the information required by the deferred commencement conditions including amended plans etc and exhibition of this information with a further report to come to Council for consideration 2013.
3. Refuse the development application for the reasons outlined in the original report.

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ATTACHMENT 1

**7-9 Rutledge Street : LDA2011/0612
Proposed Conditions of Consent**

DEFERRED COMMENCEMENT CONSENT CONDITIONS

Part 1 – Conditions Relating to a Deferred Commencement Consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979

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

This consent shall not become operative until the proposal demonstrates satisfactory compliance with the following items to the satisfaction of Council's Group Manager Environment & Planning and that the applicant is advised in writing:

- a. Amended plans are to be submitted which delete level 10 of the building.
- b. That the applicant shall submit a revised Voluntary Planning Agreement to Council to increase the cash contribution element of \$205,315 by 10% to \$225,000. The wordings of the VPA and the Explanatory Notes must comply with the *Environmental Planning and Assessment Act 1979*.
- c. An amended BASIX Certificate is to be submitted which reflects the changes in part a above.
- d. The new access driveway approved as part of Development Consent No.2007/0936 for the Eastwood Shopping Centre development, including the removal of the existing ramp along the northern boundary of the site, be established before this Consent can become operative.
- e. In relation to the access easement the consent of any other owners of the land that forms part of the easement are obtained for use of the easement (as amended) in relation to the development, where necessary, and evidence of such consent be submitted to Council.
- f. Units 109, 209, 309, 409, 509, 110, 210, 310, 410 and 510 must be reoriented/ resized in line with the alternate layout plan shown on page 12 of report dated 12 April 2012 submitted by Morris Bray Martin Ollmann Architects. This is to increase the solar access into the living areas within these units.
- g. A total of 8 adaptable units are to be provided within the development. The amended plans are to clearly identify the location of these units.
- h. To facilitate waste disposal from the site, the following shall be incorporated into plans and submitted to Council:
 - a. The hard waste storage area is relocated to a more accessible location for ease of residential access to the lifts as well as for collection.
 - b. The collection point for the servicing of the bins shall be located on the left side of the loading dock.
- i.

This information is to be submitted to Council within six months from the date of determination or the Consent will have lapsed, in accordance with the *Environmental Planning & Assessment Act, 1979*.

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Part 2 GENERAL CONDITIONS OF CONSENT

The conditions in the following sections of this consent shall apply upon satisfactory compliance with the above requirements and receipt of appropriate written confirmation from Council.

1. **Approved Plans.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the stamped approved plans and supporting documents submitted with the application.

Prior to the issue of a Construction Certificate, the following amendments shall be made (or as marked in red on the approved plans where applicable):

- a) **Awning:** The height of the street awning shall not be less than 3 metres or greater than 4.5m measured from the finished pavement level of the footpath. Such awning must:
 - a. Be set back from the face of the kerb by 0.6m;
 - b. Have cut-outs of 1m wide by 1m deep to accommodate street trees, where the frontage is proposed to accommodate street trees in relation to proposed public domain improvement works;
 - c. Be weather sealed to the face of the building to which they are attached and to the adjoining awnings;
 - d. Have a height clearance as stated above or consistent with adjacent awnings; and
 - e. Maintain sufficient clearances from any overhead electricity or telecommunications installations.
 - f. The awning must not be glazed.
- b) **Accessible Ramps:** Adequate *accessible* ramps (if required) must be provided at the entrance to all retail tenancies from the Trelawney Street and Rutledge Street frontages. The ramp must be wholly within the site and not encroach on Council's footpath.

The Development must be carried out in accordance with the amended plans approved under this condition.

2. **Voluntary Planning Agreement:** The Voluntary Planning Agreement between City of Ryde and Rutledge Properties Pty Ltd that is subject of this Development Consent must be registered on the title for 7-9 Rutledge Street EASTWOOD being Lots 23 DP4231 & Lot 24 DP653568 prior to the issue of any **Construction Certificate**.
3. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
4. **Excavation Works.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and

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ATTACHMENT 1

- (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Advertising Signs:** This consent does not authorise the erection of any signs or advertising structures not indicated on the approved plans. Separate approval must be obtained from Council for any additional signs, unless such signage is “exempt development” or approved under this consent.
6. **Security Grill:** This consent does not authorise the erection of any security grilles or barriers on the shopfront. Separate approval must be obtained for any such works.
7. **Public Domain Works:** The applicant or the owner shall at their own expense carry out the following public domain improvement works on the road reserve fronting the subject site prior to the issue of any Occupation Certificate:
- (a) **Footpath Paving:** Public Footpaths in Trelawney Street and Rutledge Street are to be paved with clay pavers in accordance with the Public Domain Technical Manual Section 3 – Eastwood. The clay paving must comply with the Eastwood section of Council's Public Domain Technical Manual. Details must be submitted for Council's approval prior to issue of any Construction Certificate.
 - (b) **Under grounding of overhead powerlines:** Overhead mains in Trelawney Street shall be placed underground, and Multifunction Poles with new street lighting provided along the Trelawney Street frontage. An Electrical Design for dismantling the existing network and installing the new network shall be prepared and submitted to Council and Ausgrid for approval prior to commencement of work. Such utility modifications will be carried out to the satisfaction of the responsible authority (e.g.AUSGRID/ Energy Australia) and cost borne by the applicant.
 - (c) **The street trees on Rutledge Street** road reserve are to be *Angophora floribunda* (Rough Barked Apple) planted at approximately 7m intervals.
 - (d) **The street trees on Trelawney Street** road reserve are to be *Acer negundo* planted at approximately 7m intervals.

Full engineering details, including plans, sections, finished levels and schedule of materials and finishes complying with the Public Domain Technical Manual must be submitted to Council and approval obtained prior to the issue of any **Construction Certificate**.

8. **Hours of work.** Building construction activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
9. **Hoardings.**
- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

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- (c) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
10. **Public place kept lit:** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
11. **Construction within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structures shall encroach onto the adjoining properties including any other public, private or land owned by the Roads and Maritime Services. Gates must be installed so they do not open onto any footpath.
12. **No obstruction to the public way.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
13. **Works on public road.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
14. **Works in public road.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
15. **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.
16. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
17. **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.
18. **Road Opening Permit.** The applicant shall apply for a road-opening permit where works are proposed to be constructed within the public road reserve, e.g. where connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No work shall be carried out on the road reserve without this permit being paid and a copy kept on the site.
19. **Queuing Space:** A minimum of 3 queuing spaces should be provided between car park's vehicular control point and the property boundary. Details demonstrating compliance is to be submitted with the Construction Certificate.

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20. **No Stopping Signs:** Full time “No Stopping” restrictions are to be maintained on Rutledge Street and Trelawney Street frontages of the development site.
21. **Design and Geotech Reports:** The developer is to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to RMS for assessment. The developer is to meet the full cost of the assessment by the RMS. The Report would need to address the following key issues:
- (a) The impact of excavation/ rock anchors on the stability of Rutledge Street and detailing how the carriageway would be monitored for settlement.
 - (b) The impact of the excavation on the structural stability of Rutledge Street.

The report and any enquiries should be forwarded to:
Project Engineer, External Works
Sydney Asset Management
Roads and maritime Services
P O Box 973 Parramatta CBD 2124

Telephone: 8848 2114
Fax: 8849 2766

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

22. **Existing Driveways:** The redundant driveways along Rutledge Street shall be removed and replaced with kerb and gutter to match existing.

The design and construction of the gutter crossing on Rutledge Street shall be in accordance with RMS’s requirement. Details of these requirements should be obtained from RMS’s Project Services Manager, Traffic Projects Section, Parramatta (Telephone 8849 2496).

Detailed design plans of the proposed gutter crossing are to be submitted to RMS for approval prior to the commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant/ developer prior to the release of the approved road design plans by the RMS.

23. **Hydraulic Calculations:** Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to RMS for approval, prior to the commencement of any works.

Details should be forwarded to:
The Sydney Asset management
Roads and maritime Services
PO Box 973 Parramatta CBD 2124

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A plan checking fee will be payable and a performance bond may be required before RMS's approval is issued. With regards to the Civil Works requirement please contact the RMS's Project Engineer on phone 8849 2114 or fax 8849 2766.

24. **Additional Sightlines:** Vegetation and proposed landscaping/ fencing must not hinder sight lines to and from the proposed access driveways to pedestrians and cyclists.
25. **Car Parking Areas:** The layout of the proposed car parking areas associated with the subject development (including driveways, grades, sight distance requirements, and parking bay dimensions) should be in accordance with AS2890.1 – 2004, AS2890- 2002 for heavy vehicles and to Council satisfaction.
26. **Turning areas to be kept clear:** The proposed turning areas within the subject site are to be kept clear of any obstacles, including parked cars, at all times.
27. **Work Zone:** All construction vehicles and activities are to be contained wholly within the site. As no work zone permits will be permitted by RMS on Rutledge Street.
28. **Parking management:** An external (on-street) parking management plan to be prepared by the proponent (to Council's satisfaction which requires Technical Approval via the Ryde Local Traffic Committee) prior to the issue of Occupation Certificate.
29. **Car parking.** Disabled parking must be provided for both residential and retail activities on the site. 132 car parking spaces are to be provided on the site including 79 spaces for residential parking, 37 for retail parking, 16 visitor parking spaces and six *accessible* spaces, evenly distributed over all designated parking levels. Details are to be submitted on the Construction Certificate plans.
30. **Access to resident parking.** Access to residential parking should be restricted to residents and their visitors only. Details demonstrating compliance are to be submitted on the Construction Certificate plans.
31. **Vehicles to enter & leave in forward direction:** All vehicles must enter and leave the property in a forward direction from the basement car park.

PRIOR TO CONSTRUCTION CERTIFICATE

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

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Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

32. **Section 94 Contribution.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any **Construction Certificate**:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$209,461.89
Open Space & Recreation Facilities	\$474,055.89
Civic & Urban Improvements	\$188,111.91
Roads & Traffic Management Facilities	\$29,565.64
Cycleways	\$16,029.35
Stormwater Management Facilities	\$54,132.14
Plan Administration	\$4,316.78
The total contribution is	\$975,673.60

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

33. **Voluntary Planning Agreement.** Prior to the issue of any Construction Certificate, the contribution as identified in the Voluntary Planning Agreement referred to in Condition 2 of the General Conditions of Consent is to be paid to Council.
34. **Damage security.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan (category: other buildings with delivery of bricks or concrete or machine excavation).
35. **Payment of fees.** The following fees must be paid to Council in accordance with Council's Management Plan:
- (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy

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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 submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
37. **Compliance with Australian Standards:** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
38. **Disabled Access & Adaptable Units:** Disabled access is to be provided within the development in accordance with the recommendations contained in the Access Review Report prepared by Mark Relf (Accessibility Solutions (NSW) Pty Ltd) dated 26 September 2011. Details indicating compliance with the AS1428 & AS4299, Building Code of Australia and the recommendations contained in the above Report are to be submitted to the Principal Certifying Authority (PCA) prior to the Construction Certificate being issued. Accessible parking spaces are to be allocated to the adaptable units and shown on the strata plan.
39. **Reflectivity.** Roofing and other external materials must be of low glare and reflectivity. Visible light reflectivity from building materials used on the façades of new buildings should not exceed 18%. Details of the approved finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority.
40. **BASIX Commitments.** The development must comply with all commitments listed in BASIX Certificate referred to in this Development Consent. The fittings, fixtures and materials installed in association with the retail tenancy (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the **Construction Certificate**.
41. **Bicycle & Motorbike parking.** Sufficient area shall be designated for bicycle parking on the site within the lower ground level (the entrance level) and the ground floor level in accordance with the following:
- (a) Secure bicycle parking racks and manoeuvring area must be provided for at least 16 bicycles.
 - (b) The bicycle parking area must be highly visible, adequately lit and easily accessible by residents and customers.
 - (c) Bicycle parking and access must be designed so as to ensure potential conflicts with vehicles are minimised.
 - (d) Additional bicycle parking shall be provided on the ground floor level in an area adjacent to pedestrian access way such that it is accessible without the need to access vehicle ramp or the basement parking level.
 - (e) An area must be provided for motorbike parking on the site within the lower ground floor level.

Bicycle parking must be designed in accordance with AS2890.3 Parking Facilities- Bicycle Parking Facilities and the NSW bicycle guidelines.. Details are to be submitted on the **Construction Certificate**.

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42. **Services & Substation:** 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.
43. **Garbage Room Exhaust:** The garbage room exhaust must be designed so that it is suitably screened from view. Satisfactory screening device must be used and integrated with the architectural feature of the building. Details of all service infrastructure/utilities are to be approved prior to issue of the Construction Certificate.
44. **Adequate Sightlines:** The following measures must be provided in order to ensure adequate sightlines and the vehicular entrance of the proposed development located at the north western corner of the building:
- (a) A convex mirror & warning light to be located adjacent to the ROW & the entrance to the building to improve visibility.
 - (b) Overhead signage to be provided at the vehicular entry to clearly differentiate the subject site, entry & exit lanes.
 - (c) Provide sufficient splay at the entrance to allow clear sightlines for drivers leaving the site.
 - (d) The roller shutter and access control must be moved to allow sufficient queuing by vehicles. The roller shutter must remain open between the hours of 7:00am and 9:00pm Monday to Saturday and 8:00am – 8:00pm on Sundays.
 - (e) Appropriate access arrangement must be in place to allow garbage collection trucks to access the site.
45. **Underground Gas Pipeline:** All excavation (including pot-holing by hand) should be performed in accordance with 'Work Near Underground Assets Guidelines' published in 2007 by the Work Cover Authority.
46. **Soil Depths:** Minimum soil depth of 800mm must be provided in all planter beds provided throughout the development
47. **Operable Windows:** Windows to the units must be operable where necessary to allow adequate cross ventilation and improved amenity.
48. **Storage Facility:** All residential units must be provided with sufficient secure storage facility (other than the kitchen cupboard areas at a rate of storage facilities at the following rates:
- studio apartments 6m³
 - one-bedroom apartments 6m³
 - two-bedroom apartments 8m³
 - three bedroom apartments 10m³
- Storage facility must be lockable and allocated to individual units. The allocated storage facility must be shown on the strata plans.

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49. **Seating:** Adequate seating, shading structures and BBQ facility must be provided within the communal open space area. Details to be provided in the plans submitted for Construction Certificate.
50. **Shop front:** The retail/commercial tenancies must have clear glazing along the street frontage.
51. **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 dedicated 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.
52. **Grease Trap Room:** The grease trap room must be constructed in accordance with the following requirements:
- (a) The floor, walls and ceiling must be constructed of solid materials finished to a smooth even impervious surface free of any cracks, holes or other openings that may allow the escape of odours.
 - (b) The room must be fitted with an air-tight (eg. coolroom type) door.
 - (c) The room must be provided with an approved system of mechanical exhaust ventilation.
 - (d) The room must be provided with intrinsically safe artificial lighting.
 - (e) A hose tap with a backflow prevention device must be provided in or adjacent to the room to facilitate cleaning.

Details are to be submitted on the Construction Certificate plans.

53. **Grease Trap Pump:** A fixed pump out line must be provided in accordance with the requirements of Sydney Water Corporation to facilitate servicing of the grease trap.
54. **Garbage and Recycling Room:** A garbage and recycling room must be provided in an approved location in the basement carpark of the residential flat building. The garbage and recycling 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;

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- (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
- (j) a hose with a trigger nozzle must be provided in or adjacent to the room to facilitate cleaning.

Details are to be submitted on the Construction Certificate plans.

- 55. **Storage of Discarded Items:** A separate room or caged area must be provided in the basement carpark of the residential flat building for the storage of bulky discarded items such as furniture and white goods.
- 56. **Delivery to Point of Collection:** Where necessary, staff or contractors must be employed to take the waste containers from garbage and recycling room to the container emptying point for servicing and to return the containers to the garbage room after servicing or an on-site building manager be responsible for the delivery of the bins to the allocated collection point for servicing.
- 57. **Garbage Collection Vehicle:** Where it is necessary for waste collection vehicles to enter the property to service the waste containers, the property owner must indemnify Council and its contractor in writing against claims for damage to the driveways and manoeuvring areas.
- 58. **Kitchen Exhaust:** Adequate provision must be made for the installation of kitchen exhaust systems to the proposed retail premises.
- 59. **Mechanical Ventilation:** Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**. Such details must include:
 - (a) Plans (coloured to distinguish between new and existing work) and specifications of the mechanical ventilation systems;
 - (b) A site survey plan showing the location of all proposed air intakes exhaust outlets and cooling towers, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity; and

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- (c) A certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and setting out the basis on which the certificate is given and the extent to which the certifier has relied upon relevant specifications, rules, codes of practice or other publications
60. **Air Handling:** All air-handling and water systems regulated under the *Public Health Act 1991* must be installed, operated and maintained in accordance with the requirements of the *Public Health (Microbial Control) Regulation 2000*.
61. **Water Cooling System:** All water-cooling and warm-water systems regulated under the *Public Health Act 1991* must be registered with Council within one (1) month of installation.
62. **Road Noise:** The residential flat building(s) must be designed and constructed so that road traffic noise levels inside the building(s) comply with the satisfactory design sound levels recommended in Australian/New Zealand Standard AS/NZS 2107: 2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*, when the windows and doors are closed. Written endorsement of compliance with these requirements must be obtained from a suitably qualified person and submitted to the PCA prior to the issue of Occupation Certificate.
63. **Noise Attenuation Measures:** The recommendations contained under Section 6 of the Acoustic Report prepared by West & Associates Pty Ltd (Document No. 11183 Issue A dated 21 September 2011 must be incorporated in the Construction Certificate drawing prior to its approval.
64. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, car parking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
65. **Road Anchors:** Where road anchors are proposed to support the proposed development excavation, detailed structural plans indicating the number of anchors are proposed are to be submitted to Council and road anchor fees are to be paid to Council in accordance with Council's Management Plan.
66. **Hoarding Fees.** Where hoarding are proposed, fees in accordance with Council's Management Plan are to be paid to Council prior to the issue of the Construction Certificate for the erection of a protective hoarding along the street frontage of the property. The fee is based on Council, schedule of fees and charges and is for a period of 6 months. If the time of use of Council's footpath varies from this an adjustment of the fee will be made on completion of the works.

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67. **Dilapidation Report.** To determine the extent of restoration works that may be 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.

These reports shall be submitted to Council development engineer, prior to the issue of the Construction and 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. All restoration works deemed necessary by Council's development engineer are to be completed to Council satisfaction prior to the issue of Occupation Certificate

68. **Excavation.** To ensure the proposed site excavation will not impact on the adjoining property structures foundations and services.

The applicant shall submit to the Principal Certifying Authority for approval a geotechnical report prepared and certified by a chartered practicing geotechnical/structural engineer addressing, but not be limited to the following items:-

- a) *The likely impacts of the proposed excavations will have on structures and services of adjoining properties & Roadway*
- b) *Detail what measures are to be taken to protect the structures and services of adjoining properties from structural damage and undermining during construction*
- c) *A copy of the report including geotechnical/structural engineer certification should be submitted to Council.*

The above matters shall be completed prior to the issue of the construction certificate.

All recommendations of the Geotechnical Engineer are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

69. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps etc shall comply with relevant section of AS 2890.1 & AS2890.2 where applicable. Detailed engineering plans including engineering certification indicating compliance with this condition are to be submitted with the Construction Certificate application.

ITEM 11 (continued)

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70. **Car Parking & Access.** All internal driveways, vehicle turning areas, grades, parking space dimensions, headroom clearance etc shall be designed to comply with relevant sections of Australian Standards AS 2890 where applicable and shall incorporate but not be limited to the following additional requirement.
- a. Internal signposting and line marking plan shall be provided to in accordance with relevant Australian Standard for the PCA approval. This shall be at no cost to Council or the RMS.
 - b. All loading and unloading must take place within the confines of the loading dock for at least a medium rigid vehicle MRV.
 - c. Yellow pedestrian zebra line marking in front of disabled parking space into lower ground floor leading to the double door lifts shall be provided to indicate pedestrian access (Ref DA-09 Issue 'C' to be updated to Council's satisfaction prior to the issue of Construction Certificate).
 - d. Provision of removable bollards at the shared spaces between disabled parking spaces in lower ground floor area with delineation of shared spaces in accordance with AS2890.6: 2009.
 - e. The northwest corner of the building and steps shall be modified to ensure there are will be a safe clear sight triangle to pedestrian of 2.5 X2m as per clause 3.2.4(b) and Figure 3.3 of ASNZS 2890.1 – 2004.

Detailed engineering plans including engineering certification confirming compliance with this condition is to be submitted with the Construction Certificate application.

71. **Traffic Management.** Traffic management plans must be prepared and procedures must be in place and practised during the construction period to ensure safety and minimise construction traffic conflict on adjoining pedestrian and vehicular traffic movement. These procedures and systems must be in accordance with AS 1742.3 1985 and the RTA's Manual – "Traffic Control at Work Sites" where applicable.

Accordingly, a detailed plan of traffic management prepared by a traffic engineer including certification indicating compliance are to be submitted with the Construction Certificate application.

72. **Stormwater Runoff.** Stormwater runoff from site shall be collected and piped to Council's underground drainage system via an On-site detention (OSD) system designed in accordance with the City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The design shall incorporate but not be limited to *the following*:
- a. All gutters, down pipes and pipeline conveying runoff to the OSD tank(s) are required to be designed for a 1 in 100 year storm.
 - b. The design shall ensure back water flow will not occur or influence the functioning of the outlet pipe from the OSD tank for all storm events and durations, including preventing the ingress of overland flows into the OSD tank. Accordingly the invert level of the outlet pipe from the OSD tank shall be located at least equal to or higher than the 1 in 100 year flood level at the point of connection to Council's drainage system in the road reserve.

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Detailed amended engineering plans including certification from a chartered civil engineer with NPER registration with Engineers Australia indicating compliance with this condition are to be submitted for approval with the Construction Certificate application.

73. **External Public Engineering Works.** To facilitate access to and from the proposed development for pedestrian and vehicular traffic, the following external engineering works shall be completed at no cost to Council.
- a. Submission of detailed engineering plans for the proposed extension of Council's existing pipeline in Trelawney Street to the site. The pipeline shall be designed for a minimum 1:20 year recurrence interval and plans shall specify the pit and pipe details including H.G.L levels and a longitudinal section of the pipeline showing all affected public utility services.
 - b. The proposed "dished" crossing grate shall be positioned such that the centreline of the grate coincides with the kerb invert.
 - c. All pit grates must be bicycle friendly heavy duty grates, as detailed in Aust Roads Publications.
 - d. A traffic engineer shall prepare a detailed traffic management plan detailing how the above works can be conducted safely with minimal negative impacts on the existing vehicular and pedestrian movement at the site.
 - e. The construction of any other works to make the construction effective.

Detailed engineering plans prepared by a chartered civil engineer with NPER registration with Engineers Australia, incorporating the above requirements are to be submitted to Council for approval. Please be advised engineering assessment and work inspection fees in accordance with Council's management plan are required to be paid, prior to written approval being given by Council.

74. **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

ITEM 11 (continued)

ATTACHMENT 1

- 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.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

75. Site Sign

- (a) A sign must be erected in a prominent position on site:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

76. 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.

77. Compliance Certificate. A Compliance Certificate must be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and the City of Ryde, Development Control Plan 2006: - Part 8.1; Construction Activities.

78. Compliance Certificate. A Compliance Certificate must be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and the City of Ryde, Development Control Plan 2006: - Part 8.1; Construction Activities.

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

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DURING CONSTRUCTION

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

80. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
81. **Noise and Vibration.** The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations. The L₁₀ noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.
82. **Survey of footings and walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
83. **Sediment, soil and dust.** No sediment, dust, soil or similar material shall leave the site during construction work.
84. **CCTV Surveillance** cameras must be installed throughout the retail complex and communal areas such as lobbies, lifts etc, and paying particular attention to the internal area of the shopping centre especially entry and exit points. CCIV should also be used around the loading dock area and car park entry and exit points. CCIV should be placed on the external area of the building capturing the area outside the retail stores along Trelawney Street and also capturing the area along Rutledge Street. Digital technology should be used to record images from the cameras. Installed surveillance equipment needs to be able to zoom in on a person without loss of focus. Management must ensure that the requirements of the Surveillance and Privacy Act are adhered to.
85. **Landscape maintenance plan must be prepared for the site.** Landscaping close to the building should be regularly maintained to ensure branches cannot act as a natural ladder to gain access to higher parts of the building and trimmed to ensure concealment opportunities are eliminated.
86. **Lighting** shall be provided to all common areas including the car parking levels as well as the stairs and access to and including the public outdoor courtyard, communal gardens, in the recess along Rutledge Street and the bin storage rooms. Such lighting to be automatically controlled by time clocks, and where appropriate, sensors to provide an energy efficient and controlled environment for residents. Details of lighting shall be submitted for approval prior to issue of the **Construction**

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Certificate. The details are to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

87. **Signage.** Signage must be provided at entry/exit points and throughout the development to assist users and warn intruders that they will be prosecuted.
Warning: these premises are under constant surveillance.
Warning: trespassers will be prosecuted.
88. **Other Signs:** Signs should be erected as follows:
- (a) In the car parks and near entry and exit points which details security measures and reminds people to lock their vehicles and remove valuables from their vehicles.
 - (b) Signage needs to be provided within the car park to provide way finding to users of these areas.
 - (c) Signage also needs to be provided on the fire exit doors warning users that the doors are to be used for emergency purposes only.
 - (d) Location maps should be used throughout the complex to indicate to patrons/visitors where they are and directional signage should be used.
 - (e) Clear signage identifying where the loading dock is located should be erected at the street entry, and it should prohibit unauthorized entry.
89. **Graffiti:** All surfaces on the street frontages that are not glass should use graffiti resistant paints and/or other surfaces that discourage graffiti.
90. **Access Control:** The entry to the car park should have a ticket/boom gate system. Intercom facilities should be incorporated into these entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.
91. **Residential Access:** Access should be restricted to residents only to the lifts and stairs leading to the apartments.
92. **Locksets:**
- (a) The main entry/exit points for this development should be fitted with single cylinder locksets (Australia and New Zealand Standards - Locksets), which comply with the Building Code of Australia.
 - (b) An auxiliary lock set should also be incorporated into the design of each of the entry/exit points to enable emergency services to access the development particularly in emergency situations.
 - (c) Fire exit doors to the development should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the development.
 - (d) The main entry/exit doors to individual units should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.
 - (e) The balcony doors to individual units should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.
 - (f) The windows to individual units should also be fitted with key operated locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.

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PRIOR TO OCCUPATION CERTIFICATE

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

93. **BASIX commitments.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate referred to in this Development Consent.
94. **Public domain.** All landscaping & public domain improvement works required to be carried out under condition 7 are to be completed.
95. **Consolidation.** All land titles within the site must be consolidated into one allotment. Documentary evidence of such consolidation shall be submitted prior to the issue of any Occupation Certificate under the Environmental Planning and Assessment Act 1979.
96. **Disabled access.** Access for disabled persons shall be provided in the building or portion of the building in accordance with the applicable legislation and the requirements set out in AS 1428.1. Documentary evidence is to be and certification obtained from a suitable qualified person confirming that the development meets these requirements is to be provided prior to the issue of any Occupation Certificate.
97. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Interim/Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

98. **Sewer Connection:** All sanitary fixtures must be connected to the sewerage system by gravity flow and documentary evidence of compliance must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.

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99. **Sydney Water.** 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 Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site 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 Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim/Final Occupation Certificate.

100. **Design Verification:** Prior to an Occupation Certificate being issued to authorise a person to commence occupation or use of a residential flat building, the Principal Certifying Authority (PCA) is to be provided with design verification from a qualified designer. The statement must include verification from the qualified designer that the residential flat development achieves the design quality of the development as shown on plans and specifications in respect of any Construction Certificate issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 154A of the Environmental Planning and Assessment Regulation 2000.
101. **Post construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties.
102. **Disused Gutter Crossing.** All disused gutter and footpath crossings where occur shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
103. **Compliance Certificates – Engineering.** Compliance Certificates should be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA:**
- Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council’s *Environmental Standards Development Criteria - 1999*.
 - Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Council’s *Environmental Standards Development Criteria - 1999*.
 - Confirming that the constructed internal car park and associated drainage complies with AS 2890, the construction plan requirements and Ryde City Council’s *Environmental Standards Development Criteria - 1999*.

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- Confirming that the site drainage system servicing the development complies with the construction plan requirements and the City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management.
- Confirming that the connection of the site drainage system to the trunk drainage system where applicable complies with Section 4.7 of AS 3500.3 - 1990 (National Plumbing and Drainage Code).
- Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- From Council confirming that all external works have been completed to Council's satisfaction.

104. **On-Site Stormwater Detention System - Marker Plate.** Each on-site detention system basin shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in the City of Ryde, Development Control Plan 2006: - Part 8.2; Stormwater Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.
105. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA. If there are proposed inter-allotment 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.
106. **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.

PRIOR TO SUBDIVISION CERTIFICATE

The following conditions in this Part of the consent apply to the Subdivision component of the development.

All conditions in this Part of the consent must be complied with prior to the issue of a Subdivision Certificate.

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107. **Final plan of subdivision.** The submission of a final plan of subdivision plus 3 copies suitable for endorsement by the Authorised Officer of Council.
108. **Final plan of subdivision – title details.** The final plan of subdivision shall contain detail all existing and/or proposed easements, positive covenants and restrictions of the use of land.
109. **Section 88B Instrument.** The submission of an Instrument under Section 88B of the Conveyancing Act 1919 plus 3 copies, creating Easements, Positive Covenants and Restrictions on Use. This Instrument shall nominate the City of Ryde as the authority empowered to release, vary or modify the terms of the Instrument.
110. **Occupation Certificate.** A final occupation certificate in relation to this development must be in force. A copy of the Occupation Certificate is to be submitted with the application for final subdivision certificate.
111. **Section 73 Certificate.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted with the application for final subdivision certificate.
112. **Utility provider – compliance documents.** The submission of documentary evidence of compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc).

OPERATIONAL CONDITIONS

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

113. **Garbage Collection:** Where necessary, staff or contractors must be employed to take the waste containers from garbage and recycling room to the container emptying point for servicing and to return the containers to the garbage room after servicing.
114. **Indemnity:** Where it is necessary for waste collection vehicles to enter the property to service the waste containers, the property owner must indemnify Council and its contractor in writing against claims for damage to the driveways and manoeuvring areas.
115. **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*.
116. The operation of any plant or machinery 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 the most affected noise sensitive location in the vicinity. 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).

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(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.

117. **Hours of operation.** The use of the retail part of the development is restricted to the following hours of operation: 7.00am and 9pm Monday to Saturday and 8.00am to 8pm on Sunday.

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ATTACHMENT 2

- 3 7-9 RUTLEDGE STREET, EASTWOOD, LOT 23 DP 4231, LOT 24 DP 653568. Construction and strata subdivision of a mixed use building with six retail / commercial tenancies, 79 units and associated basement parking for 155 cars. LDA 2011/0612.

INSPECTION: 4.20pm
INTERVIEW: 4.45pm

Report prepared by: Willana Associates, Planning Consultants
Report approved by: Team Leader - Major Development Team; Manager Assessment; Group Manager - Environment & Planning
Report dated: 28/06/2012 **File Number:** grp/12/5/5/3 - BP12/773

1. Report Summary

Applicant: Morris Bray Martin Ollmann.
Owner: Rutledge Properties Pty Ltd, Rutledge Street Pty Ltd
Date lodged: 28/11/2011

This report relates to Local Development Application No. 2011/0612 which proposes the construction and strata subdivision of a mixed-use development at 7-9 Rutledge Street, Eastwood. The development will generally consist of a building with a total of part 7 / part 12 levels, plus three levels of basement parking below with a total of 155 car spaces. The building will consist of 79 units in total. Three retail/commercial tenancies will extend along Trelawney Street (one being at the level above the footpath level), while three will extend along Rutledge Street.

The proposed development will include some works to the public domain, such as the provision of new footpath paving, street trees and an awning over the footpath. The development proposal also includes a voluntary planning agreement (VPA) that involves the payment to Council of a one off monetary contribution of \$205,315. This contribution will be in addition to the payment of all applicable Section 94 contributions required by Council, public domain improvements and construction related fees relating to hoardings, construction parking zone permits and hoarding inspections. A separate report is provided in Appendix 4 which consists of details of the VPA.

The site is located within the Eastwood Town Centre that is subject to specific local planning controls. The specific controls are mainly contained within both the Ryde Local Environmental Plan 2010 (RLEP) and Ryde Development Control Plan 2010 (RDGP). In particular, the RLEP prescribes a maximum height of 18.5m for Lot 23 DP 4231 (located at the corner) and 30.5m for Lot 24 DP 653566 (adjacent to the Eastwood Shopping Centre Development). The proposal will result in a significant non-compliance with the maximum permissible 30.5m and 18.5m heights by 11.06m and 22.84m respectively. This is not acceptable.

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ATTACHMENT 2

ITEM 3 (continued)

The development consists of a design which complements that proposed concurrently under Development Application Number 2011/0611 for a mixed use development at 3-5 Trelawney Street, Eastwood. The applicant's aim is to achieve a visual "gateway" into the Town Centre. Despite this, the proposal fails to comply with a number of the key controls, in particular the controls relating to height, envelope and solar access. The development will not provide appropriate urban design, solar access and cross ventilation outcomes as sought by the applicable controls.

During the notification period, a total of three objections and one letter of support were received. The issues raised in the objections relate to inadequate parking, non-compliant building height, excessive scale, loss of privacy and solar access, garbage build up, unsatisfactory shop displays, infrastructure capacity, traffic congestion, inadequate building separation and unsatisfactory vehicular access arrangements.

The subject development application (DA) is recommended for refusal.

Reason for Referral to Planning and Environment Committee: Nature of the proposed development and VPA.

Public Submissions: Four submissions were received that included one letter in favour of the development and three letters of objection.

Clause 4.6 RLEP 2010 objection required? Yes. A variation is proposed to the applicable building height standards imposed under Clause 4.3(2) of RLEP 2010 of 18.5m for Lot 23 DP 4231 (located at the site's street corner) and 30.5m for Lot 24 DP 653566 (located further east).

Value of works: \$19,572,000.00.

RECOMMENDATION:

- (a) That Local Development Application No. 2011/0612 at 7-9 Rutledge Street, Eastwood, being Lot 23 DP 4231 and Lot 24 DP 653568 be refused for the following reasons:
- a. The proposed development is inconsistent with State Environmental Planning Policy No. 65 with respect to Context, Scale, Built Form, Density and Solar Access and therefore does not represent a good design outcome particularly in the following key areas:
 - i. The development does not respect the desired future character of the area as the development clearly extends well beyond the applicable building height and building envelope controls.
 - ii. The development does not respect the desired massing and human scale initiatives. It will not be stepped to appropriately address the sites corner location.

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ITEM 11 (continued)

ATTACHMENT 2

ITEM 3 (continued)

- iii. The proposed layout and building depth will limit solar access and cross ventilation opportunities and not achieve compliance with the minimum requirements of the RFDC.
- b. The proposed development proposes significant non-compliances with the maximum height standards for the site prescribed under Clause 4.3 – Height of Buildings of RLEP 2010, which has not been justified.
- c. The design is such that it will not meet the objectives (a), (c), (d) and (e) for building height listed under Clause 4.3 – Height of Buildings of RLEP 2010 and objectives of the zone listed under the Land Use Table of RLEP 2010 with regard to '*creating an attractive environment for pedestrians*' and '*recognising unique location in design*'.
- d. The applicant has not adequately demonstrated in the proposed development application, that the proposed height variance will be satisfactory with respect to Sub-clause 4(a)(ii), that the development will be in the public interest because it will be consistent with the objectives of the height standard and the objectives of the zone of the land.
- e. The proposed development will not meet Objective (b) of Clause 4.6 – Exceptions to development standards of RLEP 2010. It will not achieve a better outcome.
- f. The proposed development does not meet the objectives (a) of Clause 6.5 – Eastwood Urban Village and West Ryde Urban Village of RLEP 2010 with respect to *creating an attractive environment for pedestrians* given the proposed height, scale and lack of regard to the human scale initiatives for height.
- g. The proposed development does not comply with the maximum permissible height of 18.5m and 33.5m prescribed under Clause 4.3 – Height of Buildings of the DLEP 2011.
- h. The proposed development does not achieve objectives (a), (b), (c) and (d) for building height listed under Clause 4.3 – Height of Buildings of the DRLEP 2011.
- i. The proposed development will not meet Objective (b) of Clause 4.6 – Exceptions to development standards of DLEP 2011 as it will not achieve a better outcome.
- j. The proposed development seeks significant variation to the applicable RDCP 2010 controls, particularly in relation to the envisaged urban form. The degree of variation has resulted in an excessive design that is inconsistent with the object of the envelope and corner treatment controls.

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The proposed development does not achieve a design outcome that is sought by Council's controls nor reflect the future character for the Eastwood Shopping Village.

- k. Insufficient information has been submitted to verify compliance with the RFDC requirement in that the private open spaces for at least 70 % of apartments in a development should receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.
- l. Insufficient information has been submitted to verify that the insufficient building separation to the east will maintain compliance with the approved Eastwood Shopping Centre Development with the following solar access requirement of the RFDC:
'living rooms and private open spaces of at least 70% of the units in the development will achieve a minimum of 2 hours solar access between 9am and 3pm in mid winter'.
- m. The proposed development is not considered to be in the public interest as it will set an inappropriate precedent for overdevelopment with significant departures from the Ryde LEP 2010 maximum height standards and the Ryde DCP 2010.

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

ATTACHMENTS

- 1 Map
- 2 A4 Plans
- 3 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 4 Voluntary Planning Agreement Report
- 5 Elevations of DA refused at Court
- 6 LEP2010 map extract showing heights

Report Prepared By:
Stuart Harding Associate Director
Willana Associates, Planning Consultants

Report Approved By:
Sandra Bailey
Team Leader - Major Development Team

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

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ITEM 11 (continued)

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ITEM 3 (continued)

2. Site (Refer to image below)

- Address** : 7-9 Rutledge Street, Eastwood
- Site Area** : Site Area: 1,974m²
Frontage: The site has a southern frontage to Rutledge Street of 37.835m and a western frontage to Trelawney Street of 47.245m (both exclusive of the 3.452m corner splay).
Eastern Boundary: 48.6m
Northern Boundary: 40.235m
- Topography and Vegetation** : The site comprises two lots, (Lot 23 DP 4231 and Lot 24 DP 653568) and is located at the northeast corner of Trelawney Street and Rutledge Street. The submitted survey dated 21/12/99 indicates that the site has a general fall from its Rutledge Street frontage to its northern boundary of approximately 3m. However, the slopes/RLs may not represent those which currently exist on the site as the survey is not current.
- The survey indicates the existence of three (3) church buildings that were subject to a development approval for demolition (Development Consent Number 1237/2002) issued in May 2003 and have subsequently been demolished. As a result, the site is secured by barrier fencing. Significant vegetation is limited to two (2) Camphor Laurel trees near the northeast corner. They are approximately 8m in height and 6m in spread.
- Existing Buildings** : Any buildings on the site are limited to minor structures. A concrete ramp encroaches on the site for the length of its northern boundary. It provides vehicular access to the Eastwood Shopping Centre located further east. Accordingly, the northern part of the site is subject to an easement for support and access. There are stepped, brick retaining walls along part of the sites street frontages.
- There are two (2) other vehicular crossings that service the site, other than that associated with the ramp. One is located near the northwest corner and the other is located along Rutledge Street at the southeast corner. A concrete driveway extends on the site from its

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southeast corner. Along part of the Rutledge Street frontage and around the street corner of the site is a paved.

Planning Controls

Zoning

: B4 Mixed use

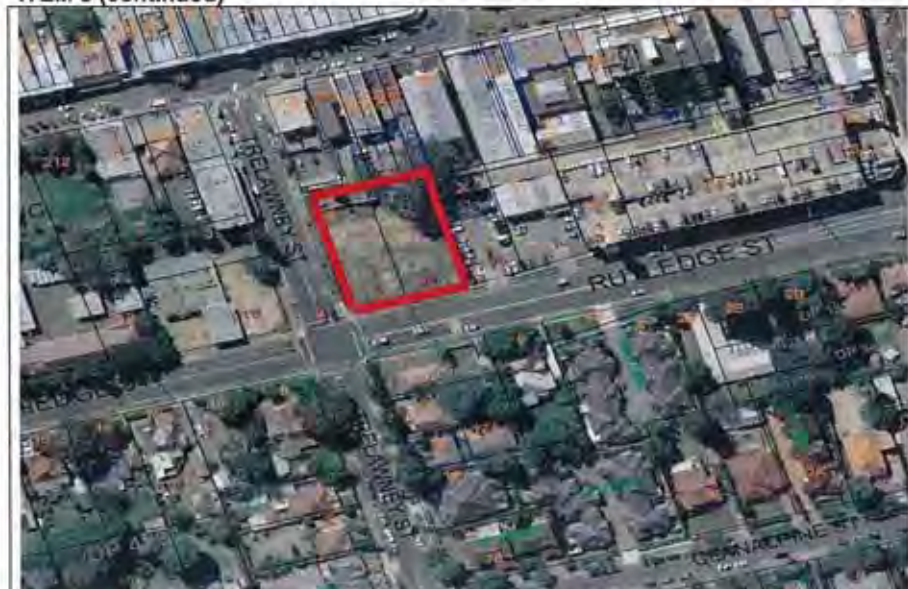
Other

: Environmental Planning and Assessment Act 1979
SEPP No. 55 - Remediation of Land
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Infrastructure) 2007
SEPP No. 65 – Design Quality of Residential Flat Development
Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
RLEP 2010
RDCP 2010
Draft RLEP 2011
Residential Flat Design Code
Section 94 Contributions Plan 2007

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 Subject Site: 7-9 Rutledge Street, Eastwood

Image 1| Extract 2008 City of Ryde Aerial Photo

3. Councillor Representations

Name of Councillor: Councillor Maggio.

Nature of Representation: Called up to Planning & Environment Committee.

Date: 3 May 2012.

Form of Representation: Email to the Councillor Helpdesk.

On behalf of applicant or Objectors: Not stated.

Any other persons (e.g. consultants) involved in or part of the representation: No

4. Political Donations or Gifts

Any political donations or gifts disclosed? No disclosures.

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5. Proposal

The subject development application proposes:

- Erection of a mixed-use building, being part 7 / part 12 levels, plus three levels of basement parking below. The building will consist of 79 units in total, including four units at ground level, behind the retail/commercial tenancies. A total of 155 car spaces, plus a loading bay, motorbike parking and bike parking will be provided in the basement levels. Three retail/commercial tenancies will extend along the Trelawney Street frontage, with two at footpath level and one at the level above. Another three retail/commercial tenancies will extend along the Rutledge Street frontage, all at footpath level. Lift access will be within a single core, almost centrally located. It will consist of one retail lift and two residential lifts.
- Provision of a substation at the southeast corner.
- Removal of existing vegetation, including the removal of two established Camphor Laurel trees at the northeast corner.
- Soil excavation works that will extend up to all boundaries of the site, with the exception of a setback being provided at the southeast corner, where a substation is proposed and at the northern boundary as not to encroach the easement for access and support.
- Establishment of new on-site landscaping.
- Removal of two vehicular crossings, one near the northwest and the other at the southeast corner of the site. Vehicular access will extend from Trelawney Street, along the northern side of the site, into the proposed basement entry at the northeast corner and make use of the existing easement for access in this location. An easement for access and support extends adjacent to the northern boundary and over adjoining properties to the north that have a frontage to Rowe Street. A new access way has been approved as part of the consent for the Eastwood Shopping Centre development that will include the removal of the existing ramp along the northern boundary of the site and provision of at grade access. The ramp must be demolished and access way established prior to any construction works on the subject site. Accordingly, if the application is approved, it is recommended that a 'deferred commencement consent' be issued subject to the demolition of the ramp; and obtaining the consent of any other owners of the land that forms part of the easement, where necessary.
- Installation of new storm water infrastructure, including on-site detention.
- Strata subdivision.

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In addition to the above, the following public domain improvements are proposed:

- Provision of new footpath paving in Rutledge Street.
- Provision of new street trees along the Trelawney and Rutledge Street frontages.
- Erection of awnings over the Trelawney and Rutledge Street frontages.

Building Composition

In total 16 x 1 bedroom units, 43 x 2 bedroom units and 20 x 3 bedroom units will be provided, including seven adaptable units. One enclosed access core will be provided, almost centrally located. The units will be arranged around this core. A retail lift will provide access from Basement Level 1 (being the upper basement level) to the lower ground and ground levels. Two separate residential lifts will provide access from Basement Level 3 (being the lowest level) up to the twelfth level (referred to as Level 10 on the submitted plans).

The car parking spaces and other ancillary facilities allocated for residential use will be located at Basement Levels 3 and 2, with the exception of 'resident visitor spaces' and some storage areas which will be located on Basement Level 1, and the resident waste garbage room and a store zone, which will be located at Lower Ground Floor Level. Access to the basement levels will be restricted by a security roller shutter. A garbage chute will service the units.

Loading/unloading facilities, a separate non-residential waste storage room, bicycle parking, motorbike parking and main lobby will be provided at the Lower Ground Floor Level.

The eighth level (referred to as Level 6 on the submitted plans) will be set back from the Trelawney Street building frontage and will consist of communal and private open spaces within the setback. Four levels will extend above with a similar footprint. Additional communal area will be provided on the rooftop, generally around the lift overrun, plant room and fire stair structures.

The composition of each level is described in more detail below.

Table 1: Building Composition

Level (Plan Reference)	Building A
Basement Level 3	55 resident car parking spaces (including 1 accessible space and 2 small car spaces)
	1 motorcycle parking space

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Level (Plan Reference)	Building A
Basement Level 2	50 resident car parking spaces (including 8 accessible space and 2 small car spaces)
	1 motorcycle parking space
Basement Level 1	22 resident car parking spaces (including 2 small resident visitor, 16 standard sized resident visitor, and 4 residential spaces)
	19 retail spaces
Lower Ground Floor Level	2 resident visitor accessible spaces
	7 retail car parking spaces (including 2 accessible space, 1 small car space)
	1 Loading Dock
	OSD tank
	Motorbike and bicycle parking spaces
	Commercial waste room
	Residential waste room
	2 retail/commercial tenancies
Ground Floor Level	4 retail/commercial tenancies, (one facing Trelawney St and the others facing Rutledge St)
	1 x 1 bed. unit (adaptable) 3 x 2 bed. units
	1 substation and service rooms
Level 1	2 x 1 bed. units (including 1 adaptable) 8 x 2 bed. units
Levels 2 to 5	2 x 1 bed. units (including 1 adaptable) 8 x 2 bed. units
Level 6	1 x 1 bed. units (adaptable) 4 x 3 bed. units
Level 7 to 10	1 x 1 bed. units 4 x 3 bed. units

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Landscaping

It is proposed to remove the existing trees on the subject site and provide the following on-site landscaping:

Ground Level (plan reference):

- Private open spaces within the east and north building line setbacks.
- Planter beds with tree planting along the east and northern boundaries.

Level 1 (plan reference):

- Private open spaces in the form of balconies around the building.
- A planter bed with tree planting generally extending along the Trelawney and Rutledge Street frontages.

Levels 2 – 5 (plan reference):

- Private open spaces in the form of balconies around the building.

Level 6 (plan reference):

- Private open spaces around the building.
- A communal open space within the western building line setback.
- A planter bed with tree planting generally extending along the Trelawney Street frontage and either side of the communal area.

Level 7-10 (plan reference)

- Private open spaces in the form of balconies around the building.

Level 11 (plan reference)

- Roof top communal open space extending around the plant and lift overrun with perimeter planting.

Voluntary Planning Agreement

The VPA generally involves the payment to Council of a one off monetary contribution of \$205,315. This contribution will be in addition to the payment of all applicable Section 94 contributions required by Council, public domain improvements and construction related fees relating to hoardings, construction parking zone permits and hoarding inspections. A separate report is provided in Appendix 4, which provides more details about the VPA.

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Key Figures of the Project

Number of one bedroom apartments	16
Number of two bedroom apartments	43
Number of three bedroom apartments	20
Number of retail units	6
Area of retail units	912.34m ² (based on amended plans dated 8/5/2012)
Number of car spaces	155 plus one loading bay
Area of communal open space	580.09 m ²
Area of deep soil planting	Nil

6. Background

i. Previous Applications / Site History:

The subject site formerly contained three (3) church buildings, two along the Rutledge Street frontage (with one at the corner of Rutledge and Trelawney Streets) and another set back behind. The building at the site's corner was the St Andrews United Church Building. The other building along Rutledge Street was a church hall, whereas the building behind was an amenities church building.

Council's records suggest that the site was used as a place of public worship from approximately 1910. A development consent was issued in May 2003 (Development Consent Number 1237/2002) for the demolition of the buildings. The buildings were subsequently demolished.

On 13 July 2004, Council considered a development application proposing a 10 storey mixed use development with 62 units; 593m² retail/commercial floor space and 115 basement parking spaces at the subject site. Despite a recommendation for approval, Council resolved to refuse the application on the basis that *'it does not comply with the development control plan with respect to height and sight lines'*. A notice of determination was issued on 22 July 2004.

An appeal was lodged in the Land and Environment Court against Council's refusal. The matter was heard on 16 and 17 December 2004. As a result of the Court's findings, (listed below), the development application was refused.

Any design for this site needs to meet a number of objectives.

- *First, the site is in an urban village zone and the intention of DCP 39 is that new development should have an urban village character. Development should be of human scale in the streetscape, being generally two to three stories in height. Taller building elements set back from street are permissible but they should not dominate.*

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- *Second, Trelawney Street is to be developed for the enjoyment and utility of pedestrians with a high level of aesthetic amenity at street level.*
- *Third, Trelawney Street is a retail/pedestrian priority street and at its intersection with Rutledge Street forms a gateway to the Eastwood Town Centre. The street corner portion of site is therefore a gateway site for the purposes of DCP 39 and notwithstanding the first objective above should be developed accordingly. More particularly the corner element of the building should address both streets and be stepped up especially in relation to structures at the street frontages.*
- *In my view when these objectives including the various relevant provisions of DCP 39 are considered and applied to the site they indicate a form of development unlike the proposal for which consent is sought. Whilst I agree with Dr Lamb that strict enforcement of the development controls in DCP 39 would, in relation to this site, result in an unreasonable restriction on development, this does not mean that the controls should be disregarded. Although strict compliance is not necessary they still have an important function.*
- *I am satisfied that a three-storey building fronting Trelawney Street would be acceptable but when the building height plane is applied to this height and notwithstanding the 3 m set back, a significant proportion of the building above this plane will be apparent. The bulk of the building as would present to Trelawney St. and indeed to Rowe Street would be excessive and inconsistent with the urban village, streetscape and human scale objective.*
- *Whilst I do not accept that for this site there can be no development above the building height plane I find the 3 m set back for the four levels of building above the building height plane to be inadequate. The bulk of the building as would present to Trelawney St. and indeed to Rowe Street would be excessive and inconsistent with the urban village, streetscape and human scale objective.*
- *The design of the building at the street corner - The building element as proposed would not be sufficiently dominant taking into account that the bulk of the main building behind would visually overwhelm it. The photomontage confirms this.*
- *I have therefore decided that, in terms of the variations provisions in section 3.3 of DCP 39, the proposal would not meet the intention of the control nor would it be consistent with the aims, principles and strategies. Whilst I accept that strict application of the building height plane would be unreasonable or unnecessary, the extent of the non-compliance is excessive and in the circumstances the application should not be approved.*

Refer to Attachment 5 for elevations that formed part of the refused DA.

ii. Background to Subject DA:

The subject DA was lodged on 28 November 2011 concurrently with LDA No. 2011/0611, for the erection of a mixed use development at 3-5 Trelawney Street, Eastwood.

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Prior to lodgement, an initial scheme was subject to two 'predevelopment application reviews' and two reviews by Council's Urban Design Review Panel (UDRP). The reviews resulted in a number of recommendations. The recommendations made by the UDRP and resultant changes to the scheme have been outlined in the section below '*Urban Design Review Panel*'. One of the main issues raised at the reviews was that the development needed to achieve compliance with the LEP height standard.

Below is a chronology of events, (including meetings, discussions and correspondence), between the applicant or applicant representatives and Council officers.

Date	Event
Pre-DA Submission	
17/08/2010	A meeting was held between COR's Group Manager Environment and Planning, the owner/developer, the architect and the applicant's consultant town planner, to discuss the concept proposal for the redevelopment of the site.
25/2/2011	A prelodgement meeting and UDRP meeting were held.
15/06/2011	A letter from the owner/developer was sent to COR's General Manager seeking a 'Workshop Meeting' with the Mayor
19/07/2011	A workshop was held and verbal presentation was made to the Councillors.
6/09/2011	The owner/developer sought another workshop meeting.
04/10/2011	Workshop held.
21/11/2011	Plans and a VPA (voluntary planning agreement) were dropped off at the front Counter by the applicant for checking prior to formal lodgement. An email was sent by Council staff advising that the dropped off documents did not contain the explanatory notes required under Clause 25E of the EP&A Regulation re the VPA.
Post – DA Submission	
28/11/2011	The subject DA was lodged.
05/12/2011	The DA was placed on public exhibition/notification from 5/12/2011 until 18/1/2012. The applicant was notified of the public exhibition/notification period.
08/12/2011	The VPA was referred to the Executive Team (ET).
15/12/2011	A consultant was selected to assess the DA.
23/12/2011	A letter was sent to the applicant advising that the VPA offer was not supported by ET at its meeting of 16/12/2011. Amendments were requested.
04/01/2012	A letter was sent to the Eastwood Chamber of Commerce granting an extended submission period until 15/02/2012.

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Date	Event
12/01/2012	Councillor Information Bulletin (CIB) item advising of the VPA offer submitted by the applicant for the DA.
22/02/2012	The applicant submitted a written response to the submissions received during the DA notification/exhibition period. It generally included further justification of the scheme and amendments to address vehicular access/safety.
08/03/2012	A letter was sent to the applicant requesting additional information and design changes. The applicant was advised that the application in the form submitted could not be supported by staff. This resulted in two (2) meetings in which the matters raised in the letter were discussed.
22/03/2012	Flood Information was provided to the applicant
04/04/2012	A meeting was held with the applicant re VPA
05/04/2012	A CIB item was prepared advising of the details of the VPA
12/04/2012	In response to Council's letter dated 8/03/ 2012, the applicant submitted a formal written response with accompanying documentation. (The additional information and amendments requested in the letter are listed in italics below this table. Generally, no major changes were made. They were limited to: <ul style="list-style-type: none"> - Addition of steps along the street frontages of the site; - Reconfiguration of Units X03 located on the east elevation facing the approved Eastwood Shopping Centre development; - Reorientation of Units 109-509 and resultant amendments to adjacent Units 110-510 and Units 109-509. - Increase to the lower floor levels (by 300mm); and - Changes to basement storage and bike/motorbike parking areas.
14/5/2012	The applicant provided a further submission that separately addressed technical issues raised by Council's Public Domain Officer, Waste Officer, Traffic Engineer and Stormwater Engineer. Generally no major changes have been made to the development scheme. Changes have been limited to the following: <ul style="list-style-type: none"> - Setback of the car/truck access; - Minor adjustments to the lower ground bin store areas; - Addition of a service ramp behind the loading dock and deletion of ramps around the lift facilities; - Relocation of fire hydrant; - Reduction to the lower ground retail area from a total of 339sqm to 311.34sqm; - Addition and relocation of storage zones at lower ground level; - Addition of a hard waste area at lower ground level;

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Date	Event
	<ul style="list-style-type: none"> - Addition of toilet facilities, including a separate accessible facility, at lower ground level; - Minor adjustments to the fire stairs and area of residential lobby; - Minor adjustments to the steps and entries along Trelawney Street; including the deletion of steps and provision of an internal ramp to the lower ground retail tenancy located further south; and - Minor increases to the lower ground retail floor levels.
18/04/2012	An amended VPA was submitted. A telephone conversation was held between Council staff and Mr Lyon regarding the discrepancy in the VPA offer, as discussed in the meeting held on 4 April 12. The VPA was referred to ET
19/04/2012	A letter was sent to the applicant advising that ET did not support the amended VPA
20/04/2012	Amended plans were referred to the Roads and Maritime Services
24/04/2012	A letter was received from Mr Lyon complaining about delays in the DA processing. An amended VPA was submitted which increased the one-off cash contribution. The amended VPA was considered by ET at its meeting of 4 May 2012.
21/05/2012	Amended plans were submitted indicating minor changes to some levels adjacent to the footpath in response to the flood levels.
29/05/2012	The VPA was considered by Council's VPA Panel. Concerns were raised by the Panel in terms of the wording of the some sections of the VPA as well as the explanatory note. The applicant was advised of these concerns on 29/05/2012 and 1/06/2012. The final version of the explanatory note was received by Council on 30/05/2012 and the final version of the VPA on 8/06/2012.

iii. Response by Applicant to Council's letter dated 8/03/2012

The additional information and amendments requested in Council's letter dated 8/03/2012 are provided in italics below this table. A comment is provided for each in relation to the applicant's response.

- **Amendments to the Height:** *The proposed development does not comply with the maximum permissible height prescribed under Clause 4.3 – Height of Buildings of the Ryde Local Environmental Plan 2010 (RLEP 2010). The variation to the height control, as submitted, cannot be supported. The following comments are made in respect to the height of the development.*
 - *A reduction to the overall height of the building so the maximum RL created by the roof top plant matches that approved for the development directly adjacent to the site for the Eastwood Shopping Centre;*

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- The deletion/setback of that part of the building to the west that encroaches the 18.5m height standard, i.e. reconsideration of units within the non-compliant zone and above a plane projected from eye level from the opposite side of Trelawney Street (near the boundary of 3-5 Trelawney Street) to the edge of Level 4; and,
- Reconsideration of the location of the upper levels, lift shafts and other roof plant structures as to be located behind the plane explained in the point above, so that these elements cannot be seen from footpath level

Comment: No amendments have been made by the applicant.

- **SEPP 65 Compliance:** Amendments are to be made to achieve greater compliance with SEPP 65 - Design Quality for Residential Flat Buildings and the associated Residential Flat Design Code. This includes: A detailed response as to how the design has responded to the comments made in pre lodgement advice regarding SEPP65. Where design changes have not been made, and are pressed by the applicant, justification is required as to why the scheme should be supported by Council. Particular emphasis should be given to levels of amenity and the relationship of the building to the public domain and the adjoining development.

Comment: Generally no changes have been made to the proposed height. Further justification has been provided by the applicant. The matters have been addressed in the section 'Urban Design Review Panel'.

- **Communal Open Space:** Provision of extra communal open space to achieve compliance with the Residential Flat Design Code requirement of least 25%-30% of the site area. It is recommended that the extra space be provided on Level 6, i.e. allocation of the area to the west of the central core that is not directly connected to the units. The plans shall be marked accordingly to clearly delineate the communal open space and its area.

Comment: The plans have been amended to provide extra communal open space on Level 6 as to achieve compliance.

- **Unit re-orientation / Solar Access:** The possible re-orientation of at least one extra west facing unit to the north of Levels 1 to 5 (preferably Units 109, 209, 309, 409 & 509). This should include the relocation of the main living area and private open space to the northern facade. The relocated units and adjacent north facing units (110, 210, 310, 410 & 510) and west facing units (108, 208, 308, 408, and 508) shall be designed to receive at least 2 hours of sunlight to main living areas and private open spaces between 9 am and 3 pm in mid winter, where possible.

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Comment: An optional plan has been submitted that indicates the reorientation of the living rooms of Units 109, 209, 309, 409 & 509, and resizing of adjacent Units 110, 210, 310, 410 & 510. This only increases the amount of solar access to the units if the impact of the approved Eastwood Shopping Centre is not taken into consideration.

- **Solar Access:** *The solar access requirement of the whole development needs to be considered in the light of the overshadowing impact of the approved development on the neighbouring property to the east. Accordingly, the shadow diagrams (including elevation solar access diagrams of the development) and submitted solar access table should be amended to include that impact.*

Comment: The applicant submitted a summary table indicating the impact of the approved Eastwood Shopping Centre development on the proposed development with respect to the achievement of the solar access requirement of the Residential Flat Design Code (RFDC) for living rooms only. The requirement also relates to private open spaces. These details have not been provided.

- **Solar Access Table:** *The solar access table should also be amended to separately indicate achievement of the solar access requirement in living areas as opposed to the private open spaces / balconies of each unit, as the Residential Flat Design Code indicates the achievement of at least 2 hours of solar access to living rooms and private open space. It will be generally accepted that a living room has solar access if the sun falls on modest portions of related glazed areas. It will be generally accepted that a private open space has solar access if a useable strip is in sunlight or sunlight will fall on a seated person.*

Comment: As stated above, the solar table has not been amended to separately indicate achievement of the solar access requirement to the private open spaces / balconies of each unit as opposed to living rooms. Accordingly compliance of the private open spaces with the requirement cannot be verified.

- **Solar access diagrams:** *Additional elevation solar access diagrams of the proposed development shall be provided to indicate the impact on the south elevation between 9am and 3pm during the winter solstice, as well as the impact on the west elevation during 9am to 1pm.*

It is also requested that solar access diagrams (including diagrams of the proposed building elevations) be submitted for the equinoxes during 9am and 3pm.

A statement should be provided by the Architect to certify that all the solar access diagrams have been prepared to true north.

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Comment: The applicant has submitted additional elevation solar access diagrams indicating the impact on the south elevation and a statement certifying that the solar access diagrams have been prepared to true north.

No solar access diagrams have been submitted for the equinoxes. This information was requested to ascertain the extent of impact during the equinoxes which represents the median situation, as the submitted shadow diagrams indicate the worst case scenario.

- **Survey Plan** - *The submitted survey plan is not current and accurate. (The survey is dated 21/12/1999). A recent site inspection has revealed that the buildings indicated on the plan no longer exist. Council gave approval for the demolition of the buildings in May 2003 and demolition was likely to have occurred prior to May 2008, i.e. before the lapsing of the consent. For the purpose of measuring the building height of the development it is understood that the 'existing' ground level is generally interpreted to be the level that was existing prior to any works being undertaken on the site. If this does not include the level of the land prior to the demolition works, then an amended survey plan should be submitted to indicate spot levels and contours as currently existing. Given the requirements of Clause 55 (as follows) of the State Environmental Planning Policy (Infrastructure) 2007, details of any existing gas pipeline corridors should be provided by the surveyor.*

Comment: The applicant has advised that 'existing boundary levels to the site and existing footpath have not altered following site clearing and therefore the survey can be relied on'. The concern with the levels relates back to measuring the 'building height'. Therefore whether or not the boundary and footpath levels have been altered is less of a concern in this regard.

- **Gas Services:** *Given the requirements of Clause 55 (as follows) of the State Environmental Planning Policy (Infrastructure) 2007, details of any existing gas pipeline corridors should be provided by the surveyor.*

Comment: Details of existing gas pipelines have been submitted.

- **Scale of Shadow Diagrams** - *The shadow diagrams (in plan), south elevation and west elevation shall be submitted to scale. The shadow diagrams should be submitted at a larger scale than the indicative size of those submitted.*

Comment: Updated shadow diagrams increased to a scale of 1:1000 have been submitted.

- **Strata Subdivision** – *The subject application proposes strata subdivision. It is requested that the applicant submit three (3) paper copies and a PDF copy of draft strata subdivision plans particularly to indicate the common property, unit entitlements and proposed easements.*

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Comment: No draft plans have been submitted. Should the application be approved, a condition is recommended to be included in a consent to require submission of a final plan of subdivision prior to the issue of any Subdivision Certificate.

- **Wind Impact Report** - It is requested that a wind impact assessment be prepared. Whilst the Statement of Environmental Effects refers to the wind impact, it does not adequately illustrate how the complex has been designed to mitigate the wind effects, particularly in relation to the balconies at the north east and north west building corners

Comment: The applicant has submitted details on measures that will assist in minimising the impact. These are satisfactory.

- **Heritage Item Within The Vicinity:** Number 186 Rowe Street, Eastwood, is listed as a heritage item under Ryde Local Environmental Plan 2010 and located within the vicinity of the subject site. As per Clause 5.10 (5) it is requested that a heritage management document be prepared that assesses the extent to which the proposed development would affect the heritage significance of the heritage item.

Comment: The heritage item is the Masonic Hall which is located to the northeast of the site however it does not adjoin the site. Approval was granted for the demolition of this Hall as part of the approval for the Eastwood Centre. No document has been submitted.

- **Crime Risk Assessment Report** - A crime risk assessment report should be prepared by the applicant demonstrating compliance with the CPTED principles and addressing the issues of concern raised in the pre lodgement advice date 8 April 2011

Comment: A crime risk assessment has been provided by the applicant.

- **Stormwater** - As required by Clause 3.2(a) of 'Part 4.1- Eastwood Town Centre' of the Ryde Development Control Plan 2010 the applicant is to submit a 'stormwater inundation impact assessment' or 'stormwater management strategy'.

Comment: Following consultation with Council's Engineer, the plans have been amended to comply with the 100 year ARI Flood Level.

- **Traffic and Parking** – Amendments to the plans of the proposed development at either 7-9 Rutledge Street or 3-5 Trelawney Street to indicate an off-set between the proposed driveways of each development site. Submission to Council of a Road Safety Audit for both accesses from Trelawney Street. Amendments to the traffic reports for both the Rutledge Street and Trelawney Street DA's. The results of each traffic report differ in terms of intersection performance. It is requested that both sites are included in each report to give a more accurate representation of

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the impacts. Amendments to the SIDRA modelling to take into consideration pedestrian counts.

Comment: No off-set between the proposed driveways is proposed. The applicant has submitted further documentation prepared by specialist consultants, including an amended Road Safety Audit and SIDRA modelling. These have been reviewed by Council's Engineer and Roads and Maritime Services. Refer to the below section 'Consultations'.

- **Architectural Drawings** - Further drawings should include clarification of the following details:

- Which external glazing will be operable or fixed. A schedule shall be provided accordingly.

Comment: No details have been provided. The applicant has advised that details will be provided at Construction Certificate (CC) stage. These details are necessary to ascertain whether or not units will have access to natural ventilation opportunities. Should the application be approved, a condition is recommended to require all habitable room windows to be operable.

- The exact nature of the easement encroachment indicated on the lower ground floor plan.

Comment: The lower ground floor plan has been amended to delete a shaded encroachment into the easement extending along the northern side of the site.

- Whether or not all balustrades on the west elevation will be glazed. If they are not, then amendments to the solar access diagrams and solar access table for this elevation should be provided to indicate the impact of masonry balustrades.

Comment: The solar access diagrams have been amended to take into account the impact of the balustrade materials (i.e. permeable or non-permeable). Should the application be approved, a condition is recommended to require balustrades to be as per the materials indicated on the solar access diagrams (glazed or masonry) and for these materials to be clearly indicated on Construction Certificate plans.

- Further justification with respect to Clause 4.6(3)(b) of Ryde Local Environmental Plan 2010 addressing the additional impact resulting from the non-compliant height portions particularly with respect to privacy, views (including the relevant provisions of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 as the site is within the catchment area), additional overshadowing and achieving the objectives for height. This may include shadow diagrams indicating a compliant situation and/or the impact during the equinoxes.

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Comment: Further justification has been provided. This has been considered with respect to 'Clause 4.6' below.

- *Clarification of the division and unit allocation of the basement storage areas.*

Comment: No details on the division and allocation have been provided.

- *Whether or not any car spaces will be caged. This should be considered for any resident spaces on the same level as non-residential spaces for security reasons. The plans shall be amended accordingly.*

Comment: The applicant has advised that the details will be provided at CC stage. If the DA is approved, a condition is recommended to ensure any caged spaces and other surrounding spaces maintain the minimum dimensions as required by AS 2890.1.

- *Whether any discussions have been had with Energy Australia with respect to the proposed substation and provision of the power supply underground.*
- *Whether any discussions have been had with other utility providers with respect to providing installations underground. Any related correspondence should be forwarded to Council to indicate that the utilities can be and will be provided underground.*

Comment: The applicant has provided correspondence from Ausgrid.

- *The location and height of the rooftop mechanical exhaust structure required for internal toilet/bathroom/laundry areas of the residential units.*

Comment: The applicant has advised that exhaust structures required for internal toilet/bathroom/laundry areas will be below parapet level and therefore screened from view. If the application is to be approved, appropriate conditions should be included in a consent to ensure this and that the same is achieved with respect to the garbage room exhaust.

- *Bicycle parking: Clarification of the number of bicycle parking spaces and type of related facilities for security within the shaded 'bicycle and motorbike parking' indicated on Drawing Number DA-09 Issue A.*

Comment: The plans have been amended to indicate the details.

- **Acoustic Impact of Development** - *It is recommended that the submitted acoustic report be amended to indicate the combined additional acoustic impact of the proposed developments at both 7-9 Rutledge Street and 3-5 Trelawney Street, Eastwood (i.e. the impact of the proposed uses, additional traffic noise*

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and plant / AC/ exhaust noise) on the existing residential properties on the opposite side of Rutledge Street.

Comment: An amended report has not been submitted.

- **Voluntary Planning Agreement (VPA)** – *It is also noted that a VPA has been submitted with this development application and the VPA has been rejected by Council's Executive Team. It will be necessary to resolve the VPA matter to enable this assessment to be completed.*

Comment: An amended VPA is discussed in greater detail in Annexure 4 to this report.

7. Submissions

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised/notified from 7 December 2011 until 18 January 2012.

One submission was received in favour of and three submissions were received objecting to the development. The issues raised in the submissions are addressed below.

- *Inadequate Parking*

Comment: The RDCP table below indicates that the minimum requirement prescribed under Section 9.3 – Car Parking will be met by the proposal. A condition is recommended to ensure the spaces are appropriately allocated.

- *The building height is substantial which could potentially invade our privacy and block direct sunlight (6 Rutledge Street)*

Comment: No adverse privacy implications would result given the separation between the existing dwelling house and proposed building. The RFDC recommends a building separation of 18m between habitable rooms and balconies from 5 to 8 storeys (25m in height) and 12m up to 4 storeys (12m in height). The building will have a separation of over 20m.

An adequate amount of solar access will be maintained to the property. In particular, a useable portion of the primary private open space will receive at least 3 hours of sunlight during 9am and 3pm on June 21.

- *I enjoy Asian foods, but do not enjoy the way many of the shops are displayed and maintained and the build up and smell of garbage.*

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Comment: The matters are not specific to the subject DA however, conditions are recommended to be included in a consent to ensure appropriate waste storage facilities, maintenance of the facilities, and frequent waste collection services are provided.

At this stage the intended use of the retail uses is not known. In all likelihood any food shop would require a new DA as it may not fall into the category of exempt development. At this stage further attention could be given to waste issues.

- *I am concerned that the infrastructure of the small Eastwood Shopping Centre will not be able to support such a large development and services will be overstretched.*

Comment: The submission has not identified what infrastructure is of concern. Regardless, it is noted that the proposed stormwater drainage scheme has been reviewed by Council's Engineer, who has recommended conditions be included in a consent to ensure an acceptable outcome. Conditions are also recommended to ensure that the applicant liaises with the necessary service providers (for gas, water, electricity and telecommunications) and services are installed in accordance with the requirements of the provider. The RMS and Council's Traffic Engineer have reviewed the application. They have not raised any concerns with respect to the existing road infrastructure. Council's Traffic Engineer has advised that the surrounding roads will adequately cater for the development.

- *Cars and delivery vehicles entering and exiting from the proposed buildings will cause further traffic congestion.*

Comments: Council's Engineer and the RMS have reviewed the related traffic impacts of the proposal. They have not raised any concerns to the traffic impact. Council's Traffic engineer advised that increases in queue lengths and average delays are generally acceptable. Conditions have been recommended to be included in a consent, including a condition for queuing spaces at the driveway entrance.

- *Overdevelopment of the site / Excessive Size / The developments are out of scale to the surrounding buildings and are too close to the Eastwood Public School. I would appreciate Council reconsidering the size and height of the developments.*

Comment: Agreed. The development does not meet the RLEP Height and objection controls resulting in a building that has excessive height and scale.

- *The proposals will complement the Eastwood Centre Development and provide the much needed gateway into the Eastwood town centre from Trelawney Street. The sites as they exist now present a very poor image of the town.*

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Comment: The proposal will match the architectural style of the Eastwood Shopping Centre development; however it will represent excessive height and scale which does not meet the RLEP height and objective controls, as well as respect the existing and anticipated built form of neighbouring developments. These matters are discussed further in this report. The gateway concept can still be achieved, with a development that better responds to the LEP controls and its immediate surrounds.

- *The additional residents are expected to increase spend within the town centre.*

Comment: It is acknowledged that the development will result in a positive economic impact with respect to supporting the economic viability of existing and proposed shops within the centre.

- *Inadequate setback of 6m proposed to the eastern boundary. A minimum 9m setback should be provided from the common boundary (at the interface between the west facing Units of the Eastwood Shopping Centre Development). The RFDC recommends 18m – 24m separation but the proposal provides only 15m. Adequate separations will improve privacy levels between the developments and control overshadowing*

Comment: The resultant building separation has been addressed in the below section 'Residential Flat Design Code'.

- *Lack of detail regarding overshadowing on west elevation of approved Eastwood Shopping Centre Development. To ascertain impact on the approved units elevation shadow diagrams should be prepared to demonstrate development will not reduce solar access to the west facing units.*

Comment: No details have been provided to confirm compliance with the RFDC solar access requirement for at 'least 70% of apartments in a development should receive a minimum of 2 hours direct sunlight to living rooms and private open spaces between 9am and 3pm in mid winter'.

- *It will not be appropriate for vehicles waiting to turn right into 7-9 Rutledge Street to obstruct vehicles entering the Eastwood Centre. At this point there should be the ability for incoming vehicles to pass and this will leave some 3.3m for westbound vehicles. It will not be feasible for service vehicles turning out of 7-9 Rutledge to be contained to the westbound lane. It would be preferable if the ROW were widened so that service vehicles could negotiate the single lane and turning constraints.*

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Comment: The applicant submitted documentation which indicates the following in response to the matters raised:

- The right of way (ROW) will consist of 3 traffic lanes, with one through lane in each direction and a right turn lane for vehicles turning into the site.
- The addition of a warning light and convex mirror at the access driveway to improve visibility and circulation for vehicles in the ROW.
- Turning circles for small to medium trucks and justification of the access widths for trucks.

Council's Traffic Engineer has reviewed the documentation. Comments have been provided in the section below '*Consultation*'.

Should the application be approved, conditions are recommended to ensure the warning light and convex mirror are provided.

- *No indication as to how and when roller shutter on 7-9 Rutledge will be opened or closed/ There is no sightline splay provided on the access responding to AS 2890.1. There should be a splay and preferably a 6m setback for the roller shutter so that at least a car can wait out of conflict while the shutter opens.*

Comment: The applicant has provided written confirmation of the following:

- Roller shutters will be open during the day and closed at night.
- The shutters have been relocated approximately 10m into the site, with one located across the basement car park ramp and other across the ground floor parking area.
- Access outside normal business hours will be via remote control and intercom.
- A loop detector on the ramp will activate the roller shutter upon exit.
- Loading docks will be outside the shutters.
- On exit or for garbage trucks to access the garbage enclosure, the driver will open ground floor shutter via an access control pad within the dock.
- The access driveway has been modified to provide appropriate sight line splays in accordance with AS 2890.1 – 2004.

Council's Traffic Engineer has reviewed the submitted information. Comments have been provided in the section below '*Consultation*'.

Should the application be approved, conditions are recommended to ensure the above access features are provided.

- *Proximity of the proposed 7 Rutledge St access connection to the Eastwood Centre connection: connections will be immediately adjacent with no sightline provisions for egressing drivers; not be possible to differentiate between the accesses (i.e. for the Eastwood Shopping Centre and 7-9 Rutledge Street); potential rear end collision with drivers assuming vehicle ahead will enter the*

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Eastwood Centre but stops to enter 7-9 Rutledge; drivers turning right into 7-9 Rutledge will have little sighting of vehicles turning left out of Eastwood Shopping Centre. Access connection should be at least 6m from Eastwood Shopping Centre. A traffic mirror should be installed opposite the access to facilitate sighting of vehicles egressing the Eastwood Shopping Centre

Comment: The applicant has advised the following in response:

- A convex mirror will be located on the ROW and openings have been provided on the eastern site boundary, adjacent to the driveway, to improve visibility.
- Overhead signage will be provided at the vehicular entry to clearly differentiate the subject site.
- The right of way (ROW) will consist of 3 traffic lanes, with one through lane in each direction and a right turn lane for vehicles turning into the site. This will provide 2 eastbound lanes, enabling vehicles accessing the Eastwood Shopping Centre to pass vehicles turning right into the site.

Council's Traffic Engineer has reviewed the matters. Comments have been provided in the section below 'Consultation'. Should the application be approved, conditions are recommended to ensure the signage and convex mirror are provided.

- *There should be 2 egress lanes at the connection with Trelawney Street to that vehicles waiting to turn right do not obstruct heavier left turn movements.*

Comment: The applicant has advised that the submitted SIDRA analysis indicates that the intersection would result in average delays, with the highest being less than 15 seconds, which represents a satisfactory level of service.

It should be noted that, other than the information submitted in response to the objections, further information has been submitted to Council on 8/03/2012 and 14/05/2012 in relation to traffic impact issues. Council's Traffic Engineer and the Roads and Maritime Services (RMS) have reviewed the information. Comments have been provided in the section below 'Consultation'.

8. Clause 4.6 RLEP 2010 objection required?

Is a Clause 4.6 RLEP 2010 objection required? A variation is sought under Clause 4.6 of RLEP 2010 seeking variation to the maximum height standard applicable to the site. The maximum height standard is 18.5m for the lot to the west and 30.5 for the lot to the east of the development site, as indicated on the extract of the RLEP 2010 below.

The proposed maximum building height will be 41.56m and located at the eastern side of the lift shaft. The building height is discussed further below in the section 'Clause 4.3 - Height of Buildings'.

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9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Local Environmental Plan 2010

Zoning



The site is zoned B4 Mixed Use under the Ryde Local Environmental Plan (RLEP) 2010. The proposed development is permissible with consent under this zone. It has been considered in relation to the objectives of the zone, as indicated in the table below. In summary, the development will be consistent with the objectives of the zone other than the last two objectives when considered in relation to the proposed height and corner location.

Objective	Comment	Satisfied
To provide a mixture of compatible land uses.	The proposal is for a mixed use development, which includes residential and retail/commercial uses, in a compatible manner, with the	Yes

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Objective	Comment	Satisfied
	retail/commercial being contained generally at street level and the residential above.	
<i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i>	The subject site has convenient access to both bus and rail facilities.	Yes
<i>To create vibrant, active and safe communities and economically sound employment centres.</i>	The proposal appears to generally adopt the Crime Prevention Through Environmental Design (CPTED) principles for safety in urban design, with respect to passive surveillance to both street frontages, and active retail uses at the street level. Conditions have been recommended by the NSW Police Force to adequately address the CPTED principles. These conditions should be included in a consent, should the application be approved. The residential use will assist in supporting commercial/retails uses in the area.	Yes
<i>To create safe and attractive environments for pedestrians.</i>	This objective refers to providing 'attractive' environments for pedestrians. As discussed above, the development will be excessive in height and bulk/scale, particularly along the Trelawney Street frontage. It will not respect the human scale, desired massing and express a strong corner form. These controls are linked to the 'urban village character'. The lack of regard to the human scale and this character indicates that the environment created will not be attractive for pedestrians.	No
<i>To recognise topography, landscape setting and unique location in design and land-use.</i>	This objective relates to recognising the location in the design outcome. As discussed above, the design will not appropriately respond to its location.	No

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Mandatory Requirements

Clause 4.3 - Height of Buildings

The maximum permissible height applicable to the subject site, as indicated on the RLEP 'Height of Buildings Map' is 18.5m for the lot further west and 30.5 for the lot further east.



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The definition of 'building height' in the RLEP 2010 states:

'building height (or height of building)' means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like."

'ground level (existing)' means the existing level of a site at any point.

The submitted survey plan is not current and does not indicate the 'existing' ground levels. It indicates ground levels and buildings that existed prior to demolition works, (the subject of Development Consent Number 1237/2002 issued in May 2003).

The applicant was requested to submit a current survey of the site. A current survey has not been provided. In response, the applicant has advised that 'existing boundary levels to the site and existing footpath have not altered following site clearing and therefore the survey can be relied on'. Whether or not the levels at the site boundaries and footpath levels have been altered is less of a concern in this regard. The levels of concerns are those that will be located under the proposed higher building sections, setback from the boundaries of the site. Given that demolition has been undertaken there may be a variance with the RLs indicated on the survey over the site. As such, in the absence of a current survey, the height non-compliances discussed below and referenced in other sections of this report are based on the submitted survey and therefore may not represent exact variances. They should be acknowledged as approximates.

The maximum building height will be 41.56m in the location of the eastern end of the lift shaft. This represents a height increase of 4m with respect to the approved roof line of the adjacent building of the Eastwood Shopping Centre and an overall variance to the maximum permissible height in this location (30.5m) of 11.06m. The maximum building height will be 41.34m in the location of the western end of the lift shaft. The western end of the lift shaft is located on the lot further west that is subject to an 18.5m height limit and therefore would represent a maximum height increase of 22.84m. The additional height would be visible from some viewing points along Trelawney Street as it would be located at the building edge along part of the elevation. The same would result from the adjacent plant room (about 1m lower than the lift shaft). Regardless, other than the roof top structures that exceed the height, the main built form will also exceed the maximum permissible height limits as summarised below:

Upper Levels:

- Northwest building corner: height of 38.063m measured up to the roof edge. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 19.563m.

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- Northeast building corner: height of 38.85m measured up to the roof edge. This building section is subject to the maximum 30.5m height standard and therefore would represent a variance of 8.35m.
- Southeast building corner: height of 37.3m measured up to the roof edge. This building section is subject to the maximum 30.5m height standard and therefore would represent a variance of 6.8m.
- Southwest building corner: height of 36.663m measured up to the roof edge. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 18.163m.

Levels 4-5 (over lot further west)

- Northwest building corner: height of 22.69 m measured up to the parapet. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 4.19m.
- Northeast building section: height of 22.69m measured up to the top of the roof planter. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 4.19m.
- Southeast building section: height of 21.49 m measured up to the top of the roof planter. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 2.99m.
- Southwest building corner: height of 19.84m measured up to the roof edge. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 1.34m.

The above non-compliances are demonstrated on the following diagrams.

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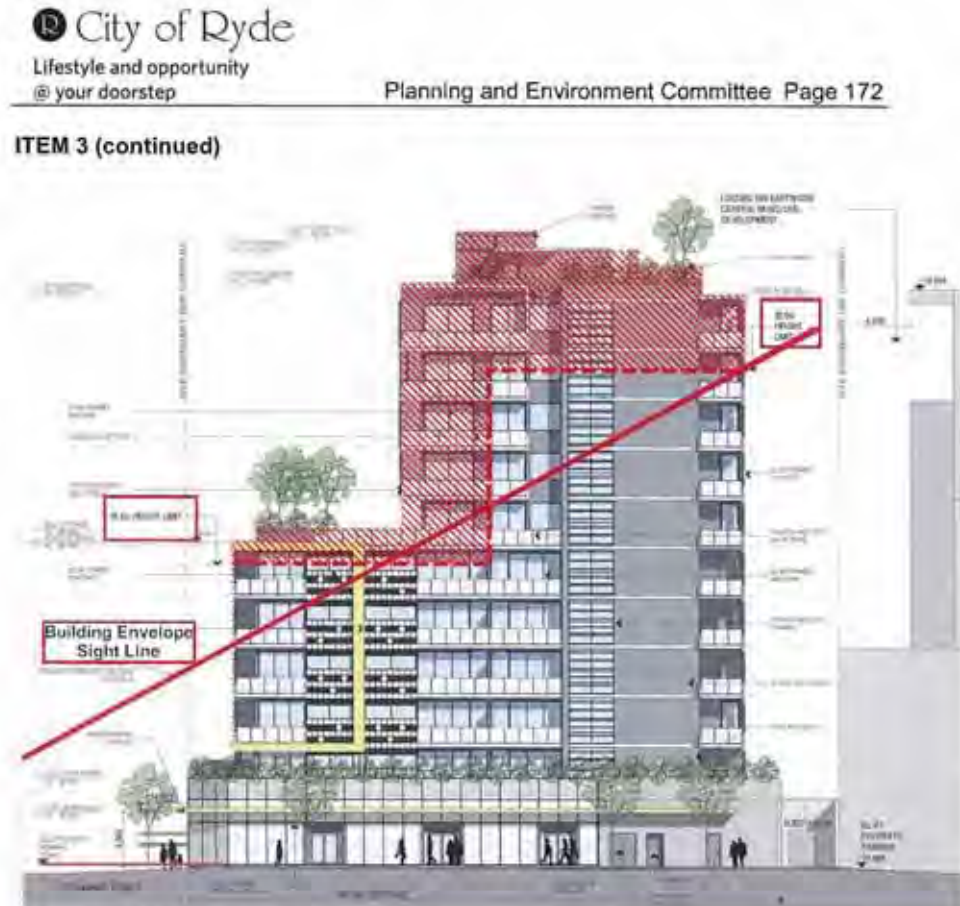



Diagram 1: West Elevation -

 Area of non-compliance with maximum 18.5m and 30.5m LEP Height Standards

— Building Envelope of RDCP 2010 (measured from existing Rutledge Street boundary)

Clause 4.6 – Exceptions to development standards

Clause 4.6 of RLEP 2010 allows exceptions to development standards. Consent must not be granted for development that contravenes a standard unless the consent authority has considered a written request from the applicant that seeks to justify contravention of the standard by demonstrating the following:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*

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- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The consent authority must be satisfied that the applicant's written request has satisfied the above criteria and that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. In addition, consent cannot be granted unless the concurrence of the Director – General has been obtained. These matters are discussed below.

1. Written request provided by the applicant.

The applicant has provided a written request seeking to justify the variation to the development standard in Section 7.1 of the Statement of Environmental Effects prepared by Ludvik & Associates and a further letter dated 12 April 2012 prepared by Morris Bray Martin Ollmann Architects.

2. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.

The applicant has argued that the variation in respect of the height control is acceptable given the following:

- a. *The 'gateway location' of the site, i.e. it is necessitated 'to create an entrance statement at the Trelawney Street and Rutledge Street intersections together with the proposal at 3-5 Trelawney Street.*
- b. *The future character and form of the Eastwood Town Centre is largely dominated by the approved redevelopment of the Eastwood Shopping Centre site at 3-5 Rutledge Street, 152-188 and 196 Rowe Street. It will provide context for other development in this part of the centre.*
- c. *The approved Eastwood Shopping Centre buildings exceeded the building height standards. Council has accepted a SEPP 1 objection against the height standard to allow a twelve (12) storey element adjacent to corner of Rutledge Street and West Parade.*
- d. *It will maintain the character and proportions of development fronting Rutledge Street.*
- e. *It will not have any significant effect on the overshadowing of surrounding development.*
- f. *It will facilitate a satisfactory built form in the context of future development in this locality.*
- g. *It will be satisfactorily located in terms of existing major public transport services and the arterial road network; and*
- h. *It reinforces Trelawney Street as a major gateway into the Town Centre for the arterial road network.*

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- i. *The proposal is consistent with the objectives of the B4 Mixed Use zone.*
- j. *As the land is not visible from Sydney Harbour or the Parramatta River nor have any influence on matters required to be taken into consideration under the terms of the SREP.*

The reasons provided by the applicant, are not considered to be well based, except for reason 'g' and 'j'. The non-compliance particularly along the Trelawney Street frontage is excessive and inconsistent with the objectives of the zone and height standard. The development does not achieve a massing, human scale initiative and corner design outcome sought by Council's controls. These issues have been addressed in matter '4' below.

It should be noted that the approved Eastwood Shopping Centre development is not the key determinant of the future character of the Eastwood Town Centre. The key determinants are Council's controls, in particular how a development addresses and achieves these controls.

The DA assessment reports considered by the Planning and Environment Committee with respect to the Eastwood Shopping Centre redevelopment (inclusive of the Section 96 report) indicated a compliant building height, particularly for the building (Building A) directly adjacent to the site 7-9 Rutledge Street. As verified below, this site was subject to different controls.

The land at the corner of Rutledge Street and West Parade, that formed part of the Eastwood Shopping Centre has little correlation with the subject site in terms of the 'human scale' issue along Trelawney Street, which is identified as being a pedestrian priority street under the RDCP 2010. Council's LEP height standards seek a different massing towards West Parade in comparison to that along Trelawney Street. Whilst the DLEP increases the height limit of the lot further east to 33.5m, it still retains the 18.5m height limit for the lot further west. It is understood from the LEP 2010 Building Height map that the massing/scale that is intended to be achieved steps down in height along Rutledge Street from east to west. i.e. from 33.5m to 30.5m, then to 18.5m and then to 15.5m opposite the subject site (on the opposite corner of Trelawney and Rutledge Streets). Accordingly, in this respect the development does not reflect the desired future outcome.

Justification of the additional height based on an upgrade to the locality is not well-founded. The height control does not need to be exceeded to such an extent as to reinvigorate the area.

Insufficient information has been submitted to verify that a minimum of 2 hours solar access will be retained to the west facing units of the approved Eastwood Shopping Centre Development and whether or not the additional height results in a non-compliant situation to the approved development with respect to meeting the requirement for *'living rooms and private open spaces of at least 70 % of units in a*

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development to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter'.

3. Environmental grounds to justifying contravening the development standard.

As demonstrated in this report, the development will not be consistent with the existing and desired future character of the area which is dictated by Council's LEP and DCP controls and relates to retaining the 'urban village' character. The built form will not be acceptable in terms of its massing, scale and height and resultant streetscape impact, as discussed in matter '4' below.

The applicant has indicated that the variation will not adversely affect any views from surrounding residential properties or influence the matters for consideration listed under Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. This is concurred with.

Subject to the adoption of the acoustic measures recommended in the acoustic report (except for non-operable external facing windows), the privacy implications will be satisfactory.

As outlined above, insufficient information has been submitted with respect to the solar access impact of the proposal on the approved Eastwood Shopping Centre Development. The assessment provided in the section 'RFDC' indicates the proposal will fail to meet the cross ventilation and solar access requirement to living rooms. Insufficient information has been submitted to verify compliance with the solar access requirement to private open spaces.

4. Consistent with the zone objectives and objectives of the development standard.

The development will not be in the public interest because it will be inconsistent with the following height and zoning objectives:

The objectives for height:

- (a) *to maintain desired character and proportions of a street within areas,*
- (c) *to enable the built form in denser areas to create spatial systems that relate to human scale and topography,*
- (d) *to enable focal points to be created that relate to infrastructure such as train stations or large vehicular intersections,*
- (e) *to reinforce important road frontages in specific centres.*

The objectives for the B4 Mixed Use zone

- *To create safe and attractive environments for pedestrians.*
- *To recognise topography, landscape setting and unique location in design and land-use.*

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The extent of the non-compliance is not considered appropriate in this case. The variances, both the vertical variances and continual horizontal, are along major building portions. Of more concern are the variances along the Trelawney Street frontage, though the variances caused along the Rutledge frontage should be limited.

The main concerns with the variance are as follows:

- The variances are not consistent with the objectives for 'building height' as well as the mixed use zone.
- The achievement of a 'gateway entrance' can be achieved without the necessity of varying the height control to such an extent.
- The development will not respect the desired future character of the area.
- The development will be excessive in density.
- The height has not been supported by the Urban Design Review Panel.
- The building projects further forward along Rutledge Street.
- The built form of the Eastwood Shopping Centre Development, directly adjacent to the site, had a compliant height and was subject to different statutory controls.

The above matters have been discussed in the assessment below.

- *The variances are not consistent with the objectives of 'building height' as well as some objectives of the zone. The development does not respect the existing and desired future character of the area.*

Objective (a) for building height is 'To maintain desired character and proportions of a street within areas'. Objective (c) is 'To enable the built form in denser areas to create spatial systems that relate to human scale and topography'.

A height limit of 18.5m applies to the corner lot and a height limit of 30.5m applies to the lot further east. A variance of approximately 1 storey to 6 storeys plus a 4m high (maximum) roof structures are proposed for the built form on the corner lot. This variation is demonstrated in the previous diagrams and is not acceptable based on the intended massing for the area and human scale.

Based on Council's LEP Height Map, the lot further west is subject to a lower height limit to appropriately relate to the maximum, lower permissible height of development at the opposite corner site 3-5 Trelawney and create an obvious, sympathetic transition in height and massing from higher development to the east and lower development to the west along Rutledge Street. If half of the lot to the west is developed, to be 6 storey above the permitted control, the legibility in transition will be lost as well as any higher corner element treatment (as discussed below).

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Council's LEP aims to provide a development on the corner lot with a height 3m higher than that of 3-5 Trelawney Street. This will represent a sympathetic transition that is not excessive as to impact on a matching gateway approach, particularly to warrant development at 3-5 Trelawney Street to be higher.

Retaining the difference in maximum permissible height between the sites corner lot and eastern lot will create a clear emphasis and distinction at this corner, as the lot to the east is subject to a height standard that represents a 12m height increase. It is this difference in height and application of the lower 18.5m height limit over the whole rather than part of the corner lot which will create an emphasis, whilst enabling it to sympathetically match that of 3-5 Trelawney. Any corner elements that are appropriately designed, as indicated in the DCP diagram above, may be accepted to be higher than the 18.5m height standard. The proposed corner design is discussed further below.

The height limit of 30.5m applies not only to the lot further east but also to that part of the Eastwood Shopping Centre site along Rutledge Street, except for the site at the corner of West Parade and Rutledge Street. This site is subject to a height limit of 33.5m.

The development application (DA) and Section 96 application assessment reports for the Eastwood Shopping Centre indicated the building directly adjacent to the subject site provided a compliant situation. At the time of assessment of the Eastwood Shopping Centre DA, the provisions of the Ryde Planning Scheme Ordinance were applicable. Clause 51C limited the building height to '10 storeys or 30m'. The instrument did not have any related 'building height' objectives and consisted of objectives and principles for the Eastwood Urban Village that did not emphasise the 'human scale'. The Eastwood Shopping Centre adhered to the 10 storey height limit with the exception of Building C which was located to the immediate east of that site and was 12 storeys in height. A VPA also accompanied this non-compliance.

The built form on the development lot further east exceeds the height limit and the maximum RL of adjacent building of the approved Eastwood Shopping Centre. It also extends further towards Rutledge Street as to create an inconsistent street setback in comparison to that approved for the Eastwood Shopping Centre. The proposed increased massing towards Rutledge Street in comparison to that approved for the Eastwood Shopping Centre minimises the emphasis of any corner treatment and objective of 'enabling a focal point'. This massing is also in breach of Council's envelope control prescribed in RDCP 2010, despite compliance with the 3m setback requirement of the DCP.

Based on the approved RL of the adjacent building of the Eastwood Shopping Centre it may be acceptable to allow a similar maximum RL for the main built form on the lot further east. This is on the proviso that it is clearly illustrated that the objectives for height (particularly the one relating to human scale) are met. This would require the

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proposal to be set back from the southern side to conceal the upper/non-compliant height and match the approved Rutledge Street setback of the adjacent building of the Eastwood Shopping Centre development, as well as be stepped back from the western side. This will ensure the massing reflected by the current and draft LEP height standards and emphasis to the street corner are appropriately resolved, as discussed further below. Any higher rooftop elements must be appropriately located as not to be visible from the opposite side of Rutledge Street or Trelawney Street. Any other parts of the built form over the maximum permissible height must not be visible from the opposite side of Trelawney Street.

It should be acknowledged that compliance with the maximum height standards ensures that if development were to be viewed from the opposite side of Trelawney Street, then the higher portion would not be visible from eye level as it would be setback behind the 18.5m height component. Accordingly, the standards have been developed to ensure strict compliance would ensure the objective of 'relating to the human scale' would be met.

Approval of the proposed development, is likely to set a precedence in terms of providing a higher height and massing than that anticipated by the RLEP or even the DLEP which increases the height of the lot further east to 33.5m. This is likely to impact on how future development will proceed along Trelawney and Rowe Street. If higher development is provided on surrounding sites along Trelawney and Rowe Streets, the 'gateway' emphasis proposed, (even though not considered appropriate for reasons discussed further below), will be diminished. The DLEP, like the current LEP consists of a similar objective for 'building height' relating to the 'human scale'.

It is noted that Draft Ryde Local Environmental Plan 2011 maintains the 18.5m maximum building height standard for the corner lot and adjacent massing along Trelawney Street and other surrounding sites to the north and west. Even though it increases the maximum building height standard for the lot further east to 33.5m, the current scheme doesn't achieve compliance with this maximum by a minimum of about 3m.

- *The achievement of a 'gateway entrance' can be achieved without the necessity of varying the height control to such an extent.*

Objective (d) of building height is 'to enable focal points to be created that relate to infrastructure such as train stations or large vehicular intersections'. Objective (e) is 'to reinforce important road frontages in specific centres'. Objective (e) can be related back to Objective (d) with respect to the road intersection treatment.

The proposed urban design outcome creates an excessively high and long facade along the frontages. This solution does not frame the corner of the site, but effectively increases the length and size of the site, which is not an appropriate design approach for corner sites based on standard practices as expressed in Council's DCP, and achieving Objective (c) which refers to the human scale. This scale is important along

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Trelawney Street particularly given that DCP aims to retain this street as a high pedestrian amenity street. This matter is discussed further below. If coupled with the design outcome proposed for Trelawney Street, the visual emphasis is on the frontage and large scale rather than the corners of the sites. Degradation to achieving the human scale is intensified by this approach.

Council's RDCP 2010 provides further details on acceptable design solutions to treating corner sites. As is evident this includes obvious elements limited specifically to defining the site corner rather than continually along the whole lengths of the site. An acceptable treatment is indicated in the diagram below provided in Part 4.1 of Council's DCP. Any variance to the height control could be justifiable and likely to be supported in the circumstance that the excessive height aims to achieve a focal point at the corner.

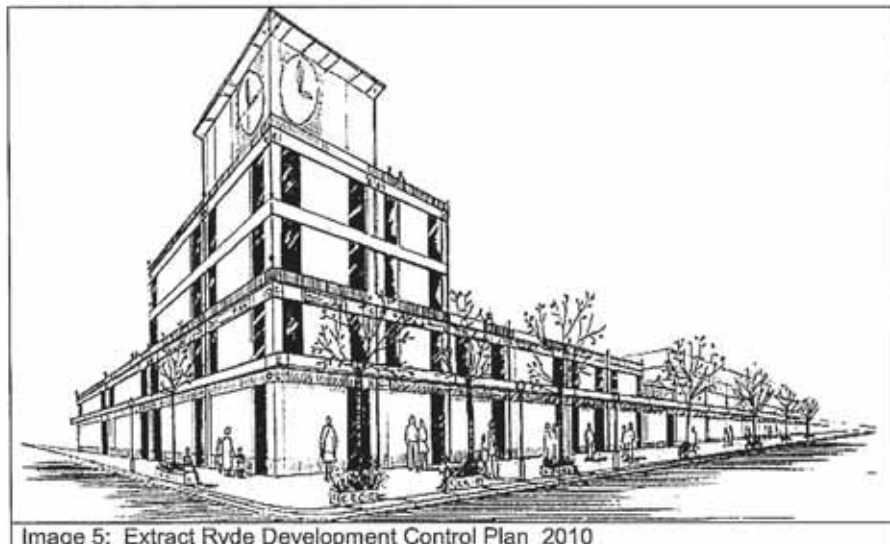


Image 5: Extract Ryde Development Control Plan 2010

The specified DCP objective for corner allotments is: *'To ensure buildings situated on corner allotments provide for visual interest and address intersection that they front'*. This supports the design principle that the emphasis of buildings should be limited to the corner of the building rather than the whole length of the corner location of the site. In addition, the following controls also support this:

The design of buildings at gateway locations should consider the following:

1. *The height of adjacent buildings;*
2. *Stepping the building up where the building turns the corner;*

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The difference in building height and massing between adjacent built forms and the corner development lot is important in emphasising a corner treatment as in this case. The development has retained the height for the entire part of the building. The current massing of this building does not deliver any corner treatment as envisaged by the DCP. If the development did retain the 18.5m height control then a modest breach at the corner to reflect the corner treatment could be envisaged. This would enable the articulation of massing anticipated under the LEP and building length when coupled with the built form to the north along the Trelawney Street frontage. This adjacent site is subject to a 21.5m height limit.

As stated above, Objective (e) is 'to reinforce important road frontages in specific centres'. Objective (e) can be related back to Objective (c) which is '(c) to enable the built form in denser areas to create spatial systems that relate to human scale and topography'. The Trelawney Street frontage is identified in Council's DCP 2010 to be an important pedestrian priority street. The 'future character statement' and provisions of Section 3.3 - Architectural Characteristics of the DCP reinforce that an attractive public domain and desirable setting for users needs to be aimed for. The DCP refers to the 'Eastwood Commercial Centre Planning Study and Masterplan' (master plan) which provides guidance for development of the town centre to the year 2020. The essence of the master plan is to provide for future development that is consistent with the urban village character. In terms of the height and scale, a natural relationship between people and the built environment needs to be maintained.

The 'human scale' issue is further reinforced by a building envelope control prescribed under Section 4.1 of the RDCP 2010, as well as the judgement of *Crown Atlantis Joint Venture v Ryde City Council*. The objective for the building envelope is stated to be: 'To ensure that the existing human scale element of the streetscape is retained'. Therefore the 'human scale' aspect needs to be respected.

The DCP prescribes a building envelope of 26 degree projected from 1.5m height measured from the property boundary on the opposite side of the street, being that of 7-9 Rutledge Street. It is acknowledged that in some instances that this height plane is inconsistent with the maximum building height prescribed under the LEP as it results a lower allowable building height. Accordingly the 18.5m and 30.5m height standards are accepted to take precedent in constituting an acceptable maximum height for achieving the human scale because consistency with objective (c) would be achieved for a compliant development. Therefore anything above that height and not within a height plane projected from an average eye level of 1.5m on the opposite side of Trelawney Street up to a building edge of 15.5m should be deleted or setback from the building edge and within the plane. In such a circumstance, they will not be visible from the opposite side of the street and therefore the human scale would be retained.

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The applicant was requested to make changes to the building to require:

- most units along the edges of the corner lot above the 18.5m height limit, to be deleted i.e. above Level 4,
- any units behind and above a height plane projected from eye level on the opposite side from Trelawney Street to the edge of the 18.5m height to be deleted and
- minor structures to be set back within this height plane, i.e. reconsideration of the location of the upper levels, lift shafts and other roof plant structures
- A reduction to the overall height of the building so the maximum RL created by the roof top plant matches that approved for the development directly adjacent to the site for the Eastwood Shopping Centre
- the corner to be redefined.

Deletion of some of the units along the west elevation would achieve a stepped building line and facilitate the potential of double aspect units on the upper levels. This would improve sunlight penetration and natural ventilation. The applicant did not pursue any changes to address the issues at hand.

- *The development will be excessive in density.*

The development is representative of excessive floor space and density. In the absence of any specific density controls, (such as floor space ratio, population or dwelling density), the density of the development is dictated by the applicable height, envelope and setback controls. The proposal fails to meet these controls, as discussed above with respect to envelope and building height, and below with respect to setbacks. Generally the setback requirements of the Residential Flat Design Code will not be achieved between the proposed development and adjacent building of the approved Eastwood Shopping Centre development.

- *The height has not been supported by the Urban Design Review Panel.*

The applicant was advised in pre-lodgement meetings that the proposed height is not acceptable and compliance should be achieved. This has included advice by the Urban Design Review Panel as following:

The Panel considers that the development should remain entirely within the statutory planes to support and reinforce the overall massing strategy for the entire block within which it is located.

Based on the above discussion the following objectives for the B4 Mixed Use zone are not satisfied:

- *To recognise topography, landscape setting and unique location in design and land-use.*
- *To create safe and attractive environments for pedestrians.*

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In summary, the gateway design approach has not been properly applied as intended by Council's controls. An attractive pedestrian environment will not be achieved as little regard has been given to the 'human scale' issue.

5. Concurrence of the Director General.

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-Generals concurrence for exceptions to development standards.

Conclusion

The submission does not satisfy the criteria outlined in Clause 4.6. Therefore the variation is not supported.

Clause 6.5 – Eastwood Urban Village and West Ryde Urban Village

Sub clause (3) requires that the consent authority must not grant consent to development on land within the Eastwood Urban Village unless it has considered whether the proposal is consistent with the following objectives:

- a. *To create a safe and attractive environment for pedestrians,*
- b. *To create a mixed use precinct with emphasis on uses that promote pedestrian activity and safety at ground level (existing),*
- c. *To create a precinct that contains opportunities and facilities for living, working, commerce, leisure, culture, community services, education and public worship,*
- d. *To increase the number of people living within walking distance of high frequency public transport services,*
- e. *To increase the use of public transport.*

The previous discussion with respect to building height has established that the development will not be consistent with Objective 2(a).

Other Relevant Clauses from the RLEP 2010

Clause 1.4 – Definitions

The development is defined as '*mixed use development*', and also falls under the definition of '*shop-top housing*', both of which are permissible uses under the zone of the land.

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Clause 2.6 – Subdivision-consent requirements

Clause 2.6 requires development consent for subdivision. Whilst the proposal includes strata subdivision, no draft plans have been submitted for assessment. Accordingly, should the application be approved, a condition is recommended to require the submission of final subdivision plans prior to the issue of a Subdivision Certificate.

Clause 2.7 – Demolition requires development consent

The development necessitates some minor demolition works. On site works relate to the removal of the existing driveway, hard paving and low retaining walls. Public road works relate to the removal of existing road paving and 2 vehicular crossings.

Clause 5.9 - Preservation of trees and vegetation

Refer to 'Landscape Officer' comments below. As indicated in the proposal description above, the proposal includes the removal of existing vegetation, including the removal of two (2) established Camphor Laurel trees located at the site's northeast corner.

Clause 6.2 - Earthworks

The proposed excavation works will extend up to all boundaries of the site, with the exception to the southeast corner, (where a substation is proposed) and at the northern boundary as not to encroach the easement for access and support. Refer to 'Engineer' comments below.

Clause 6.4 – Eastwood Urban Village

This clause applies to land in Eastwood as identified on Council's '*Eastwood Urban Village Map*'. It relates to addressing stormwater inundation / and potential flooding on this land.

While the subject site is not indicated on the '*Eastwood Urban Village Map*', the applicant has made amendments to the ground floor level based on flood data provided by Council's Engineer. To cater for a 1 in 100 Year ARI flood event / minimise risks, the ground level has been raised by 300mm. This has not altered the overall proposed building height.

Clause 5.10 - Development in the Vicinity of a Heritage Item

The building at 186 Rowe Street, Eastwood, is listed as a heritage item under Ryde Local Environmental Plan 2010 and located within the vicinity of the subject site. Council has approved the demolition of the building under Development Consent

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No.2007/0936. Submission of a heritage report and consideration of the impact of the proposed development on the heritage significance of the item is not necessary in this instance. It is noted that Draft Ryde Local Environmental Plan 2011 does not include 186 Rowe Street, Eastwood as a heritage item.

(b) Relevant SEPPs

SEPP No. 55- Remediation of Land

The provisions of *SEPP 55 – Remediation of Land* (SEPP 55) apply to the subject DA. Clause 7 of SEPP 55, states that a consent authority must not consent to any development on land unless it has considered whether the land is contaminated. If the land is contaminated, the consent authority must be satisfied the land will be suitable in its contaminated state, or will be suitable after remediation, for the purpose for which development is proposed. If the land requires remediation, it must be satisfied that the land will be remediated before the land is used for that purpose.

The subject site previously consisted of church buildings which were subsequently demolished following a consent for demolition issued in May 2003. Since demolition the site has remained vacant and secured. Council records indicate the site had been used for religious purposes from 1910. They do not provide any evidence that the site had been subject to any activities that have the potential to cause contamination, such as those listed in the SEPP Planning Guidelines 'Managing Land Contamination'.

Council's Environmental Health Officer has reviewed the DA and recommended conditions of consent, should the application be approved.

SEPP BASIX

Clause 3 of the *Environmental Planning and Assessment Regulation 2000* defines a '*BASIX affected building*' as a building that contains one or more dwellings, but does not include a hotel or motel. Clause 2A of Schedule 1 of *Environmental Planning and Assessment Regulation 2000* requires the submission of a BASIX Certificate/s (issued no earlier than 3 months before the date on which the application is made) with a DA for a BASIX affected development.

The proposed development is a '*BASIX affected building*'. Accordingly, the subject DA is accompanied by a BASIX Certificate (No. 387292M issued on 26 October 2011) that indicates the development will achieve the minimum ratings for energy, thermal comfort and water.

Should the subject DA be approved, conditions are recommended to require compliance with the BASIX commitments detailed in the certificate.

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SEPP (Infrastructure) 2007

Clause 55 - Development adjacent to corridor

Clause 55 (1) states that *'before determining an application for development adjacent to a gas pipeline corridor, the consent authority must:*

- (a) be satisfied that the potential safety risks or risks to the integrity of the pipeline that are associated with the development or modification to which the application relates have been identified, and*
- (b) take those risks into consideration.*

The applicant has provided details on the location and type of gas infrastructure on and around the site. Should the application be approved, a condition is recommended to require compliance with the following to minimise any risks:

- The location of gas pipelines are to be confirmed by carefully pot-holing by hand excavation prior to proceeding with mechanical excavation in the vicinity of gas pipelines. If the gas main is not located, the local depot should be contacted on 131 909.
- All excavation (including pot-holing by hand) should be performed in accordance with 'Work Near Underground Assets Guidelines' published in 2007 by the Work Cover Authority.

Clause 101 - Development with frontage to classified road

Clause 101 refers to development with frontage to a classified road. It states that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

Clause 101 applies to the subject DA as 'Rutledge Street is identified as a classified road. With respect to matter (a) vehicular access will not be provided by Rutledge Street, or any other classified road.

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Both Council's Traffic Engineer and the Roads and Maritime Services have reviewed the proposed development. No major concerns have been raised with respect to the safety, efficiency and ongoing operation of Rutledge Street. Conditions have been recommended should the application be approved.

The submitted acoustic assessments indicate that the traffic volumes of the adjacent streets, will result in intrusive internal noise levels that will exceed the acceptable standards for dwellings and therefore measures need to be provided to minimise the impact. The measures include the installation of acoustic glazing to outward facing windows, closed external facing windows, and sealing of windows and door frames. Should the application be approved, conditions should be included to require acoustic glazing and sealing of window frames and door frames only. The external facing windows should be operable as not to limit natural ventilation opportunities.

Clause 104 - Traffic-generating development

This clause applies to the proposed development as it constitutes traffic generating development given:

- It is a type of development specified in Column 1 and of a size/capacity specified in Column 3 of the Table to Schedule 3 of the SEPP; and
- The site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection the size or capacity specified opposite.

Clause 104 generally requires the consent authority to give written notice to the Roads and Maritime Services (RMS) prior to determining the DA and consider any submission made by in response to that notice.

The DA was notified as required and in response, the RMS requested additional information. The applicant submitted this information. The RMS has reviewed the additional information and has raised no major concerns subject to certain details being provided and/or complied with. These can be addressed via the inclusion of conditions in a consent, should the application be approved.

Clause 104 also requires the consent authority give consideration of the following prior to determining the DA:

- (ii) the accessibility of the site concerned, including:
 - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
 - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
- (iii) any potential traffic safety, road congestion or parking implications of the development.

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The above matters have been considered, where relevant. Reference should be made to the comments provided by Council's Traffic Engineer and DCP assessment in relation to adequacy of the proposed parking.

SEPP No. 65 - Design quality of Residential Flat Development

This policy aims to improve the design quality of residential flat buildings in NSW. It encourages that the design quality of residential flat developments is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

There are 10 design quality principles identified within the SEPP 65. The following table provides an assessment of the development against the 10 design principles.

Planning Principle	Comment	Complies
<p>Principle 1: Context</p> <p>Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.</p> <p>Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.</p>	<p>It is evidenced by the discussion above, the development will not reflect the desired future character as required by local planning provisions. In particular, the height, massing and scale will not respect the objectives prescribed by the LEP, DCP, and master plan relating to the 'human scale' and 'urban village character'.</p>	No
<p>Principle 2: Scale</p> <p>Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.</p> <p>Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and</p>	<p>As discussed previously, the resultant scale will not be appropriate with respect to the desired future character anticipated by Council's LEP, DCP and master plan.</p>	No

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Planning Principle	Comment	Complies
height needs to achieve the scale identified for the desired future character of the area.		
<p>Principle 3: Built form</p> <p>Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The building bulk has not been appropriately manipulated to adequately address the gateway aspect and the general massing anticipated by the maximum allowable height prescribed under the RLEP. The built form does not express a strong corner form.</p> <p>Building mass will not deliver a reasonable standard of amenity. The layout and depth will not maximise opportunities to facilitate cross ventilation and solar access as required by the SEPP 65 – <i>Residential Flat Design Code (RFDC)</i></p>	No
<p>Principle 4: Density</p> <p>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</p> <p>Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.</p>	<p>There is no applicable floor space ratio or other density controls, (such as dwelling or population density), that are applicable to the site. The density is therefore governed by the height, setback and envelope controls applicable to the site. As discussed above and below, the development does not achieve compliance with these controls and therefore represents a greater density.</p>	No
Principle 5: Resource, energy and water efficiency	The applicant has submitted a BASIX Certificate which indicates that the residential component	No

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Planning Principle	Comment	Complies
<p>Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.</p> <p>Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.</p>	<p>will meet the energy and water use targets set by the BASIX SEPP.</p> <p>A waste management plan has been submitted and reviewed by Council's Environmental Health Officer. The plan is considered acceptable subject to conditions in the event the DA is approved.</p> <p>As stated above, the overall layout and massing will not maximise solar access opportunities and meet the related requirements of the RFDC. Also refer to below section Residential Flat Design Code.</p>	
<p>Principle 6: Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</p> <p>Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.</p> <p>Landscape design should optimise usability, privacy and social</p>	<p>The landscaping will assist in improving the aesthetics of the building as well as improving the on-site amenity. The landscaping along the building elevations will ensure that the appearance of the development is softened as viewed from the surrounding streets.</p> <p>The proposed communal open spaces should both include furniture such as seating, shading structures and a BBQ area to encourage their usability. Should the application be approved, a condition can be included in a consent to ensure this.</p> <p>The development will be void of any deep soil planting. The RFDC recommends appropriate stormwater treatment measures in circumstances where deep soil planting is not provided. Council's Engineer has recommended</p>	Subject to conditions

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opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.	conditions to ensure an effective and appropriate stormwater drainage system is provided. Conditions should also be included in a consent to require appropriate soil depths for substantial tree growth, as indicated in the RFDC.	
<p>Principle 7: Amenity</p> <p>Good design provides amenity through the physical, spatial and environmental quality of a development.</p> <p>Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p>	<p>Should the application be approved, conditions should be included in a consent to require compliance with the minimum storage area requirements.</p> <p>The building separation requirement is not met to the east boundary. Insufficient information has been submitted to ensure adequate amenity to the adjacent units of the approved Eastwood Shopping centre development in terms of solar access. This matter is discussed further in the section below 'Urban Design Review Panel – Boundary Setbacks' and 'Residential Flat Design Code'.</p> <p>As discussed below, the acoustic assessment submitted with the DA indicates that certain measures will need to be adopted to ensure that the units meet the required standards for internal amenity. The measures include double glazing, and sealing of door frames and externally facing windows. The sealing of externally facing windows is not appropriate as it will limit natural ventilation opportunities. The amenity of private open spaces has not been considered in the acoustic assessment, particularly the impact of traffic noise on the use of ground level private open</p>	No

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Planning Principle	Comment	Complies
	spaces facing Rutledge Street. The objective for acoustic privacy contained in the RFDC refers to ensuring a high level of amenity both within units and private open spaces. Should the application be approved, conditions should be included to require an acoustic assessment and adoption of recommended measures. The overall layout and massing will not maximise solar access opportunities and ventilation as to meet the related requirements of the RFDC. Refer to below section Residential Flat Design Code.	
Principle 8: Safety and security Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.	The Police Department have reviewed the application and have made recommendations to improve the development with respect to achieving better consistency with the CPTED principles. Should the application be approved, conditions should be included in a consent accordingly.	Subject to conditions
Principle 9: Social dimensions and housing affordability Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access	The development will include single aspect and corner apartment layouts, as well as adaptable housing. The following housing mix is proposed: - 16 x 1 bedroom apartments; - 43 x 2 bedroom apartments;	Yes

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Planning Principle	Comment	Complies
to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.	- 20 x 3 bedroom apartments. This mix will result in an affordable range of housing which should attract singles, couples and family occupants into an area which is highly accessible to public transport and local shopping. In this regard, as a guide the Housing NSW Centre for Affordable Housing suggests 1 and 2 bedroom apartments contribute towards achieving housing affordability.	
Principle 10: Aesthetics Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.	The development will consist of a variety of materials and finishes to assist in the articulation and visual interest of the building, as well as facilitate the differentiation between the uses and different building sections.	Yes

Residential Flat Design Code

The SEPP also requires the Council to take into consideration the requirements of the *Residential Flat Design Code*. The development generally complies with the requirements provided in this document relating to unit sizes for housing affordability, stormwater management, waste management, bicycle parking, housing choice, driveways, roof designs, and energy efficiency appliances. The non-compliances are indicated and discussed in the table below.

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
Building Height	Test heights against the number of storeys and the minimum ceiling heights	<p>LEP Standards: The eastern lot has a height limit of 30.5m and the western lot (PT 23 DP 4231) has a height limit of 18.5m.</p> <p>These controls result in a maximum number of storeys of 7.6 storeys and 3.7 storeys respectively based on the floor-to-ceiling heights, minus 300mm floor/ceiling slabs and minus the height of rooftop plant (4m in height).</p> <p>The proposed building contains a mix of part 6/ part 7 storeys and 12 storeys.</p> <p>The maximum proposed height will be 41.56m (in the location of the lift overrun portion further east where the existing RL is 72.56 and max proposed RL is 114.120). This represents a variance of 11.06m as this part of the site is subject to a 30.5m height limit. Where the height limit is 18.5m (further west) the building will result in an overall variance of 22.84m.</p>	No
Building Depth	Apartment building depth: 10-18m.	<p>The proposed building has a range of building depths:</p> <ul style="list-style-type: none"> - For Ground Level: 16m (residential portion only) - For levels 1-5 the maximum depth is 31.5m and the minimum depth is 26m. 	No

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		- For levels 8-10 the maximum depth is 20m and the minimum depth is 15m.	
Building Separation	<p>Up to 4 storeys (12m height):</p> <ul style="list-style-type: none"> • 12m between habitable rooms and balconies • 9m between habitable rooms/balconies & non-habitable rooms • 6m between non-habitable rooms <p>From 5 to 8 storeys (25m height):</p> <ul style="list-style-type: none"> • 18m between habitable rooms and balconies • 13m between habitable rooms/balconies & non-habitable rooms • 9m between non-habitable rooms <p>From 9 storeys and above (over 25m height):</p> <ul style="list-style-type: none"> • 24m between habitable rooms and balconies • 18m between habitable rooms/balconies & non-habitable 	<p>External separation:</p> <p>Western Side: Between proposed development at 3-5 Trelawney St: 26m (based on elevation plan provided for 7-9 Rutledge).</p> <p>Northern Side: Ground Floor Level: 6.5m Level 1: 3m – 7.4m Levels 2-5: 5.6m – 7.4m Level 6: 6m – 7.2m Level 7-10: 6.3m – 7.4m</p> <p>The Urban Design Review Panel recommended a minimum of 6m be provided from the northern boundary. The majority of the built form achieves this. Only a minor balcony section on Levels 1 to 5 encroaches this by 0.4m. This is a minor encroachment.</p> <p>Eastern Side: The approval for the Eastwood Shopping Centre will include the erection of residential units which will consist of main living areas and private open spaces facing the east elevation of the proposed development. The proposed building will have a 6m separation from the approved development for the Ground Level to Level 3, then a</p>	Insufficient information

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
	<p>rooms</p> <ul style="list-style-type: none"> ▪ 12m between non-habitable rooms 	<p>separation of 15m (9m provided by the approved development) from Levels 4 to 10. For the first four levels of the proposed development, the building separation is acceptable given that it will face the blank wall of the approved car park levels of the Eastwood Shopping Centre development. The building separation for Levels 4 to 7 will not comply with the minimum separation requirement of 18m by 3m. The building separation for Levels 8 to 10 will not comply with the minimum separation requirement of 24m.</p> <p>The proposal will not satisfy the following objectives of the control:</p> <ul style="list-style-type: none"> - To provide visual and acoustic privacy for existing and new residents, - To allow for the provision of open space with appropriate size and proportion for recreational activities for building occupants. - To control overshadowing of adjacent properties and private or shared open space <p>No concerns are raised to the separation given the visual and acoustic implications will be catered for via the proposed screening. The only concern is maintaining solar access to west facing units of the approved Eastwood Shopping Centre Development. Insufficient</p>	

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		information has been submitted to verify compliance will be maintained with the RFDC requirement for at least 70% of the approved units will have at least 2 hours solar access between 9am and 3pm on 21 June.	
Street, Side and Rear Setbacks	<p>In general, no part of a building or above ground structure may encroach into a setback zone.</p> <p>Exceptions are:</p> <ul style="list-style-type: none"> ▪ underground parking structures no more than 1.2m above ground, where this is consistent with the desired streetscape (see Ground Floor Apartments) ▪ awnings ▪ balconies and bay windows. 	<p>The development does not meet the 6m setback requirement of the RFDC from the northern boundary. However this is a minor variance and the easement extends further north which will ensure that built structures on adjoining properties to the north will be setback at least 7m away from the southern side of the easement. (Refer to building separation above with reference to the proposed northern and eastern side setbacks).</p> <p>The setback of the residential Levels 4-10 extend closer to Rutledge Street frontage than the approved residential levels of the Eastwood Shopping Centre development. This will create an inconsistent street setback and add to the bulk and scale of the development and building depth. As discussed previously, this will impact on the corner emphasis and human scale</p>	No
Floor Space Ratio	FSR in denser Urban Areas: 80% of Building Envelope, (Footprint	There is no FSR control applicable to the development.	N/A

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
	area x no. storeys x 80%)		
Deep Soil Zones	Minimum of 25% of the open space area	The basement is proposed to extend from boundary to boundary (with the exception of the easement and southeast corner). Accordingly appropriate soil depths must be provided to ensure mature planting can be supported and an appropriate stormwater filtration system must be provided. Also refer to below section 'Urban Design Review Panel'.	Subject to conditions
Stormwater Management	Reduce the volume impact of stormwater on infrastructure by retaining it on site.	The proposal has been subject to review by Council's Engineer. No concerns have been raised. Conditions have been recommended.	Subject to conditions
Safety	Reinforce the development boundary to strengthen the distinction between public and private space.	Subject to conditions as outlined in the SEPP 65 table above.	Subject to conditions
Privacy	Locate and orient new development to maximise visual privacy between buildings on site and adjacent buildings. Design building layouts to minimise direct overlooking of rooms and POS adjacent to	The building will not achieve the minimum building separation requirement to the east elevation. The provision of the required additional setbacks for Levels 4 to 7 (i.e. an additional 3m) and Levels 8 to 10 above (i.e. an additional 9m) will improve privacy implications between developments, however adequate amenity will be provided given the	Subject to conditions

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
	<p>apartments.</p> <p>Use detailed site and building design elements to increase privacy without compromising access to light and air.</p>	<p>proposed screening on the east elevation.</p> <p>The submitted acoustic report indicates that certain measures need to be adopted to mitigate surrounding traffic noise and provide an acceptable internal living environment to the units. The measures include the provision of sealed door frames and windows on external elevations. Conditions should be included in a consent accordingly. A condition should specify that external facing windows should be operable.</p>	
<p>Pedestrian Access</p>	<p>Follow the accessibility standards of AS 1428.</p> <p>Promote equity by ensuring the main building entrance is accessible for all from the street and from car parking areas</p>	<p>Amended plans have been submitted to indicate steps and a ramp into the retail/commercial tenancies along the Trelawney Street frontage of the site, and a step into each retail/commercial entry along the Rutledge Street frontage. They also indicate a separate internal ramp to each tenancy facing Trelawney Street. A condition is recommended to ensure the ramps along Trelawney Street have the appropriate width and grades to facilitate wheelchair access and the entries along Rutledge Street are graded and all entries wide enough to cater for wheelchair access. This will meet the relevant requirements for wheelchair access for commercial / retail tenancies.</p>	<p>Subject to conditions</p>

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
Apartment Layout	Design layouts, which respond to the natural & built environment by maximising opportunities to facilitate natural ventilation & to capitalise on natural daylight, for example by providing corner apartments; cross-over or cross-through apartments; split-level or maisonette apartments; shallow, single-aspect apartments.	The applicant has not submitted information identifying the fixed and operable windows. Despite the recommendation of the acoustic report to provide closed windows, opportunities for natural ventilation need to be maximised given the enclosed central core building layout. Accordingly, if the application is approved a condition is recommended to require externally facing windows to be operable windows and only frames to be sealed.	Subject to conditions
	Single-aspect apartments = 8 m max. in depth from a window.	The following apartments do not achieve compliance: Units 110-510, G01-501, G03-1003, G04-504, 107-507, 108-508. This is a total of 11 units. The non-compliances are accepted in this case given: - The percentage to the overall scheme is minimal. - The variances to the unit lengths are minimal. - The variances will provide more functional space. - The variances will result from sections in a unit rather than the whole of a unit. (NB: This has taken into account the recommended re-orientation	Satisfactory

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		of units which has resulted in some units changing from double to single aspect or single to double aspect).	
	The back of a kitchen = 8m max. from a window.	Most units achieve this requirement. The part of the back of some kitchens will provide a variance of around 0.5m. This is minimal and kitchens can be designed to ensure cooking areas are not located more than 8m from a window.	Satisfactory
Internal and External Areas	1 Bed cross through: 50/8m ² 1 Bed single aspect: 63.4/10m ² 2 Bed corner: 80/11m ² 2 Bed cross through: 89/21m ² 3 Bed: 124 / 24m ²	The following units do not achieve compliance: 103-1003 – private open space becomes non-compliant if the option plan is adopted. (Refer to 'Solar Access' discussion below this table). 605: 108 / 14.56 (3bed) 604: 101/21.84 (3 bed) 602: 101/21.84 (3 bed) 601: 105/ (3 bed) 705: 1005: 108.45 / 42.88 (3 bed) 704-1004: 100.58/22.36 (3 bed) 702-1002: 102.99/ (3 bed) 701-1001: 105/19.76 (3 bed) The non-compliances to the 3 bedroom units are accepted in this case given: - The private open spaces will provide adequate amenity. - Large communal areas will be provided. - Variances for the private open spaces of 1 bedroom units are minimal.	Satisfactory subject to the option plan not being adopted.

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		<ul style="list-style-type: none"> - Variances to unit areas are minimal. - Smaller unit areas and private open spaces will encourage affordable housing. - Functional spaces will be provided. - The units can easily be converted to 2 bedroom units and therefore meet the related internal area requirements. <p>Variances to the private open spaces will be minimal in this case.</p>	
Ceiling Heights	<p>Minimum Floor to Ceiling Heights (F-to-C): Mixed use buildings: 3.3m for ground floor retail or commercial and 1st floor residential, retail or commercial.</p> <p>RFB's or residential floors in mixed use buildings: 2.7m for all habitable rooms, 2.4m for all non-habitable rooms, however 2.25m is permitted.</p>	<p>Retail tenancies will have a minimum F-to-C height of at least 3m. This is satisfactory as the floor levels have been increased to cater for flood level concerns raised by Council's Engineers.</p> <p>Residential units will have a F-to-C height of 2.7m.</p>	Satisfactory
Ground Level Units	Ensure adequate privacy and safety of ground floor units located in urban areas.	The proposed landscaping, fencing and surrounding built form will provide an adequate buffer in terms of privacy for the ground floor units.	Yes

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
Ground level units	Private Open Space at Ground Level: 25m ² & min. Dimension 4m. Refer to 'Balconies' for above ground POS.	All ground level units achieve the minimum area and dimensions.	Yes
Communal Open Space	Communal Open Space: 25-30% of site area (493.5 – 592.2m ²)	27% (580.09m ²).	Yes
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> ▪ studio apartments 6m³ ▪ one-bedroom apartments 6m³ ▪ two-bedroom apartments 8m³ ▪ three plus bedroom apartments 10m³ 	Some 2 bedroom units will not be provided with the minimum requirement. The variance will be approximately 0.2-0.4m ³ Should the application be approved, a condition is recommended to require each unit to be provided with the following minimum storage areas and such areas to be indicated on the plans, including the division of storage zones: Per 1 bedroom Unit: 6m ³ Per 2 Bedroom Unit: 8m ³ Per 3 Bedroom Unit: 10m ³	Subject to conditions
Daylight Access – skylight and sunlight	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units and increase their window area	The number of single aspect units with a southerly, south westerly or south easterly orientation is at least 11 (14%). The units are G01, 107 – 507 and 104-504. Units 107 – 507 will receive the minimum 2 hour solar access requirement, so no concerns are raised to these units. Units 104-	No

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		504 will receive about 1 hour solar access, which is not satisfactory. NB: Units 105-505 and 106-506 will receive no solar access, even though these units can be classified as dual aspect given they have a window facing in the opposite direction. (The subject requirement only relates to single aspect).	
	Design for shading and glare control, particularly in summer.	A condition can be included in a consent to avoid reflective films; use a glass reflectance below 20%; and consider reduced tint glass.	Subject to conditions
	Living rooms and private open spaces for at least 70 % of apartments in a development should receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.	54%. Refer to discussion below table. The minimum requirement will not be achieved.	No
Natural Ventilation	60% of units should be naturally cross ventilated. Select doors and operable windows to maximise natural ventilation opportunities established by the apartment layout.	39% (11). The general layout of the units around a central core limits opportunities for cross ventilation.	No

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Compiles
Energy Efficiency	<p>Reduce reliance on artificial lighting by:</p> <ul style="list-style-type: none"> • providing a mix of lighting fixtures, including dimmable lighting, to provide for a range of activities in different rooms • designing to allow for different possibilities for lighting the room, for example, low background lighting supplemented by task or effect lighting for use as required • using separate switches for special purpose lighting • using high efficiency lighting • using motion detectors for common areas, lighting • doorways and entrances, outdoor security lighting. 	<p>Conditions can be included in a consent to ensure the implementation of the commitments indicated on the BASIX certificate, as well as require:</p> <ul style="list-style-type: none"> • lighting adjacent to windows be switched separately to those not adjacent to windows; • dimmable lighting in living areas; and • security lighting for units doorways/entrances. 	Subject to conditions

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
Water Conservation	To reduce mains consumption of potable water. To reduce the quantity of urban stormwater runoff.	The application can comply with the BASIX commitments in relation to water conservation.	Subject to condition.

Solar Access

The development does not achieve the requirement for *living rooms for at least 70 % of apartments in a development should receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter*. An optional plan has been submitted that indicates the reorientation of the living rooms of Units 109, 209, 309, 409 & 509, and resizing of adjacent Units 110, 210, 310, 410 & 510. This reorientation will increase solar access within the living rooms of the units if the impact of the Eastwood Shopping Centre is not taken into account but will not result in closer compliance with the 70% requirement. The architect has advised that the internal planning will not be as desirable. Since the internal planning will not result in any major obstacles, the re-orientation is supported. Submitted documents indicate a similar reorientation of east facing units at the opposite corner. Should the application be approved, a condition should be included to require the adoption of the reorientation and associated resizing of adjacent units.

The applicant has submitted a summary table indicating the impact of the approved Eastwood Shopping Centre development on the proposed development with respect to the achievement of the solar access requirement of the Residential Flat Design Code (RFDC) for living rooms only. The requirement is for a minimum of 70% of units should achieve at least 3 hours of sunlight to main living areas and private open spaces between 9 am and 3 pm in mid winter. The RFDC suggests for dense urban areas 2 hours may be acceptable. Given the LEP controls that apply to the Eastwood Village encourage a distinct increase in density and the neighbouring Eastwood Shopping Centre Development site has been approved with a significant density and high built forms, the achievement of at least 2 hours is accepted.

Taking into consideration the resultant impact of the approved Eastwood Shopping Centre development on the proposed development, the achievement of a minimum of 2 hours solar access to main living areas will be reduced from 65% to 54%. This results in a further non-compliance to the minimum requirement of 70% and major variance of 16%. A summary table provided by the applicant indicates that if the units recommended for re-orientation to the north are reoriented and the resultant impact

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of the approved Eastwood Shopping Centre development are taking into consideration, then there will be an increase from 54% to 61% of units that achieve the minimum 2 hour requirement. However the corresponding solar access table indicates that units 104-504 (which are located to the southeast) will have an increase in solar access to achieve compliance not the re-orientated units. This appears to be an error and therefore the 61% is not relied upon.

Regardless, the applicant lists the following reasons as to why this variance is acceptable:

- *A key urban design objective is to ensure that the built form addresses the corner and the intersection of Rutledge and Trelawney Street. Maintaining consistent built form along the southern elevation on Rutledge Street creates 2 units on levels 1 – 5 that orientate to the south.*
- *Units on the south elevation have been designed to orientate their living spaces to the East and West and the habitable living space has been extended to the building setback to maximise solar access into these units.*
- *Balconies of units on the East and West elevation have been located on the northern aspect of these units to maximise solar access into Private Open Space.*
- *When the reorientation of units X02 and X09 is considered in the solar access calculation, the strict compliance figure does not change, however these units do receive 3 additional hours of solar access into the living spaces and private open space.*
- *Inclusion of the Eastwood Shopping Centre should not be considered as the proposed development impacts on the subject site with a side boundary setback of 4.4m and is not in compliance with SEPP65 minimum building separation.*

As discussed above, the corner treatment is not appropriate. The achievement of a consistent built form to the south is acknowledged however there are other non-compliant units other than those located on the south elevation. Further to this, units along the south elevation will result in an inconsistent front building line with respect to that approved for the Eastwood Shopping Centre development, not respect the desired massing as stipulated by Council's LEP height controls, not appropriately respond to the required corner treatment and disrespect the 'human scale', particularly as desired along Trelawney. In general, the development is representative of a poor outcome as it would not achieve the 70% of solar access to living areas for the absolute minimum requirement of 2 hours. (NB: Details on the achievement of a minimum of 2 hours have not been specified for the private open spaces of units). It is for these reasons that the variance is not accepted.

The applicant advised that the impact of the approved Eastwood Shopping Centre Development should not be considered. This is not concurred with. It is noted that if the subject application were to be approved, it would need to be subject to a deferred commencement consent condition based on the implementation of the consent for the approved Eastwood Shopping Centre Development to demolish the existing ramp

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and establish the approved vehicular access. Accordingly, the impact of the Eastwood Shopping Centre is important in this case.

The applicant has recommended reconfiguring units G03, 103, 203, 303, 403, 503, 603, 703, 803, 903 and 1003 to enable an increase in solar access. This would result in closer compliance with the minimum 70% requirement of the RFDC if the impact of the Eastwood Shopping Centre development is not considered (i.e. 68% if the initial 54% is applied). The reconfiguration is via the reduction of the balcony area to a 1m depth by the outward extension of the living room. This reduction will result in a non-compliant dimension as required under the RFDC. This is not supported as the balcony would be undersized, particularly directly adjacent to the main living area, and compliance will still not be achieved taking into account the impact of the Eastwood Shopping Centre Development. As discussed above, taking into account the impact of the Eastwood Shopping Centre Development is important in this case.

Urban Design Review Panel Comments

On 25 February 2011 Council's Urban Design Review Panel (Panel) considered a similar scheme to the proposed development. This was prior to lodgement of the subject DA. Comments made by the Panel have been included in italics below. A response in respect to this comment has also been provided below, including any changes made by the applicant to address concerns raised by the Panel or further justification of the scheme provided by the applicant.

Building Height:

The panel considers that the development should remain entirely within the statutory height planes to support and reinforce the overall massing strategy for the entire block within which it is located.

Comment: The applicant has mainly justified the building height on the following grounds:

- It will enable the development to directly relate to the scale of the Eastwood Shopping Centre development and provide an opportunity to design a significant gateway.
- The Eastwood Shopping Centre has not remained within the statutory height planes and massing strategy imposed by the LEP and DCP.

The issues raised by the applicant relating to the gateway presentation, impact on bulk/scale, impact on public amenity and meeting the objectives of Council's LEP controls have been discussed previously. The justifications are not well founded.

Street Setback

The 3m street setback above the retail podium should be complied with. Specifically, the building on the corner should be setback 3m from Rutledge Street.

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To ensure adequate apartment amenity, the residential component must be setback from the northern boundary a minimum of 6m.

On the eastern boundary only, the Panel considers blank walls on the boundary acceptable, subject to the detailed resolution of the design and materials of the walls.

Comment: The pre-DA scheme has been amended to mostly achieve compliance with the 3m setback. The applicant has advised that there is a minor variation on the corner of Rutledge and Trelawney Streets as a result of balconies and the corner design feature. The 3m requirement will be encroached on Levels 2-6 by a depth of 0.6m along a 4.2m length of the Rutledge Street frontage and 0.3m along the entire length of the Trelawney Street frontage. The corner framing will provide the variance along Trelawney Street frontage and some of the variance along the Rutledge Street frontage. The variance is minor and in itself would not be an issue. However the development does not provide an acceptable corner treatment to the site.

The pre-DA plans have been amended to remove any bank walls and provide a setback from the eastern boundary. This setback has been discussed above.

Mass and Apartment Layout

The current massing above the retail podium of 2 residential slabs running north – south raises a number of concerns:

- *The western slab presents a thin edge to Rutledge Street, weakening definition of this important corner.*
- *The separation between the two slabs is inadequate*
- *The excessive number of units facing west which are not cross ventilated.*

The Panel strongly recommends that other massing configurations be investigated in which there are a greater number of north facing units, a continuous building façade to Rutledge Street, a streetwall to Trelawney Street only for the retail podium and improved solar access and cross ventilation generally.

Comment: The pre-DA plans have been amended to consolidate the 2 residential slabs, provide a continuous corner treatment and provide a gateway element.

The applicant has advised that 63 of the 79 units will be cross ventilated. The applicant has included units which consist of projecting main living rooms with windows on either side of the projection. Whilst this may benefit the main living room, this solution will not achieve the cross ventilation of whole unit depth. As indicated in the table above, 39% of the units will be cross ventilated. These units will generally be corner units that have window openings on each aspect. The general layout of the units around a central core limits opportunities for cross ventilation. The development does not meet the 60% requirement of the RFDC.

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Street Frontages

The Panel believes active street frontages are essential at this location. The retail space fronting both Trelawney and Rutledge Streets must be primarily accessible from and located at street level.

The possibility of stepping the building down along Trelawney Street should be investigated, subject to the amount of retail space provided, its configuration and relationship to adjoining streets.

Comment: The pre-DA scheme has been amended to re-orientate retail spaces to address both Trelawney and Rutledge Streets. An internal arcade concept has been removed in favour of direct access to retail tenancies from the street.

The building has not been stepped down Trelawney Street as suggested by the Urban Design Review Panel. The applicant has advised 'the consistent building form running from the gateway intersection along Trelawney Street has been designed as a continuation of the gateway experience and provides an avenue into the town centre. This higher building form also bring the site into alignment with the height controls to the north and will produce a consistent, continuous avenue from the gateway leading down into Rowe Street and the heart of the Eastwood Town Centre'. The issues of massing, height and corner treatment have been discussed above.

Eastern Residential Lobby

Access to the eastern residential lobby is considered unsafe due to poor sightlines from the street and the location of the entrance doors. The entry configuration generally does not provide an appropriate address to the tower.

Comment: The residential entry has been reconfigured to address Trelawney Street.

Internal Apartment Amenity

For the western slab, the Panel considers that cross-ventilation across the walkway/corridor and through apartments via high-level openings is not acceptable in terms of acoustic privacy.

For amenity reasons, the Panel does not consider that it is acceptable that habitable rooms should open onto the light well/recess on the eastern boundary.

Some units in the east slab are considered too deep and narrow, with kitchens more than 8m from windows.

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Comment: The pre-DA scheme has been amended to consolidate the eastern and western slabs and remove the corridor. As indicated in the compliance table above, the minimum depth requirement of the RFDC is not met by the development.

Communal Open Space and Rooftops

Communal Open Space should be provided to meet the RFDC requirements. The Panel supports rooftop communal open space. Private roof-top spaces on Level 8 that are not directly connected to the units they are associated with are not supported.

Comment: The plans have been amended to achieve compliance with the minimum communal open space requirement of the RFDC. The private roof top spaces of Level 6 have been amended to reallocate the private spaces not directly connected to the units they are associated with, as communal open space.

Architectural Character

The architectural expression of the development is considered appropriate for its context

Comment: Noted.

(c) Relevant REPs

Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The subject Site is located within the catchment area identified under Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. Division 2 lists matters that Council must consider before granting consent to an application within the area. The proposed development will be satisfactory with respect to the relevant matters, as discussed below.

Biodiversity, Ecology and Environment Protection:

The scale and setback of the development and proposed drainage and sediment and erosion control measures will limit any of the following:

- Potential threat to any terrestrial and aquatic species, ecological communities, populations or their habitats;
- Adverse impacts to any natural intertidal foreshore areas, natural landforms, native vegetation and riparian land;
- Pollution or siltation of the waterway; and
- Changes to drainage patterns.

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Interrelationship of Waterway and Foreshore Uses:

There will be minimal interrelationship between the proposed development and the use of the foreshore and waterway, as well as any access thereto, given the setback of the site from the waterway and foreshore.

Foreshore and Waterways Scenic Quality:

There will be no imposing impact to the scenic quality. The Site is setback from the foreshore and waterway and surrounding built form will screen views of the development.

Maintenance, protection and enhancement of views:

No unreasonable obstruction of views or vistas is expected. The Site is setback from the foreshore and waterway, amongst other built forms.

Part 5 – Heritage Provisions

Clause 57 refers to Aboriginal heritage. There is little evidence to suggest that the Site is a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or an archaeological site of a relic that has Aboriginal heritage significance. The site is not listed as a heritage site.

Clause 58 refers to non-Aboriginal heritage. The subject Site is not identified as being an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance.

Clause 59 requires Council to assess the impact of development on the significance of any heritage items within the vicinity. There are no heritage items identified under the deemed SEPP within the vicinity of the Site.

(d) Any draft LEPs

Draft Ryde Local Environmental Plan 2011

Any additional provisions of the 'Draft Ryde Local Environmental Plan 2011', with respect to RLEP 2010, are addressed in the table below.

Control	Comment	Complies
<p><i>Clause 2.3 – Zone Objectives and land use table</i></p> <p>Zone B4 Mixed Use Objectives of zone</p> <ul style="list-style-type: none"> ▪ <i>To provide a mixture of compatible land uses.</i> 	<p>The proposed mixed use development is permissible with consent and consistent with the objectives of the zone.</p>	<p>Yes</p>

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Control	Comment	Complies
<ul style="list-style-type: none"> To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. 		
<p>Clause 4.3 – Height of Buildings</p> <p>The lot further west: 18.5m The lot further east: 33.5m</p> <p><i>(a) to maintain desired character and proportions of a street within areas, (a) to minimise overshadowing and ensure a desired level of solar access to all properties, (b) to encourage a built form that relates to human scale and topography, (c) to concentrate building heights around railway station, to provide focal points that clearly highlight the role of railway stations, transport nodes, or large vehicular intersections. (d) to reinforce the important road frontages along road corridors.</i></p>	<p>The proposed maximum permissible height of the lot further east is increased to 33.5m under the DLEP. The proposed development will still exceed this height by 8.06m.</p> <p>The objectives indicated are similar to those of RLEP 2010. There has been some minor rewording but the consistency of the development discussed with reference to RLEP 2010 remains the same.</p>	No
<p>Clause 6.7 - Environmental Sustainability</p> <p>All buildings a minimum of 1 500m² in gross floor area constructed on land zoned business or industrial are required to have issued at least a 4 Star Green Star certified rating from the Green Building Council of Australia where the Green Building Council rating tool can be applied.</p>	<p>The BASIX provisions override this control. The subject DA is accompanied by BASIX Certificate that indicates the development will achieve the minimum targets.</p>	-
<p>Clause 6.8 – Storm water Quality</p>	<p>Council's Engineer has advised the stormwater drainage scheme is acceptable subject to conditions.</p>	Subject to conditions.

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(e) Any DCP (e.g. dwelling house, villa)

The relevant provisions of Council's DCP are addressed in the table below.

Control	Comments	Compliant
Ryde Development Control Plan 2010 Part 4.1 Eastwood Town Centre		
2.1.1 Planning Principles for Eastwood		
<p>Regional Role:</p> <p>Development should contribute to the status of Eastwood as an important business, employment and residential location. Development is to promote a compact working and living environment to maximise the efficient use of resources and infrastructure provision.</p>	<p>The proposal is for a mixed use development. It will: provide two active, retail/commercial street frontages; and promote a compact working and living environment.</p>	Satisfactory
<p>Integrated Planning and Development:</p> <p>Planning and development is to ensure that social, economic, environmental and urban design issues are considered together and with proper regard for their mutual and cumulative impacts. All planning, design and development activities must take account of and effectively respond to the linkages and interfaces between public space and private land.</p>	<p>The only concern is the cumulative impact with respect to the excess height, scale and massing and disregard to achieving the 'human scale' initiatives for the locality.</p>	No
<p>Public Domain</p> <p>Development is to define and contribute to the public domain so as to create a high quality physical setting for buildings, which is safe and accessible and can be</p>	<p>Should the subject application be approved, a condition is recommended to ensure that the public domain is upgraded to reflect the 'Eastwood Public Domain Manual'.</p>	Subject to conditions.

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Control	Comments	Compliant
<p>enjoyed by shoppers, residents and workers. Development of the public domain is to enhance the integration between individual precincts and their surrounding areas. Public space areas will be set aside for public use and enjoyment. Development that enhances the enjoyment of these public spaces, such as kiosks, restaurants, recreation facilities, will be encouraged. Car parking facilities should be set back away from the public spaces and should not prejudice pedestrian and cycle use of the public space. Public streets and spaces will be created generally in accordance with the Master Plan for Eastwood.</p>		
<p>Urban Form Urban form is to reflect its location in relation to transport nodes, existing residential and commercial precincts, be architecturally rich and diverse, define and enhance the public domain and allow for mixed uses. Building form within specific blocks is to be articulated both in height and mass to provide interest, resolve urban design and environmental issues and satisfy other principles in this plan. Buildings are to be of high quality and adaptable to a variety of uses over time, to ensure their long life. d. Buildings are to support and be integrated into the public domain network to achieve</p>	<p>The development doesn't reflect the location in terms of respecting Trelawney Street as a street of high pedestrian amenity and the corner location of the site. The development will not enhance the public domain in terms of being sympathetic to the human scale. It lacks appropriate massing, as discussed above.</p>	<p>No</p>

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Control	Comments	Compliant
coherence and purpose. e. The integrity of heritage items and significant landscape elements is to be protected and enhanced.		
Land Use Mix Development is to provide a variety of housing types and employment-based activities and contribute to the character of the Village. Development is to contribute to an integrated mixed use development pattern (both vertical and horizontal) containing a wide range of housing, employment and recreation opportunities. Development is to facilitate the increase and diversity of employment opportunities, which are to be compatible with achieving a high quality, mixed shopping, living and working environment.	The proposed land use mix is appropriate.	Satisfactory
Transport and Access a. Development is to promote the reduction of motor vehicle dependency and actively encourage the use of public transport, walking and cycling. b. Accessible environment for people with disabilities and mobility difficulties is to be created to ensure access equity. c. The intensity of development is to be in accordance with the capacity of existing and proposed public transport and road systems. d. Parking provision is to	Development promotes the reduction of motor vehicle dependency and encourages the use of public transport, walking and cycling. Subject to conditions, an accessible environment for people with disabilities and mobility difficulties will be created. The intensity of development is to be in accordance with the capacity of existing and proposed public transport and road systems.	Subject to conditions

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Control	Comments	Compliant
<p>acknowledge accessibility by foot, bicycle and public transport.</p>		
<p>Environmental Performance</p> <p>Development is to create a safe and comfortable environment for shoppers, residents and workers in both the private and public space, by "best practice" design to ensure buildings and spaces achieve maximum environmental performance and minimum resources use.</p> <p>Development is to be designed having regard to:</p> <p>a. Wind effect; reflectivity; noise attenuation; solar access and energy conservation; water conservation and re-use; stormwater management; use of recycled materials; and waste reduction.</p> <p>b. The development of public spaces must contribute to greater bio-diversity, habitat protection and enhancement, and air and water quality.</p>	<p>The development doesn't reflect "best practice" design to ensure buildings and spaces achieve maximum environmental performance and minimum resources use. However the submitted BASIX certificate indicates that the development will achieve the minimum energy and water targets.</p> <p>The following matters have been discussed below: reflectivity; noise attenuation; solar access and energy conservation; water conservation and re-use; stormwater management; and waste management.</p> <p>It is advised that the wind impacts of the proposed development have been mitigated through the following:</p> <ul style="list-style-type: none"> - At Street level significant street tree planting will dissipate the effects of Southerly breezes down Trelawney Street. - Wind impacts will affect the Eastern elevation due to Sydney's North Easterly prevailing winds, and therefore the balcony spaces facing this elevation will be fitted with Louvre screens that can be located and adjusted to mitigate the effect of the prevailing wind. - In our experience the heavily articulated façade through the 	<p>Satisfactory</p>

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Control	Comments	Compliant
	<p><i>use of balconies blades and screens together with street level planting and large street canopies will all mitigate any potential for adverse wind impacts.</i></p> <p><i>- The approved Eastwood Shopping centre Development will also mitigate some of this north easterly wind impacts.</i></p> <p>These design solutions are considered satisfactory to effectively mitigate the impact.</p>	
3.0 Development Policies		
3.1 Mixed Use Development		
Car parking should be provided at either street level or basement level(s).	All the parking is provided in basement levels.	Satisfactory
Retail and other more active public uses, such as restaurants/cafes and libraries should be located at or around street level.	A retail/commercial level is proposed at the street level.	Satisfactory
The level immediately above street level could accommodate public and commercial uses which may not have the same regularity or intensity of pedestrian traffic as retail uses.	A retail/commercial area is proposed above street level.	Satisfactory
Upper levels of development could be used for either commercial or residential.	Other than the retail/commercial area provided above street level, Upper levels will be residential.	Satisfactory
Buildings should be designed to overlook public and communal streets and other public areas to provide casual surveillance.	The building incorporates adequate casual surveillance opportunities.	Satisfactory

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Control	Comments	Compliant
Private living spaces and communal or public spaces should be clearly identified and defined.	Public and private areas are well defined.	Satisfactory
Sufficient lighting is to be provided to all pedestrian ways, building entries, driveways and car parks to ensure a high level of safety and security for residents. Pedestrian and communal areas to be well lit and designed to minimize opportunities for concealment.	The SEE states ' <i>a lighting and security access system are to be installed to achieve a satisfactory level of safety and security</i> '. Additional detail of the lighting will be required as a condition of consent. Any such lighting should have an intensity and be faced as not to cause a nuisance to surrounding properties and traffic.	Subject to condition
Pedestrian entry to the residential component of mixed use developments should be separated from entry to other land uses in the building/s.	A separate residential lobby has been provided.	Satisfactory
3.2 Stormwater Management		
A stormwater inundation impact assessment or stormwater inundation management strategy is to be submitted for all developments. Floor levels within any new development should be a minimum of 300mm above the calculated flood level for the 100 year ARI event. Developments should comply with Part 8.2 Stormwater Management of this DCP.	Refer to 'Engineer Comments' below. Conditions are recommended to be included in a consent. NB: The plans have been amended to cater for the flood levels.	Subject to conditions
3.3 Architectural Characteristics		
3.3.1 Height		
Buildings must comply with the maximum height limit shown on the Height of Buildings Map under	Refer to LEP assessment above.	No

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Control	Comments	Compliant
Ryde Local Environmental Plan 2010.		
Except as specified above, development is to be within the envelope of the "sun altitude height plane" being the plane projected at an angle of 26° over a building site measured from the property boundary on the opposite side of the road	Refer to discussion and diagrams at the end of this table.	No
3.3.2 Setbacks		
New buildings are to have street frontages built predominantly to the street alignment for the first 2 storeys.	The lower ground level and ground level are proposed to be generally built along both street frontages.	Satisfactory
Buildings may be constructed to the side and rear boundaries for the first 2 storeys.	The building will be set back from the northern boundary, primarily as not to encroach on the existing easement, as well as provide some common and private open space at ground level. The building will be setback from the eastern side boundary at ground level to provide some common and private open spaces.	Satisfactory
Buildings (including balconies) are to be setback a minimum of 3 metres from all boundaries above the first 2 storeys.	The building maintains a minimum 3m setback above the first two floors, with the exception of minor encroachments at Levels 2 to 6. These encroachments will be a result from minor balcony extensions and the corner design framing feature. The 3m requirement will be encroached by a depth of 0.6m along a 4.2m length of the Rutledge Street frontage and 0.3m along the	Satisfactory

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Control	Comments	Compliant
	<p>entire length of the Trelawney Street frontage. No concerns are raised to the encroachments, as they are minor.</p> <p>NB: Despite general compliance with the minimum 3m setback requirement of the DCP along Rutledge Street, the massing is in breach of Council's envelope control prescribed in RDCP 2010 and would not match the approved setback of the Eastwood Shopping Centre Development which represents a better response.</p>	
3.3.3 Urban Design/Exterior Finishes		
Building exteriors are to be designed to avoid extensive expanses of blank glass or solid wall.	The design avoids large areas of blank walls or glass.	Satisfactory
Balconies and terraces should be provided, particularly where buildings overlook public spaces.	Ample balconies will be provided.	Satisfactory
All new buildings and renovations should incorporate a colour scheme using the colour palette.	The colour palette is acceptable.	Satisfactory
The siting and configuration of buildings should take into account the impact on surrounding development and public spaces in terms of amenity, shadowing and visual privacy.	No concerns are raised to the visual and acoustic implications. The only concern is that insufficient information has been submitted to verify compliance will be maintained with the RFDC requirement for living rooms and private open spaces of at least 70% of the units of the approved Eastwood	Insufficient information.

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Control	Comments	Compliant
	Shopping Centre Development will have at least 2 hours solar access between 9am and 3pm on 21 June.	
3.3.4 Corner Allotments		
The design of buildings should consider the following: i. The height of adjacent buildings; ii. Stepping the building up where the building turns the corner; iii. The incorporation of distinctive features to enhance the streetscape, i.e. clocks, flag poles, towers, etc; iv. Giving the corner a splayed, concave, convex or square recess treatment such that it signifies the intersection; and v. Design incorporating the removal of clutter such as power poles and advertising signage from around intersections.	Matters i, ii, and iii have been discussed in 'Clause 4.6' above. Should the application be approved, a condition is recommended to require the submission of a DA for a signage scheme as to avoid visual clutter.	No
3.4 Access & Parking		
3.4.2 Contributions		
Cash contributions are to be paid for the number of parking spaces not provided on site.	No cash contribution is applicable in this case.	NA
3.4.3 Location of Vehicle Access and Footpath Crossings		
The design and location of vehicle access to developments should minimise: • Conflicts between pedestrian and vehicles on footpaths, particularly along pedestrian	The vehicle entrance to the site will be via Trelawney Street. Council's Traffic Engineer and Roads and Maritime Services have reviewed the application and have raised no objections to	Satisfactory

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Control	Comments	Compliant
<p>priority streets; and</p> <ul style="list-style-type: none"> • Visual intrusion and disruption of streetscape continuity. <p>New vehicle access points are restricted in retail/pedestrian priority streets. Where practicable, vehicle access is to be from lanes and minor streets rather than major pedestrian streets or major arterial roads such as Rutledge Street, First Avenue, or Blaxland Road.</p>	<p>the development application.</p>	
3.5 Pedestrian Access & Amenity		
3.5.1 Street Frontage Activities		
<p>Buildings with frontages to retail/pedestrian priority streets are to contribute to the liveliness and vitality of those streets by providing one or more of the following at ground level:</p> <ul style="list-style-type: none"> • Retailing, food/drink outlets, customer counter services or other activities which provide pedestrian interest; • Enclosed shop-fronts with window displays of goods and services within, and/or artworks; • Open shopfronts to food outlets and/or interiors with tables and chairs for diners; • Indoor queuing space for activities that may involve queuing (including automatic teller machines) so that footpaths remain free for pedestrian movement. Recesses in the street alignment for these activities are appropriate; and 	<p>The proposed retail/commercial tenancies provide opportunities to facilitate the liveliness and vitality of the Trelawney Street frontage by providing glazed shop fronts, direct access to the footpath and a high standard of finish.</p>	<p>Satisfactory</p>

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Control	Comments	Compliant
<ul style="list-style-type: none"> ▪ A high standard of finish for shop fronts. 		
<p>Buildings with frontages to other streets and lanes are to contribute to the liveliness and vitality of those streets by:</p> <ul style="list-style-type: none"> ▪ Providing visual interest; ▪ Providing well designed and attractive entrances, lobbies and commercial uses at ground level; and ▪ Incorporating, where practicable, either open or enclosed shopfronts with window displays of merchandise or services within, and/or artworks. 	<p>Retail/commercial tenancies with glazed shopfronts will extend along the Rutledge Street frontage as to contribute to the vitality and liveliness of the street.</p>	<p>Satisfactory</p>
<p>Ground floor uses are to be at the same level as the footpath. Split level arcades or open retail forecourts at a different level to the footpath are inappropriate because they separate the activities within them from the street.</p>	<p>The plans have been amended to address concerns raised by Council's Engineer with respect to the flood levels. As a result the following has been added:</p> <ul style="list-style-type: none"> -Steps and a ramp along the Trelawney Street frontage of the retail/commercial tenancy further north; -A step into each retail/commercial entry along the Rutledge Street frontage; and -Steps and ramp way into the main lobby entry <p>A condition is recommended to ensure the ramps along Trelawney Street have the appropriate width and grades to facilitate wheelchair access and the entries along Rutledge Street are graded and wide enough to cater for wheelchair access.</p>	<p>Subject to condition.</p>

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Control	Comments	Compliant
The ground floor of all development is to be flush with the street footpath for the predominant level of the street frontage and at the main entry to the building.	Refer to above.	Subject to condition
All street frontage windows at ground level are to have clear glazing.	Should the application be approved, a condition can be included in a consent to ensure retail/commercial tenancies consist of clear glazing.	Subject to condition
Security grilles are to be fitted only within the shopfront. Such grilles are to be transparent.	A condition can be included in a consent to advise that no consent has been granted for any grilles.	Subject to condition
Recesses for roller doors and fire escapes are to be wide and shallow to provide for personal security. Narrow, deep recesses are to be avoided.	A condition should be included in a consent to ensure that, appropriate lighting is provided in the recess along the Rulledge Street frontage, or the recess be removed by extending the access way and an inward opening door be provided adjacent to the boundary.	Subject to condition
3.5.4 Landscaping & Trees		
Development proposals, incorporating landscaped elements, are to be accompanied by a landscape plan.	A landscape plan has been submitted and reviewed by Council's Landscape Officer. Refer to Landscape Architect comments below. Should the application be approved, a condition is recommended to require the landscape plan of Level 6 to be amended to reflect the amended Level 6 plan which indicates communal open space (drawing number DA-13 Issue B dated 13/04/2012).	Satisfactory

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Control	Comments	Compliant
Where appropriate, developments should incorporate landscaping in the form of planter boxes incorporated into the upper levels of building to soften building form.	The proposal incorporates planter boxes on Levels 1 and 6 to soften the built form.	Satisfactory
Ground level entry areas to upper level dwellings should be well lit and not obstructed by planting in a way that reduces the actual or perceived personal safety and security of residents or pedestrians.	Should the application be approved, a condition is recommended to ensure the external entry into the ground level lobby, internal ramp way and lift entries are well lit.	Subject to condition
Street trees shall be provided in accordance with the Master Plan for the Centre and shall be provided at the developer's cost in conjunction with any new building work involving additional floor space.	Should the application be approved, a condition can be included in a consent to require street trees to be provided at the developer's cost.	Subject to condition
Street trees at the time of planting shall have a minimum container size of 200 litres, and a minimum height of 3.5m, subject to species availability.	Council's Urban landscape Architect has advised of specific requirements in relation to this matter. A condition can be included in a consent to specify Council's requirement.	Subject to condition
Tree sites in the footpath area shall be 1.2m by 1.2m, filled with approved gravel and located 200mm from the back of the kerb line.	A condition can be included in a consent to ensure this.	Subject to condition
A tree grate of a type that meets Council's specifications shall protect all trees.	A condition can be included in a consent to ensure this.	Subject to condition
Where a proposal involves redevelopment of a site with a frontage of at least 40m to a public road, the developer shall arrange for electricity and	The applicant has provided correspondence from Ausgrid which confirms the requirement for a substation. It does not clearly confirm that the existing	Subject to condition

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Control	Comments	Compliant
telecommunications utilities to be undergrounded along the entire length of all street frontages. Such utility modifications will be carried out to the satisfaction of the responsible authority (e.g. Energy Australia).	above ground power lines in Rutledge Street cannot be placed underground. However this restriction applied to the approval of the Eastwood Shopping Centre with respect to the 66kv power lines along Rutledge Street. Council's Engineers have not required undergrounding in Rutledge Street. Should the application be approved, a condition is recommended to specify that all services and power lines in Trelawney be located underground.	
Where utility installations are undergrounded in conjunction with new development Council will waive 50% of the total contribution towards public space acquisition and embellishment normally payable under Council's relevant Section 94 Contributions Plan.	As discussed previously, electricity lines along Rutledge Street may not be able to be placed underground. Accordingly no reduction would apply.	Satisfactory
3.5.5 Awnings and Colonnades		
Buildings with frontage to any street must incorporate an awning or colonnade along that boundary.	An awning is proposed along Trelawney Street and Rutledge Street.	Satisfactory
The height of a colonnade, awning or covered way shall not be less than 3 metres or greater than 4.5 metres.	The minimum awning height indicated on the drawings is 3m and the maximum is 4.47m.	Satisfactory
The width of a colonnade, awning or covered way shall not be less than 3 metres.	A condition is recommended to ensure the minimum width is complied with, except where tree cut-outs are proposed.	Satisfactory
Any new awnings should: <ul style="list-style-type: none"> Be continuous for the entire length of the site frontage; 	The awning along Rutledge Street ends just before the sites southeast corner. This is	Subject to condition

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Control	Comments	Compliant
<ul style="list-style-type: none"> ▪ Be set back from the face of the kerb by 0.6m; ▪ Have cut-outs of 1m wide by 1m deep to accommodate street trees, where the frontage is proposed to accommodate a street tree in accordance with the master plan or any public domain improvement plan; ▪ Be weather sealed to the face of the building to which they are attached and to the adjoining awnings; ▪ Have a height clearance above the footpath level of at least 3m or a height consistent with adjacent awnings; and ▪ Maintain sufficient clearances from any overhead electricity or telecommunications installations. 	<p>appropriate as:</p> <ul style="list-style-type: none"> - Minimal pedestrian activity is expected here given that the pump room and substation will be located at the sites corner. - No encroachments are permitted over the substation, as advised by Ausgrid. - The awning cannot be extended to the approved awning of the Eastwood Shopping centre given the setback of the approved awning from the common boundary, and the location of an approved substation and loading dock entry adjacent to the site. <p>Should the application be approved a condition should be included to require 1m x 1m cut-outs, a 600mm setback from the face of the kerb and weather sealing to the facade of the building, where appropriate.</p>	
<p>Ground level shop fronts may incorporate see-through security grills or translucent barriers to ensure that maximum light is transmitted to footpath areas. Blank roller-shutter type doors will not be permitted.</p>	<p>A condition can be included in a consent to ensure this.</p>	<p>Subject to condition</p>

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Control	Comments	Compliant
3:7 Environmental Management		
3:7.1 Sunlight		
Major public spaces should receive a minimum of 50% sunlight on the ground plane for at least 2 hours between 10am and 2pm on June 21.	There are no major public spaces that will be affected by the proposal.	Satisfactory
All new buildings should have an area of roof, with appropriate orientation and pitch that is suitable for the installation of solar collectors and photovoltaic cells for energy conservation.	The proposal complies with BASIX requirement in terms of energy consumption and thermal performance.	Satisfactory
In new residential developments, windows to north-facing living areas should receive at least 3 hours of sunlight between 9am and 5pm on June 21 over a portion of their surface. North-facing windows to living areas of neighbouring dwellings should not have sunlight reduced to less than the above 3 hours.	The north facing living room windows of all units, except three, will meet the minimum 3 hour solar access requirement. The north facing living room windows of units G01, G02 and 109 will receive less than 3 hours sunlight, however they will receive a minimum of two hours which is accepted in this case. North-facing windows to living areas of neighbouring dwellings will not have sunlight reduced to less than the 3 hours, where existing.	Satisfactory
3:7.2 Wind Standards		
Building design is to minimise adverse wind effects on recreation facilities and open terraces within developments.	The wind impact has been addressed previously.	Satisfactory
3:7.3 Energy Efficiency of Buildings		
To maximise energy efficiency and sustainable design. Buildings should optimize their passive and	The minimum standards are met. Reference should be made to the submitted BASIX	Satisfactory

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Control	Comments	Compliant
<p>operational energy efficiencies, reduce pollution, include waste minimisation systems and use construction materials from renewable resources.</p> <p>New Buildings: should be designed to ensure that energy usage is minimised.</p>	<p>certificate and Energy Report.</p>	
3.7.4 Vibration and Noise Mitigation		
<p>In respect of proposals for new residential buildings:</p> <ul style="list-style-type: none"> ▪ the building plan, walls, windows, doors and roof are to be designed and detailed to reduce intrusive noise levels. ▪ balconies and other external building elements are located, designed and treated to minimise infiltration and reflection of noise onto the façade; ▪ dwellings are to be constructed in accordance with: AS 3671-1989: Acoustics – Road Traffic Noise Intrusion, Building Siting and Construction; AS 3671-1987: Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors; and Environmental Criteria for Road Traffic Noise (EPA, 1999). 	<p>An acoustic report has been submitted. Should the application be approved, conditions are recommended to ensure:</p> <ul style="list-style-type: none"> ▪ Sealing of external facing window frames and door frames. ▪ Provision of acoustic glazing on outward facing windows. ▪ Appropriate timeframes for delivery vehicles. ▪ Installation of a ventilation system to each unit that will satisfy internal sound levels detailed in the submitted acoustic report. ▪ Implementation of the roller shutter manufacturer's maintenance schedule and recommended servicing of guide rails. ▪ Compliance of the plant and equipment noise with the criteria listed in the submitted acoustic report. ▪ A BCA sound compliance assessment is carried out at CC stage and the required works are implemented to 	<p>Subject to condition</p>

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Control	Comments	Compliant
	ensure compliance with the airborne and impact sound isolation requirements between residential units set out in the BCA.	
3.7.5 Reflectivity		
The excessive use of highly reflective glass is discouraged. New buildings and façades should not result in glare that causes discomfort or threatens safety of pedestrians or drivers. Visible light reflectivity from building materials used on the façades of new buildings should not exceed 18%.	The proposal is considered acceptable, subject to a condition in a consent to ensure an appropriate reflectivity index is provided for external glazing.	Subject to condition
3.7.6 External Lighting of Buildings		
Any external lighting of buildings is to be considered with regard to: <ul style="list-style-type: none"> • The integration of external light fixtures with the architecture of the building (for example, highlighting external features of the building); • The contribution of the visual effects of external lighting to the character of the building, surrounds and skyline; • The energy efficiency of the external lighting system; and • The amenity of residents in the locality. 	Discussed above.	Subject to condition
3.7.7 Waste Management		
All applications for demolition, building and land development must be accompanied by a Waste Management Plan.	A waste management plan has been submitted and reviewed by Council's Environmental Health Officer. No issues have been	Satisfactory

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Control	Comments	Compliant
	raised in respect of this matter.	
A waste cupboard or other appropriate space is provided within dwellings for temporary storage of recyclables, garbage and compostable material.	A condition can be included in a consent to ensure compliance.	Subject to condition
In circumstances where communal facilities are proposed, the area or room is of sufficient size to store Council's standard bins and is easily accessible from each unit and from Council's usual collection point.	The development complies with this requirement.	-
The location and design of facilities does not impact on adjoining premises and the amenity of the dwellings within the development (e.g. odour, noise).	No evident impact, as the bin storage areas will be located centrally within the building in the common area / basement.	Satisfactory
Adequate space has been provided to enable on-site composting.	Adequate waste disposal arrangements have been proposed on the site including handling of recycling materials. Management of composting may become an issue given the mixed use development and therefore is not required in this instance.	Satisfactory.
Acceptable administrative arrangements for ongoing waste management are determined.	The waste disposal arrangement has been reviewed by Council staff, and is generally considered satisfactory. The operational arrangement will be put in place upon completion of the development if approved.	Satisfactory
Communal on-site waste storage and recycling area or garbage and recycling room must be provided for residential development. The	A communal on-site waste storage room will be provided for the residential component. A separate room is proposed for	Subject to conditions

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ITEM 3 (continued)

Control	Comments	Compliant
area should be capable of accommodating the required number of standard waste containers. Additional space for storage of bulky waste should be provided.	the storage of bulky waste.	
Buildings containing more than four storeys shall be provided with a suitable system for the transportation of garbage from each floor level to the garbage and recycling room(s). This may be a garbage chute system. Where such facilities are utilised, space must be provided on each floor for storage of recyclables.	A garbage chute is proposed, as well as an adjacent area to accommodate one bin.	Satisfactory
Business and Retail Premises: The system for waste management is compatible with collection services.	No concerns have been raised by Council's Environmental Health Officer. Conditions are recommended to be included in a consent, should the application be approved.	Satisfactory
On-site source separation is facilitated.	A separate waste room is proposed for the non-residential tenancies which will consist of appropriate bin types to facilitate source separation.	Subject to condition
An appropriately designed and well located waste storage and recycling area and/or garbage and recycling room is provided on-site.	A separate waste room is indicated on the drawings. Should the application be approved, a condition is recommended to ensure the room has the required facilities, finishes and floor grading.	Subject to condition
Clear access for staff and collection services is provided.	It is likely that a caretaker or other employed person will be responsible for checking and transporting the bins, where necessary.	Subject to condition

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Control	Comments	Compliant
Facilities are carefully sited, well-designed and do not impact on adjoining premises or the amenity.	Garbage rooms will be well located.	Satisfactory
There are acceptable administrative arrangements for ongoing waste management.	A condition can be included in a consent to ensure by-laws for ongoing waste management, particularly responsibilities of a caretaker or other employed persons, are specified in a management plan. Conditions of consent can be used to require adequate waste handling arrangements on the site.	Subject to condition
Ongoing management is a significant issue - details are required in the waste management plan.	The submitted waste management plan has been reviewed by Council's Environmental Health Officer, who has raised no concerns.	Subject to conditions
Special attention should be paid to food scrap generation. Specialised containment should be provided and a regular and frequent collection service arranged to ensure that no impacts result from the activity.	At this stage the use of the retail space is not known. Waste generation and management will be reviewed in more detail at a future stage.	Subject to condition
7.1 Energy Smart, Water Wise	A BASIX Certificate has been submitted in respect of the development.	Satisfactory
7.2 Waste Minimisation and Management	The development complies with the requirements of this plan.	Satisfactory
9.2 Access for People with Disabilities	Section 9.2 requires 10% of the total number of units to be adaptable. At least eight (8) adaptable units are provided and at least one adaptable car space is provided for each adaptable unit.	Subject to condition

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Control	Comments	Compliant
	<p>Should the application be approved, conditions are recommended to ensure that certain details are confirmed and/or indicated on Construction Certificate documentation as discussed in the submitted access report. They relate to the following aspects:</p> <ul style="list-style-type: none"> ▪ External pathway links and building entrance doorway entry landings and thresholds. ▪ Entrance door schedules and hardware. ▪ Ramp and stairway handrails, tactile surface indicators, step nosings, and risers. ▪ Ramping / raising the internal fitout and finished floor level of northern retail entry. ▪ Lift internal floor areas, controls, handrails and the like. ▪ Fittings and fixtures of accessible sanitary facilities. ▪ Raised tactile and Braille signage for common area, public toilets and amenities. ▪ Lift lobby widths and doorway thresholds. ▪ Door widths and level handles of adaptable units. ▪ Installation of kitchen cupboards, appliances and the like for adaptable units. ▪ Outdoor private open space threshold ramps of adaptable units. <p>A discussed above, a condition</p>	

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Control	Comments	Compliant
	is recommended to ensure disabled access is provided directly from the footpath into each retail tenancy.	
<p>9.3 Car Parking</p> <p>Residential: 0.6-1 space/1 bedroom: 9.6-16 0.9-1.2 spaces/2 bedroom: 38.7-51.6 1.4-1.6 spaces/3 bedroom: 28-32 1 visitor space/5 dwellings: 15.6</p> <p>Retail: 1/25sqm = 36.5spaces</p>	<p>Total Required: The total number of residential spaces is 92- 108</p> <p>The total number of retail is 37, TOTAL Required –129-145 CAR</p> <p>Total Proposed: The total number of residential spaces is: 129</p> <p>The total number of retail is 26.</p> <p>TOTAL Proposed – 155 A condition should be included in a consent to require the reallocation of car spaces to respect the requirements of the RDCP. The reallocation should be at least: -37 retail spaces, -79 resident spaces -16 resident visitor spaces</p>	Subject to condition

Building Envelope Control

The proposal does not comply with the envelope control as indicated in the diagrams below.



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Diagram 2: North Elevation -

-  Area of non-compliance with maximum 18.5m and 30.5m LEP Height Standards
-  Building Envelope of RDCP 2010

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ITEM 3 (continued)



Diagram 3: East Elevation -

-  Area of non-compliance with Building Envelope of RDCP 2010 projected from **proposed** widening of Rutledge Street.
-  Area of non-compliance with Building Envelope of RDCP 2010 projected from **existing** Rutledge Street boundary.

RDP 2010 provides that in certain circumstances buildings may be approved if they project above the building envelope plane. The circumstances include:

- *the non compliance is consistent with the aims, principles and strategies of the Plan;*
- *in the circumstances of the site the strict application of the provision is unnecessary or unreasonable, such as corner allotments or the presence of an intervening structure;*

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- *It can be demonstrated that the intention of the control is largely met; or*
- *variation of the control results in an improved design solution for the site taking into consideration the nature of the adjoining development.*

The circumstances in which strict application of the building envelope is considered unnecessary or unreasonable have been identified above. These circumstances will ensure that the intention of the control will be largely met. As demonstrated in this report section, the intentions of the control will not be satisfactorily met by the extent of the proposed variance and this variance will not necessarily provide an improved design taking into consideration the nature of adjoining development.

Reference is made to the court findings for *Crown Atlantis Joint Venture v Ryde City Council*. In summary, the findings indicate that the achievement of the 'human scale' is important to the design outcome, particularly the proposed height, and should not be disregarded. The relevant findings are stated below:

1. *The intention of DCP 39 is that new development should have an urban village character. Development should be of human scale in the streetscape, being generally two to three stories in height. Taller building elements set back from street are permissible but they should not dominate.*
2. *Trelawney Street is to be developed for the enjoyment and utility of pedestrians with a high level of aesthetic amenity at street level.*
3. *Trelawney Street is a retail/pedestrian priority street and at its intersection with Rutledge Street forms a gateway to the Eastwood Town Centre. The street corner portion of the site is therefore a gateway site for the purposes of DCP 39 and notwithstanding the first objective above should be developed accordingly. More particularly the corner element of the building should address both streets and be stepped up especially in relation to structures at the street frontages.*

The third point verifies that the street corner portion of the site, not the whole length of the site, is that part that should form a gateway feature and should be developed accordingly. As stated above, a variance to the standard is likely to be accepted for the creation of a gateway feature as required by the DCP and implicated by Objectives (d) and (e) for the 'Height of Buildings' listed under Clause 4.3 of the RLEP. If appropriately designed and limited to the corner of the building, this would have minimal impact on retaining the human scale along Trelawney Street, reflecting the topography and providing a sympathetic transition to neighbouring properties to the north, if the remainder of the building is stepped down as discussed above.

With respect to the human scale aspect, the architect has noted that a 3m high awning above the footpath, on the opposite side of Trelawney Street, would obstruct a sightline projected from the boundary at a height of 1.5m and angle of 26 degrees and hence the higher/non compliant building portions. This is not concurred with. A pedestrian would have to be standing on the site boundary of 3-5 Trelawney Street.

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This would be difficult as the building is likely to extend up to this boundary and generally a pedestrian would not be walking flush against the boundary. If the sightline is projected from at least 500mm from the footpath edge (approximately one step away), the higher building portions would be visible. The submitted Trelawney Street elevation plan for the proposal at 3-5 Trelawney Street, indicates the awning will generally range from 3m to a maximum of 4.47m and therefore sightlines projected from the boundary would not be obstructed by the awnings higher than 3m above footpath level.

Section 94 Contributions Plan 2007

Development Contributions Plans – 2007 (2010). Amendment allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density/ floor area.

The proposed development will result in the following Section 94 contributions being payable.

Contribution Type	Contribution Amount
Community & Cultural Facilities	\$219,381.43
Open Space & Recreation Facilities	\$499,430.36
Civic & Urban Improvements	\$196,125.45
Roads & Traffic Management Facilities	\$30,569.12
Cycleways	\$16,712.09
Stormwater Management Facilities	\$56,229.26
Plan Administration	\$4,500.98
The total contribution is	\$1,022,948.69

10. Likely impacts of the Development

The likely impacts of the development have been addressed in previous sections of this report.

11. Suitability of the site for the development

The site is not classified as a heritage item nor affected by subsidence however, the site subject site is affected by 1 in 100 year overland flow path. The applicant has submitted amended architectural plans that indicate all finished floor levels of the building facing Rutledge and Trelawney Streets are 300mm above the top water level of 1 in 100 year ARI storm event. In this regard, the proposal is considered to be suitable for the site in terms of its impact on both the existing natural and built environment.

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12. The Public Interest

The public interest, in respect of this application, would be to ensure that the development application complies with the planning controls that affect the site. As demonstrated in this report, the application is not in the public interest.

13. Consultation – Internal and External

Internal Referrals

Environmental Health Officer:

No objections have been raised to the development subject to conditions. In the event that the DA is approved, the conditions should be included in the consent.

Drainage

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

Traffic

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

Public Domain

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

Waste

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

External Referrals

Roads and Maritime Services (RMS)

RMS has not raised any concerns subject to certain details being provided and/or complied with. These can be addressed via the inclusion of conditions in a consent, should the application be approved.

14. Critical Dates

There are no critical dates or deadlines to be met.

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15. Financial Impact

Nil

16. Other Options

The development is non-compliant with the applicable height, envelope and setback controls. These non-compliances will result in adverse urban design outcomes. Accordingly the development application is recommended for refusal.

Other options for the Council to consider are listed below:

- 1) The determination of the development application could be deferred to enable the applicant to submit amended plans. The purpose of the amended plans would be to achieve greater compliance with the height, setback controls, envelope and other substantial non-compliances with the current proposal and to achieve a better design outcome for the site.

If Council did resolve to defer the development application for the submission of amended plans, these plans would require re-notification. In addition, the applicant would get the opportunity to revisit the Voluntary Planning Agreement.

- 2) Should Council support the variations to the planning controls, Council could resolve to approve the development application subject to appropriate conditions. This option is not supported due to the issues already raised in the report. However if Council did wish to proceed with this option, it would be in Council's interest to also accept the Voluntary Planning Agreement referred to in Annexure 4.
- 3) Council could also resolve to support the development application however resolve to reject the VPA. This option is not supported as Council would not be receiving the additional funding as proposed in the VPA.

Conclusion

The proposed development has been assessed against the relevant planning provisions, which have included the provisions of SEPP 65, RFDC, RLEP 2010 and RDCP 2010. As a result, the assessment fails to comply with a number of the key controls, in particular the controls relating to height, envelope, depth, cross ventilation and solar access. The development will not provide appropriate urban design.

The proposed building height exceeds standards prescribed under the RLEP 2010 by a maximum of 22.84m where the 18.5m standard applies and 11.06m where the 30.5m standard applies. This will not be appropriate in the circumstances of this case as the height will not achieve related objectives of the control and B4 mixed use

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zone. It will not respect the desired massing and human scale initiatives. It will not be stepped to appropriately address the site's corner location.

Prior and during the submission of the subject DA, the applicant was advised by Council Officers and the UDRP that compliance needs to be achieved with the maximum height standard and that the applicant's design initiative of providing a 'gateway' entry can still be achieved with a compliant situation.

The desired future character of the Eastwood Town Centre expressed in local controls refers to retaining the 'urban village character'. This is directly related to respecting the human scale. The development does not respect this. The human scale issue is an important objective of not only the height standard of the RLEP but also of the height standard in the DRLEP and prescribed building envelope of the RDCP. The development will extend well outside of the building envelope control of the RDCP. Trelawney Street is identified as a retail/pedestrian priority street under the RDCP, which further reinforces the importance of respecting the human scale along this street. The development design has not had adequate regard to this important aspect.

The proposed development will not meet the absolute minimum RFDC requirement for living rooms and private open spaces of at least 70% of the units in the development achieving a minimum of 2 hours solar access between 9am and 3pm in mid winter. It proposes a major variation of 16%, with only 54% of units in the development achieving the requirement.

The proposed development will not facilitate the required building separation to the east (between the approved Eastwood Shopping Centre Development) as required under the RFDC. Insufficient information has been submitted to ascertain whether or not the proposed separation will be satisfactory with respect to solar access, i.e. the approved development will still achieve compliance with the RFDC requirement for living rooms and private open spaces of at least 70% of the units in the development achieving a minimum of 2 hours solar access between 9am and 3pm in mid winter .

In addition the applicant has not submitted details that verify the private open spaces of at least 70% of the proposed units will receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.

The proposal represents an overdevelopment of the site. The density is dictated by the applicable setback, height and envelope controls. The development does not achieve these controls and therefore is excessive in density.


Based on the above, the development is recommended for refusal.

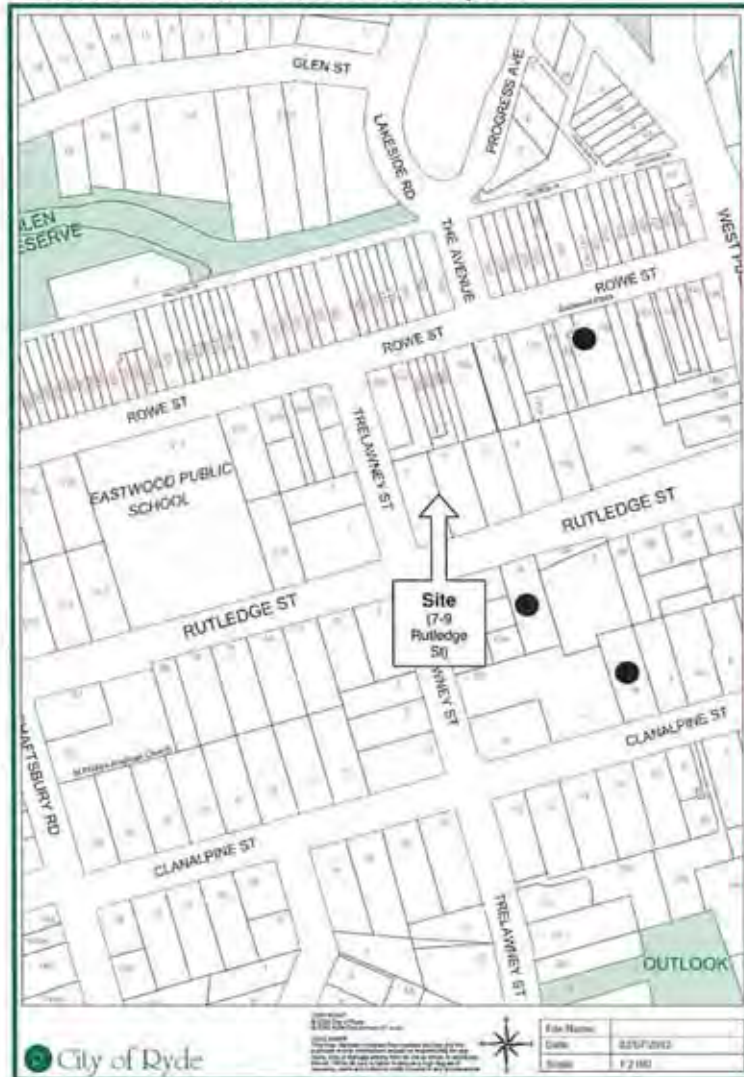
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 Indicates submissions received.
One submission was received from outside map area.



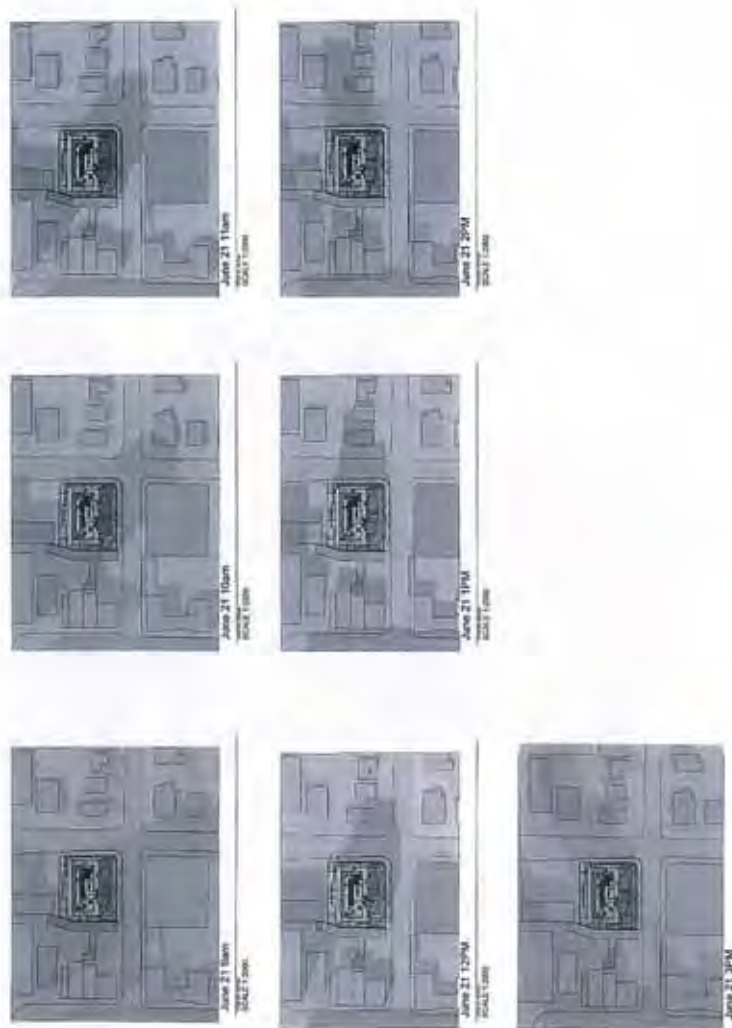
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ATTACHMENT 2



MEMO
 MOSES HAY MARTIN OLLMAN
 ARCHITECTS
 10/100 RYDE ROAD
 RYDE NSW 1513
 PH: (02) 9371 1111
 FAX: (02) 9371 1112
 WWW: www.mhmo.com.au

SHADOW DIAGRAMS
 1003P
 1/11/12
 1/11/12

DA-23
 1/11/12
 1/11/12

Mixed Use Development
 Bullidge Property Pty Ltd
 Bullidge-CP

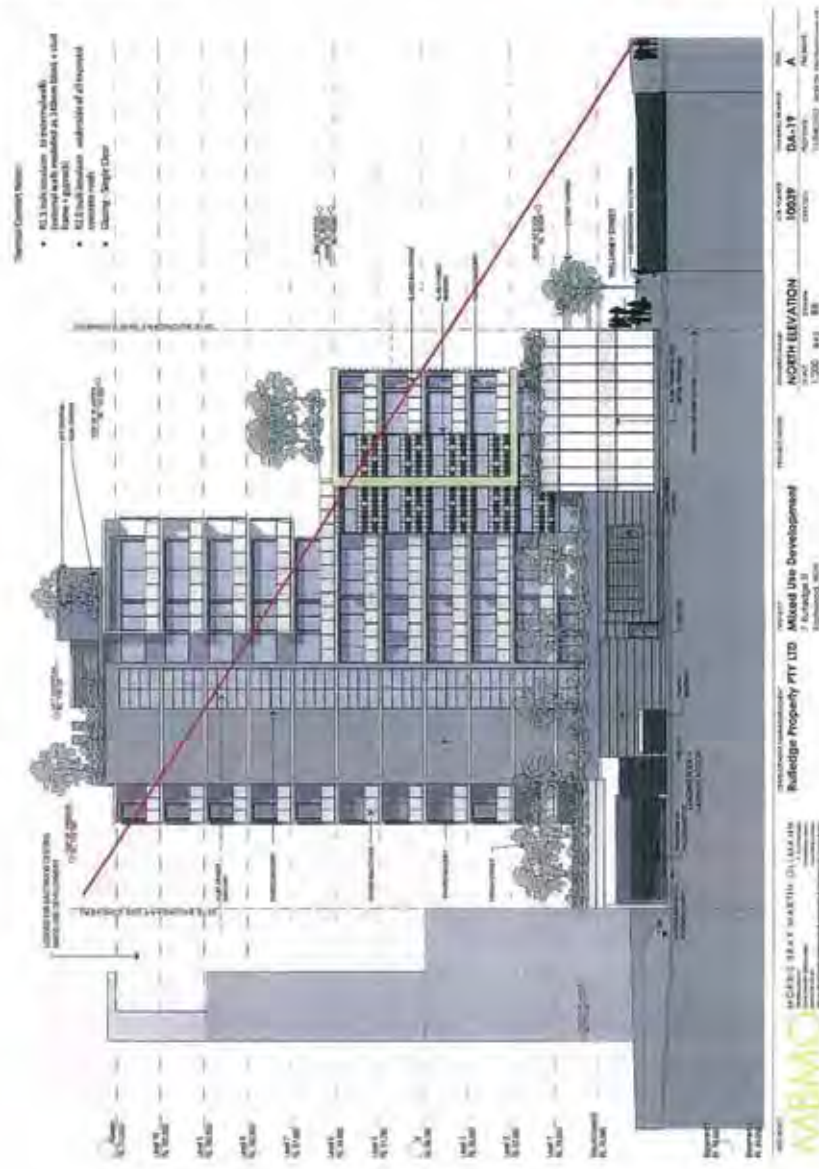
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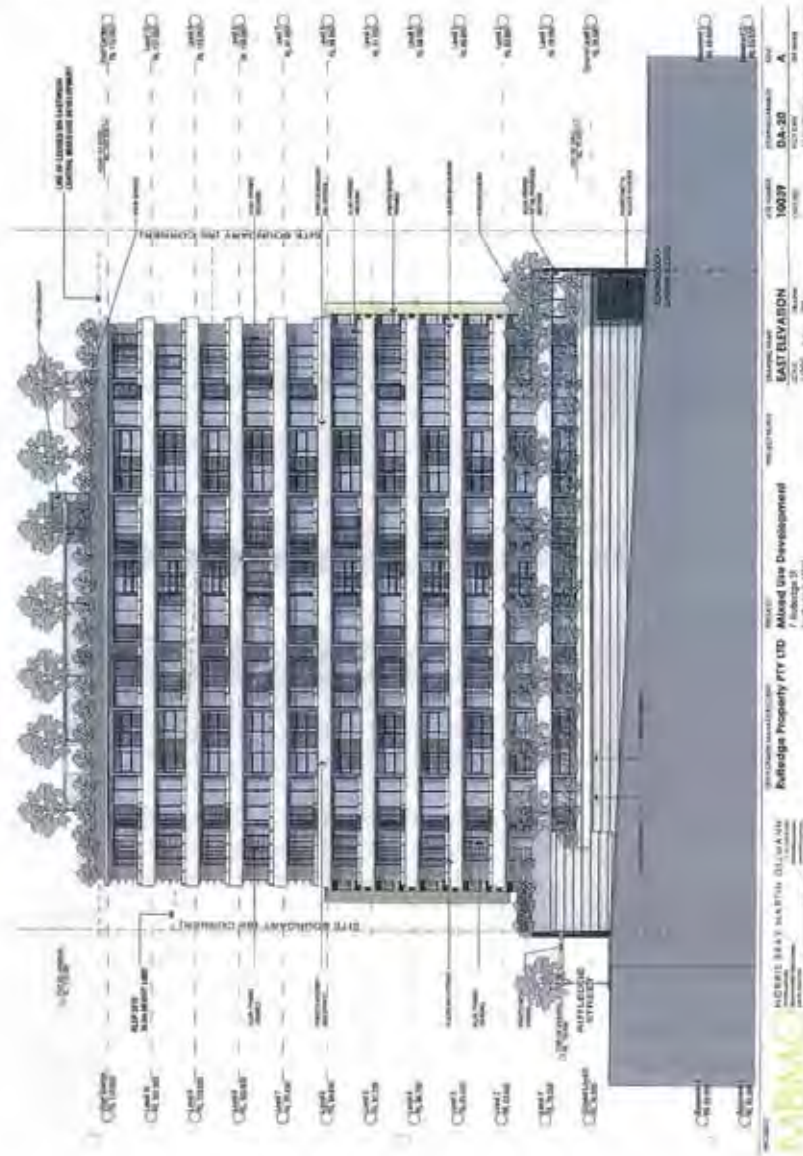
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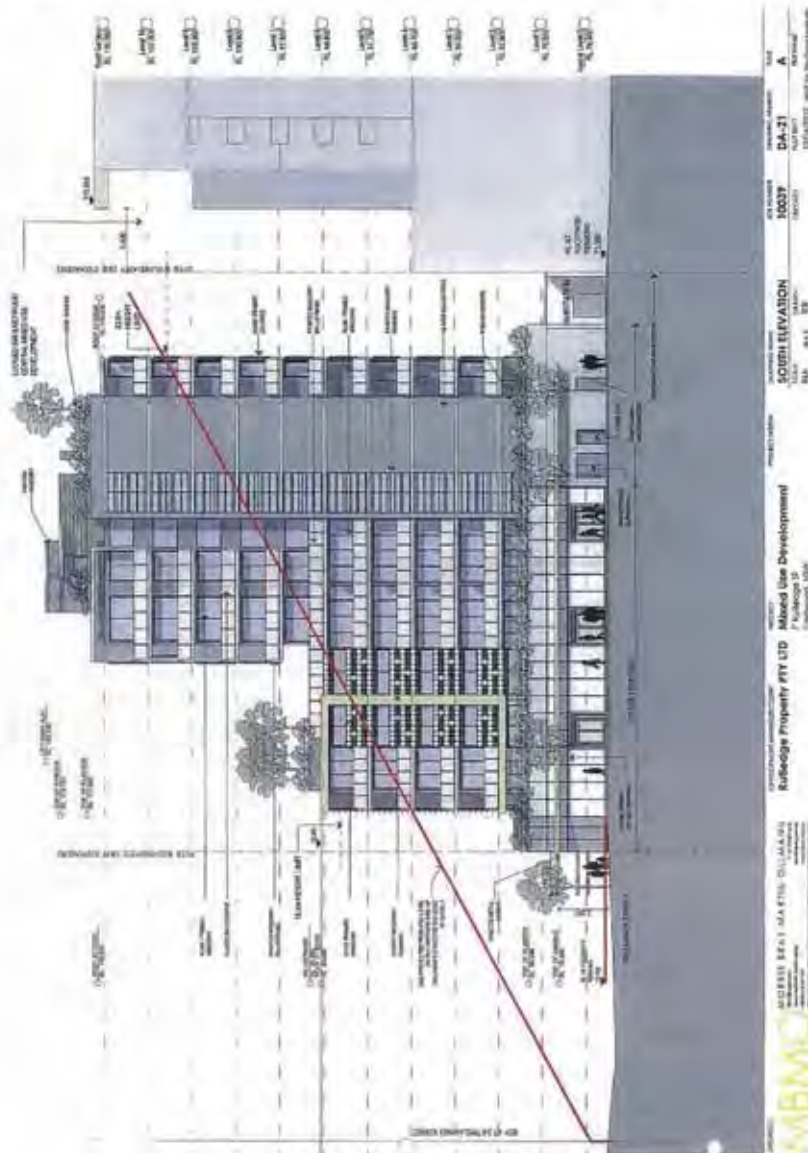
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ATTACHMENT 4

1 VOLUNTARY PLANNING AGREEMENT OFFER – 7-9 RUTLEDGE STREET, EASTWOOD.

Report prepared by: Client Manager

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

Report dated: 19 June 2012

File Number: D12/42893

1. Report Summary

Council is in receipt of Local Development Application LDA2011/612, at 7-9 Rutledge Street, Eastwood for the construction of a part 7 part 12 storey mixed use building containing 79 units, commercial / retail tenancies on the ground floor and basement parking.

As part of the proposal, the proponents are seeking to enter into a Voluntary Planning Agreement (VPA) with Council. The VPA forms a contractual agreement between Council and the Developer. The purpose of this report is for Council to determine whether it will endorse the VPA should the application be approved by Council. The VPA offers public benefit together with complying with Council's requirements in respect of Section 94 Contributions.

It is recommended that Council determine whether the proposed development is acceptable and if supported, endorse the Voluntary Planning Offer.

RECOMMENDATION:

- (a) That if Council resolves to approve Local Development Application 2011/0612 at 7-9 Rutledge Street, Eastwood then Council should endorse the Voluntary Planning Agreement made by Rutledge Street Pty Ltd dated 8 June 2012.
- (b) That the above be communicated to the proponents.

ATTACHMENTS

- 1 Voluntary Planning Agreement – 7-9 Rutledge St, Eastwood

Report Prepared By:

Adrian Melo
Client Manager

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

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2. Site (Refer to map.)



3. Councillor Representations

Nil.

4. Political Donations or Gifts

Any political donations or gifts disclosed? No.

5. Background

An offer for a VPA was submitted by the proponent at time of lodgement of the Development Application for 7-9 Rutledge St, Eastwood on the 28 November 2011. This VPA was considered by Council's Executive Team at a meeting held 16 December 2011. This original offer was not supported by the Executive Team as, excluding matters necessary and consequential to the development application, it totalled \$75,000.00.

Following the initial consideration of the VPAs by Executive Team, a letter was sent to the applicant dated 23 December 2011 suggesting amendments to the VPA and that Council would expect the value of the VPA to equate to approximately 20% of the applicable Section 94 Contributions. Following the letter, Council Officers met with the proponents on the 4 April 2012. During the meeting the applicant was advised of Council's expectations regarding Voluntary Planning Agreements. At this meeting the applicant agreed to amend the VPA offer to equal 20% of the total s94 Contributions.

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The applicant submitted an amended VPA proposing a one off cash contribution of \$100,000.00 equating to 9.7% of applicable s94 Contributions. This was considered by Council's Executive Team at its meeting held 19 April 2012 and was not supported. The applicants were informed of this in a letter dated 19 April 2012.

On 24 April 2012, the proponents submitted an amended VPA offer proposing that the one-off cash contribution for the development be raised to \$205,315.00. This equated to approximately 20% of applicable s94 Contributions and was considered acceptable by the Executive Team on 4 May 2012.

Following support of the offer from the Executive Team, the VPA was considered by Council's Voluntary Planning Agreement Panel on 29 May 2012. At this meeting, the VPA Panel identified substantial areas of concerns regarding the wording of the explanatory note and associated VPA. The proponent was advised of the concerns relating to the Explanatory Note on the 29 May 2012 and the concerns relating to the VPA instrument in a letter dated 1 June 2012. The final version of the explanatory note was received by Council on 30 May 2012 and the final version of the VPA was received by Council 8 June 2012.

6. Report

Council has received Local Development Application LDA2011/612, at 7-9 Rutledge Street, Eastwood. The development comprises the construction of a part 7 part 12 storey mixed use building containing 79 units, commercial / retail tenancies on the ground floor and basement parking.

A VPA is a contractual agreement between Council and a developer under which public benefit for a public purpose is delivered as part of a Development Application. The Development Application and VPA are considered jointly as they are interlinked. The Assessment Report for the proposed development is to be reviewed and the Development Application determined by Council at the same Council Meeting.

Summary of VPA Offer

The planning agreement seeks to provide a one off monetary contribution to Council of \$205,315. The proposed agreement does not seek the suspension of Section 94 Contributions that will continue to apply to the subject development.

It must be noted that the proposed development fails to comply with the applicable planning controls as detailed within the Assessment Report. The Assessment Report recommends that Council refuse the Development Application.

The material public benefits proposed to be made to support the proposed non-compliances is a one off monetary contribution of \$205,315 to Council.

Consultation

The Voluntary Planning Agreement was advertised in the Ryde City View newsletter circulated within the Northern District Times between 30 May 2012 and 27 June 2012. No submissions were received during this period.

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ATTACHMENT 4

Consideration of the Voluntary Planning Agreement

The Section 93F of the *Environmental Planning and Assessment Act 1979* details various matters that must be addressed by a VPA.

It should be noted that the VPA satisfies all requirements of Section 93F and it is recommended that should Council seek to approve the associated Development Application, Council endorse the Voluntary Planning Agreement Offer.

A detailed consideration of Section 93F is provided below.

Environmental Planning and Assessment Act 1979 Clause 93F		
Clause 93F	Proposal	Complies?
(1) A planning agreement is a voluntary agreement or other arrangement under this Division between a planning authority (or 2 or more planning authorities) and a person (the developer):	The proponents are seeking to provide:	
(a) who has sought a change to an environmental planning instrument, or	– A one off monetary contribution of \$205,315	Yes
(b) who has made, or proposes to make, a development application, or	The above is in addition to the applicable Section 94 Contributions and can be used where deemed appropriate by Council.	Yes
(c) who has entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies,	The provisions of additional funds are considered to constitute material public benefit which shall be used and applied towards a public purpose.	Yes
under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.		Yes
(2) A public purpose includes (without limitation) any of the following:		
(a) the provision of (or the recoupment of the cost of providing) public amenities or public services,	No public amenities or public services are provided.	N/A
(b) the provision of (or the recoupment of the cost of providing) affordable housing,	No affordable housing is provided.	N/A
(c) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land,	No transport is provided.	N/A

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Environmental Planning and Assessment Act 1979 Clause 93F		
Clause 93F	Proposal	Complies?
<i>(d) the funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure,</i>	The monetary contribution will be paid to Council to be utilised where deemed appropriate. Council's expenditures will be for public amenities, public services or other infrastructure.	Yes
<i>(e) the monitoring of the planning impacts of development,</i>	No monitoring of planning impacts is provided.	N/A
<i>(f) the conservation or enhancement of the natural environment.</i>	No conservation or enhancement of the natural environment is provided.	N/A
<i>(3) A planning agreement must provide for the following:</i>		
<i>(a) a description of the land to which the agreement applies,</i>	It is considered that the VPA adequately satisfy the requirement of this part.	Yes
<i>(b) a description of:</i> <i>(i) the change to the environmental planning instrument to which the agreement applies, or</i> <i>(ii) the development to which the agreement applies,</i>		
<i>(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,</i>		
<i>(d) in the case of development, whether the agreement excludes (wholly or in part) or does not exclude the application of section 94, 94A or 94EF to the development,</i>		
<i>(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,</i>		
<i>(f) a mechanism for the resolution of disputes under the agreement,</i>		
<i>(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.</i>		

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Environmental Planning and Assessment Act 1979 Clause 93F		
Clause 93F	Proposal	Complies?
(3A) A planning agreement cannot exclude the application of section 94 or 94A in respect of development unless the consent authority for the development or the Minister is a party to the agreement.	The VPA does not exclude the operation of Section 94 on the proposed development.	Yes
(5A) A planning authority, other than the Minister, is not to enter into a planning agreement excluding the application of section 94EF without the approval of: (a) the Minister, or (b) a development corporation designated by the Minister to give approvals under this subsection.	Section 94EF does not apply to the proposal.	N/A
(6) If a planning agreement excludes benefits under a planning agreement from being taken into consideration under section 94 in its application to development, section 94 (6) does not apply to any such benefit.	The VPA <u>does not</u> seek the exclusion of the application of Section 94.	N/A
(7) Any Minister, public authority or other person approved by the Minister is entitled to be an additional party to a planning agreement and to receive a benefit under the agreement on behalf of the State.	No additional parties are proposed.	N/A
(8) A council is not precluded from entering into a joint planning agreement with another council or other planning authority merely because it applies to any land not within, or any purposes not related to, the area of the council.	No joint planning agreement with another council or planning authority is proposed.	N/A
(9) A planning agreement cannot impose an obligation on a planning authority: (a) to grant development consent, or (b) to exercise any function under this Act in relation to a change to an environmental planning instrument.	The planning agreement does not impose an obligation to grant development consent or change an environmental planning instrument. Whilst the VPA forms part of the Development Application, support of the VPA does not grant approval to the Development Application.	Yes
(10) A planning agreement is void to the extent, if any, to which it requires or allows anything to be done that, when done, would breach this section	The works proposed under the VPA are to be subject to further consideration by Council and will be determined as part of the application.	Yes

Agenda of the Planning and Environment Committee Report No. 9/12, dated Tuesday 17 July 2012.

ITEM 11 (continued)

ATTACHMENT 2

ITEM 3 (continued)		ATTACHMENT 4
Environmental Planning and Assessment Act 1979 Clause 93F		
Clause 93F	Proposal	Complies?
<i>or any other provision of this Act, or would breach the provisions of an environmental planning instrument or a development consent applying to the relevant land.</i>	Subject to careful consideration of the proposed works by Council and standard conditions of consent, it is unlikely that the matters to be dealt with under the application and VPA will breach to <i>Environmental Planning and Assessment Act 1979</i> , applicable environmental planning instruments or development consent applying to the subject site.	

As identified above, it can be seen that the proposed Voluntary Planning Agreement satisfies the principles underlying the use of planning agreements and fulfils several categories of works that Council will consider as part of a VPA. Notwithstanding the above, further consideration of the Voluntary Planning Agreement and the public interest and benefit is detailed below.

The merits of the Voluntary Planning Agreement were discussed during several Executive Team meetings and an internal Panel chaired by Council's Group Manager, Environment and Planning. It was considered that the VPA provided public benefit and was in the public interest. A break down of the value of VPA and the Section 94 Contributions is provided below.

Item	Value
VPA - Cash Contribution	\$205, 315.00
Contribution under Council's Section 94 Contribution Plan	\$1, 022, 948.69
Total Contributions to Council	\$1, 228, 263.69

It can be seen that the proposed VPA represents public benefit. Normally, to ensure that the VPA is registered on the title of the land it would be necessary to impose a condition on the consent for this to occur prior to the issue of any Construction Certificate. This condition would be included if Council was of a mind to approve the Development Application.

7. Policy Implications

There are no policy implications through adoption of the recommendation.

8. Critical Dates

It is recommended that the VPA be considered jointly with the Development Application. Accordingly, the VPA must be determined at the same Council meeting as the Development Application.

ITEM 11 (continued)

ATTACHMENT 2

ITEM 3 (continued)

ATTACHMENT 4

9. Financial Impact

If Council is of the view that the variations to the planning controls are acceptable and that the Development Application should be supported, then the VPA should also be supported as the VPA represents a public benefit.

10. Other Options

There are two options in considering the VPA:

- (1) If Council agrees with the recommendation to refuse LDA2011/0612 as detailed in the assessment report, then the VPA should also be refused.
- (2) Council may choose to reject the VPA offer but approve the DA. This option is not supported as it would result in a loss of the additional contribution proposed.

11. Conclusion

Through entering into a VPA for the subject development, Council will receive additional funds to be spent for the public benefit. Council must still determine whether the proposed non-compliances with the applicable planning controls and their associated amenity impacts are acceptable. The VPA has been clearly identified as relating to a planning purpose, providing public benefit and is in the public interest.

ITEM 11 (continued)

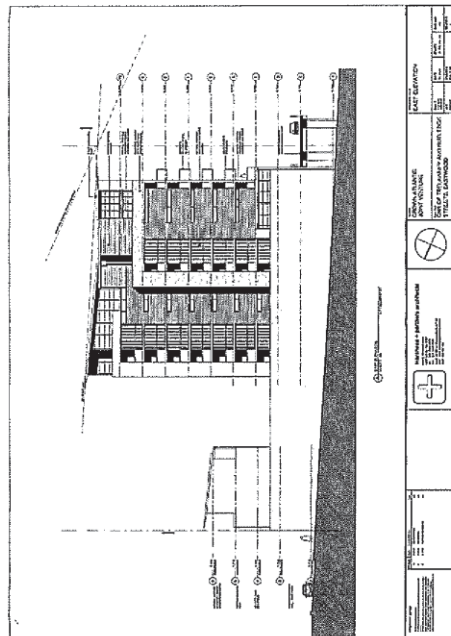
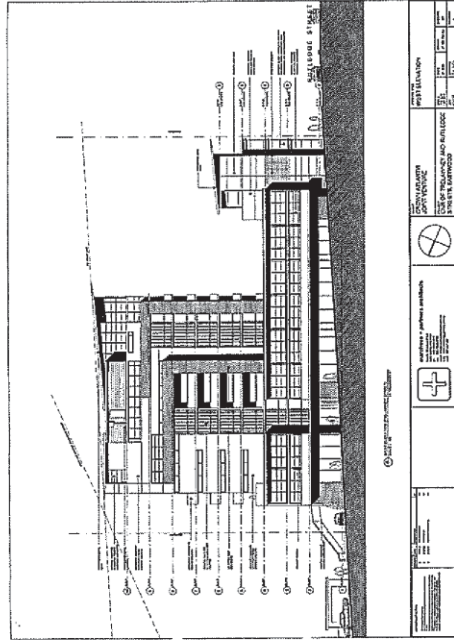
ATTACHMENT 2

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ATTACHMENT 5

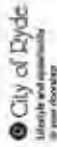
ITEM 3 (continued)

PLAN SHOWING PROPOSAL REFUSED BY LAND AND ENVIRONMENT COURT IN 2004



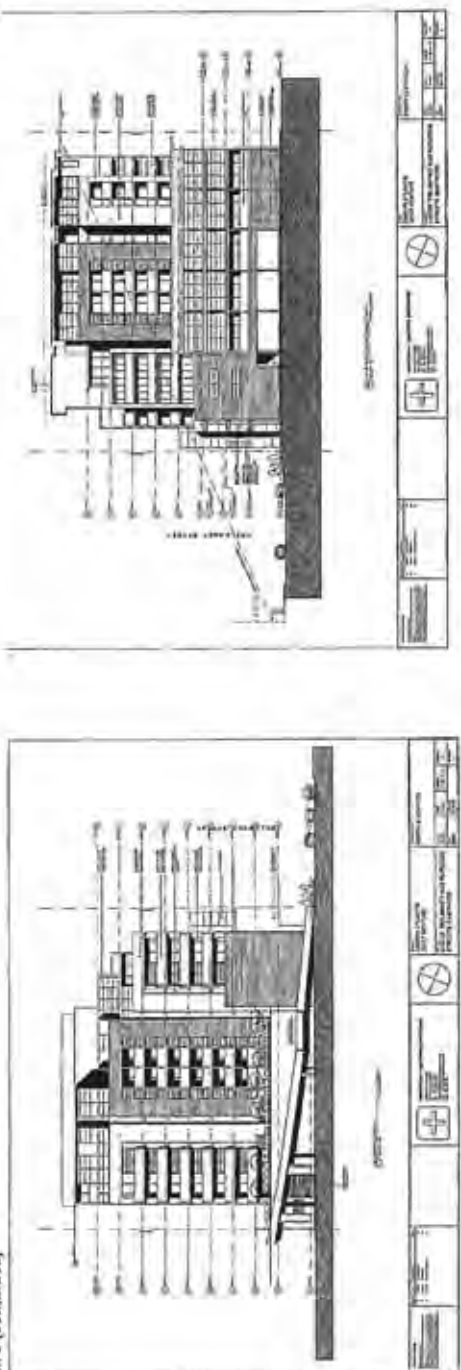
ITEM 11 (continued)

ATTACHMENT 2


City of Ryde
 Lifestyle and opportunity
 @ your doorstep

ITEM 3 (continued)

ATTACHMENT 5
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Agenda of the Planning and Environment Committee Report No. 9/12, dated Tuesday 17 July 2012

ITEM 11 (continued)

ATTACHMENT 2

ITEM 3 (continued)

ATTACHMENT 6



Agenda of the Planning and Environment Committee Report No. 9/12, dated Tuesday 17 July 2012.

- 12 3-5 TRELAWNEY STREET, EASTWOOD, LOTS A and B in DP 401296. Local Development Application for a mixed use development, containing 6 retail /commercial tenancies, 61 units & basement parking for 108 cars & strata subdivision. LDA 2011/0611.**

Report prepared by: Senior Town Planner; Team Leader - Major Development Team

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

Report dated: 13 November 2012

Previous Items: 2 - 3-5 TRELAWNEY STREET, EASTWOOD. LOTS A & B in DP 401296. Construction and strata subdivision of a mixed use development, consisting of a building with 6 retail /commercial tenancies; 61 units and basement parking for 108 cars. LDA 2011/0611. - Planning and Environment Committee - 17 July 2012

File Number: grp/12/5/5/5 - BP12/1359

1. Summary

Applicant: Morris Bray Martin Ollmann.

Owner: N&G Projects Pty Ltd.

Date lodged: 28/11/2011

This report has been prepared to enable Council's further consideration of Local Development Application No. 2011/0611 which proposes the construction and strata subdivision of a mixed-use development at 3-5 Trelawney Street, Eastwood.

LDA 2011/0611 was considered by the Planning and Environment Committee on 17 July 2012 and at the Council Meeting held on 24 July 2012. On 24 July 2012 Council resolved that the matter be deferred for the Group Manager – Environment and Planning to negotiate this development application with particular regard to addressing the following:

- (a) an increase in the voluntary planning agreement;
- (b) the non-compliances as outlined in the officer's report; and
- (c) meeting the needs of both the developer and community with regards to amenity.

At the Council Meeting held on 9 October 2012 a Notice of Rescission to rescind the above resolution was considered by Council. The Rescission Motion was lost and accordingly the above resolution still stands.

ITEM 12 (continued)**RECOMMENDATION:**

That Council determine the matter in accordance with one of the options provided in the report.

ATTACHMENTS

- 1 Proposed deferred commencement conditions
- 2 Previous report to Planning & Environment Committee 17 July 2012
- 3 A3 plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Sandra McCarry
Senior Town Planner

Sandra Bailey
Team Leader - Major Development Team

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 12 (continued)

On 26 October 2012 a meeting was held between Council's Group Manager Environment & Planning, Team Leader Major Developments and Client Manager and representatives of the applicant – Mr Andy Ludvik, Consultant Town Planner, Mr Terry Morris from Morris Bray Martin Ollmann Architects, Mr William Rothwell and Mr Chris Ryan from Winten Property Group. On 6 November 2012 the applicant advised that they were willing to agree to the following changes:

- Level 5 units to be deleted, reducing the number of proposed apartments in the development from 61 units to 57 units, or by some 6.5%. This effectively reduced the height of the development by one storey along Trelawney Street. The roof terraces and associated structures will remain on Level 5. This is demonstrated in the following diagrams.

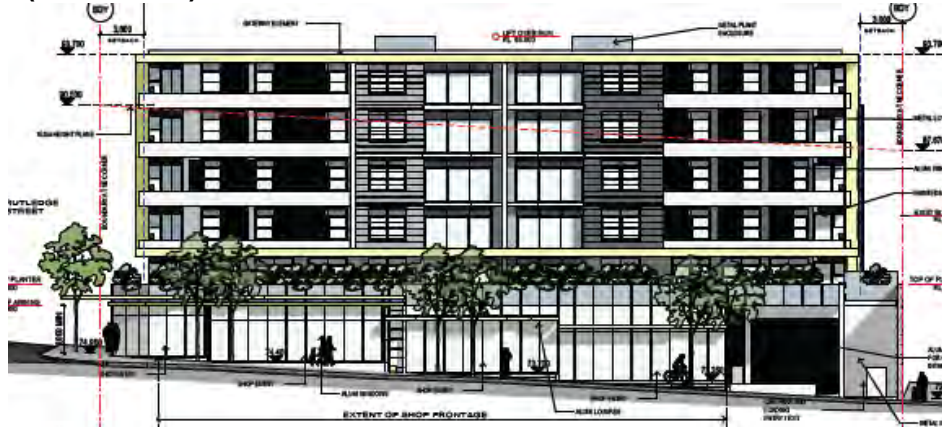


South elevation (Rutledge Street) – current proposal



South elevation – after amendment with the deletion of Level 5 units.

ITEM 12 (continued)



East Elevation – Trelawney Street – current proposal



East elevation – after with Level 5 units deleted.



Photomontage of 3-5 Trelawney Street and 7-9 Rutledge Street with the upper storey deleted.

ITEM 12 (continued)

- It has been agreed with the Group Manager Environment & Planning that an effective means of facilitating this would be to use a deferred commencement condition that requires plans to be submitted prior to the consent becoming operative.
- The cash contribution element of \$150,000 of the Voluntary Planning Agreement (VPA) relating to this development is to remain the same, with the Section 94 Contribution being amended to reflect the reduced number of apartments in the proposal, thereby effectively increasing the value of the VPA.

With the deletion of the level five units, the S94 contribution will change. The previous S94 Contribution of \$737,543.11 was calculated on the basis of 61 units comprising 13 x 1 bedroom, 46 x 2 bedroom, 2 x 3 bedroom and 534m² of retail. This was calculated on the basis of the contribution rates current for June 2012 Consumer Price Index quarter. The amendment will reduce the total number of units to 57 comprising of 13 x 1 bedroom and 44 x 2 bedroom with the retail component unaltered. The new contribution of \$695,608.04 has been calculated on the basis of the contribution rates current for the September 2012 CPI quarter. **Condition 32** has been amended to reflect this. As the VPA contribution has remained the same and the number of residential apartments has decreased, this means that the value of the VPA per unit has increased.

The above change will reduce the height non-compliance and it can be addressed as a deferred commencement consent. Conditions of consent including the deferred commencement conditions have been attached for Council's consideration. The consent would not become operative until the applicant has submitted amended plans to the satisfaction of the Group Manager Environment and Planning that address all matters in Part 1 of Attachment 1.

If Council is of a mind to approve LDA 2011/0611 subject to the conditions contained in Attachment 1, Council should also resolve to give "in principle" support to the Voluntary Planning Agreement submitted to Council on 13 June 2012 by N & G Projects Pty Ltd.

Options:

1. Approve the development application in accordance with the conditions included Attachment 1. If this option is adopted, Council should also accept the developer's current VPA offer.
2. Defer the development application pending receipt of the information required by the deferred commencement conditions including amended plans etc and exhibition of this information with a further report to come to Council for consideration in 2013.
3. Refuse the development application for the reasons outlined in the original report.

ITEM 12 (continued)

ATTACHMENT 1

**3-5 TRELAWNEY STREET - LDA2011/0611
PROPOSED CONDITIONS OF CONSENT**

DEFERRED COMMENCEMENT CONSENT CONDITIONS

Part 1 – Conditions Relating to a Deferred Commencement Consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979

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

This consent shall not become operative until the proposal demonstrates satisfactory compliance with the following items to the satisfaction of Council's Group Manager Environment & Planning and that the applicant is advised in writing:

- a. Amended plans are to be submitted which delete the level 5 units. The size of the roof terraces and associated structures are not to be increased.
- b. An amended BASIX Certificate is to be submitted which reflects the changes in part a above.
- c. A total of 6 adaptable units are to be provided within the development. The amended plans are to clearly identify the location of these units.
- d. That the applicant shall submit a revised Voluntary Planning Agreement to Council to address the concerns raised by Council staff in relation to Clause 23.2 of the VPA. The wordings of the VPA and the Explanatory Notes must be revised to comply with the *Environmental Planning and Assessment Act 1979*.

This information is to be submitted to Council within six months from the date of determination or the Consent will have lapsed, in accordance with the *Environmental Planning & Assessment Act, 1979*.

Part 2 GENERAL CONDITIONS OF CONSENT

The conditions in the following sections of this consent shall apply upon satisfactory compliance with the above requirements and receipt of appropriate written confirmation from Council.

1. **Approved Plans.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the stamped approved plans and supporting documents submitted with the application.

Prior to the issue of a Construction Certificate, the following amendments shall be made (or as marked in red on the approved plans where applicable):

- (a) **Awning:** The height of the street awning shall not be less than 3 metres or greater than 4.5 metres measured from the finished pavement level of the footpath. Such awning must:

ITEM 12 (continued)

ATTACHMENT 1

- i) Be set back from the face of the kerb by 0.6m;
 - ii) Have cut-outs of 1m wide by 1m deep to accommodate street trees, where the frontage is proposed to accommodate street trees in relation to proposed public domain improvement works;
 - iii) Be weather sealed to the face of the building to which they are attached and to the adjoining awnings;
 - iv) Have a height clearance as stated above or consistent with adjacent awnings; and
 - v) Maintain sufficient clearances from any overhead electricity or telecommunications installations.
 - vi) The street awning should continue the full length of the street and must not be glazed.
- (b) **Accessible Ramps:** *Accessible* ramps must be provided at the entrance to all retail tenancies from the Trelawney Street frontage. The ramp must be wholly within the site and not encroach on Council's footpath.

The Development must be carried out in accordance with the amended plans approved under this condition.

2. **Voluntary Planning Agreement:** The Voluntary Planning Agreement between City of Ryde and N & G Projects Pty Ltd that is subject of this Development Consent must be registered on the title of Lots A & B in DP401296 prior to the issue of any **Construction Certificate**.
3. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
4. **Excavation Works.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Advertising Signs:** This consent does not authorise the erection of any signs or advertising structures not indicated on the approved plans. Separate approval must be obtained from Council for any additional signs, unless such signage is "exempt development".
6. **Security Grill:** This consent does not authorise the erection of any security grilles or barriers on the shopfront. Separate approval must be obtained for any such works.

ITEM 12 (continued)

ATTACHMENT 1

7. **Public Domain Works:** The applicant or the owner shall at their own expense carry out the following public domain improvement works on the road reserve fronting the subject site prior to the issue of any Occupation Certificate:
- (a) **Footpath Paving:** Public Footpaths in Trelawney Street and Rutledge Street are to be paved with clay pavers in accordance with the Public Domain Technical Manual Section 3 – Eastwood. The clay paving must comply with the Eastwood section of Council's Public Domain Technical Manual. Details must be submitted for Council's approval prior to issue of any Construction Certificate.
 - (b) **Under grounding of overhead powerlines:** Overhead mains in Trelawney Street shall be placed underground, and Multifunction Poles with new street lighting provided along the Trelawney Street frontage. An Electrical Design for dismantling the existing network and installing the new network shall be prepared and submitted to Council and Ausgrid for approval prior to commencement of work. Such utility modifications will be carried out to the satisfaction of the responsible authority (e.g.AUSGRID/ Energy Australia) and cost borne by the applicant.
 - (c) **Multifunction Light Poles:** The multifunction light poles along Trelawney Street frontage shall be erected within the road reserve adjacent to the premises at locations approved by Council. All costs are to be borne by the applicant.
 - (d) **Street Trees Rutledge Street:** The street trees in Rutledge Street are to be *Angophora floribunda* (Rough Barked Apple) planted at approximately 7m intervals.
 - (e) **Street Trees on Trelawney Street:** The street trees in Trelawney Street road reserve are to be *Acer negundo* planted at approximately 7m intervals.

Full engineering details, including plans, sections, finished levels and schedule of materials and finishes complying with the Public Domain Technical Manual must be submitted to Council and approval obtained prior to the issue of any **Construction Certificate**.

8. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
9. **Hoardings.**
- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
 - (c) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

ITEM 12 (continued)

ATTACHMENT 1

10. **Public place kept lit:** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
11. **Construction within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structures shall encroach onto the adjoining properties including any other public, private or land owned by the Roads and Maritime Services. Gates must be installed so they do not open onto any footpath.
12. **No obstruction to the public way.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
13. **Works on public road.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
14. **Works in public road.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
15. **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.
16. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
17. **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.
18. **Road Opening Permit.** The applicant shall apply for a road-opening permit where works are proposed to be constructed within the public road reserve, e.g. where connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No work shall be carried out on the road reserve without this permit being paid and a copy kept on the site.

ITEM 12 (continued)

ATTACHMENT 1

19. **Waste Disposal** To facilitate waste disposal from the site, the site Building Manager shall co-ordinates with the Council and the Waste Collection Contractor to ensure that the loading dock area is accessible at the relevant times.
20. **Parking Management Plan:** An external (on-street) parking management plan to be prepared by the proponent (to Council's satisfaction which requires approval via the Ryde Local Traffic Committee prior to the issue of any Occupation Certificate. An internal signposting and line marking plan shall be provided for Council's approval.
21. **Vehicle Entry:** All vehicles must enter and leave the property in a forward direction from the basement car park.
22. **Construction Traffic Management:** The Applicant must submit a Construction Traffic Management Plan to Council prior to the issue of Construction Certificate.
23. **Queuing Space:** A minimum of 3 queuing spaces should be provided for more than 100 cars at a car park with control point at entrances as per AS2890.1 – 2004 Clause 3.4. Details are to be submitted on the Construction Certificate plans which ensure compliance.
24. **No Stopping Signs:** Full time "No Stopping" restrictions are to be maintained on Rutledge Street and Trelawney Street frontages of the development site.
25. **Design and Geotech Reports:** The developer is to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to RMS for assessment. The developer is to meet the full cost of the assessment by the RMS. The Report would need to address the following key issues:
 - (a) The impact of excavation/ rock anchors on the stability of Rutledge Street and detailing how the carriageway would be monitored for settlement.
 - (b) The impact of the excavation on the structural stability of Rutledge Street.

The report and any enquiries should be forwarded to:
Project Engineer, External Works
Sydney Asset Management
Roads and maritime Services
P O Box 973 Parramatta CBD 2124

Telephone: 8848 2114
Fax: 8849 2766

ITEM 12 (continued)

ATTACHMENT 1

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

26. **Existing Driveways:** The redundant driveways along Rutledge Street shall be removed and replaced with kerb and gutter to match existing.

The design and construction of the gutter crossing on Rutledge Street shall be in accordance with RMS's requirement. Details of these requirements should be obtained from RMS's Project Services Manager, Traffic Projects Section, Parramatta (Telephone 8849 2496).

Detailed design plans of the proposed gutter crossing are to be submitted to RMS for approval prior to the commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant/ developer prior to the release of the approved road design plans by the RMS.

27. **Hydraulic Calculations:** Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to RMS for approval, prior to the commencement of any works.

Details should be forwarded to:

The Sydney Asset management
Roads and maritime Services
PO Box 973 Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before RMS's approval is issued. With regards to the Civil Works requirement please contact the RMS's Project Engineer on phone 8849 2114 or fax 8849 2766.

28. **Additional Sightlines:** Vegetation and proposed landscaping/ fencing must not hinder sight lines to and from the proposed access driveways to pedestrians and cyclists.
29. **Layout of parking and circulation:** The layout of the proposed car parking areas associated with the subject development (including driveways, grades, sight distance requirements, and parking bay dimensions) should be in accordance with AS2890.1 – 2004, AS2890- 2002 for heavy vehicles and to Council satisfaction.
30. **Turning areas to be kept clear:** The proposed turning areas within the subject site are to be kept clear of any obstacles, including parked cars, at all times.

ITEM 12 (continued)

ATTACHMENT 1

31. **Work Zone:** All construction vehicles and activities are to be contained wholly within the site. As no work zone permits will be permitted by RMS on Rutledge Street.

PRIOR TO CONSTRUCTION CERTIFICATE

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

32. **Section 94 Contribution.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any **Construction Certificate**:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$148,925.54
Open Space & Recreation Facilities	\$342,277.37
Civic & Urban Improvements	\$132,146.14
Roads & Traffic Management Facilities	\$20,311.82
Cycleways	\$11,260.22
Stormwater Management Facilities	\$37,653.81
Plan Administration	\$3,033.15
The total contribution is	\$695,608.04

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

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ATTACHMENT 1

A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

33. **Voluntary Planning Agreement.** Prior to the issue of any Construction Certificate, the contribution as identified in the Voluntary Planning Agreement referred to in Condition 2 of the General Conditions of Consent is to be paid to Council.
34. **Damage security.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan (category: other buildings with delivery of bricks or concrete or machine excavation).
35. **Payment of fees.** The following fees must be paid to Council in accordance with Council's Management Plan:
 - (a) Infrastructure Restoration and Administration Fee
 - (b) Enforcement Levy
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 submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
37. **Compliance with Australian Standards:** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
38. **Disabled Access & Adaptable Units:** Disabled access is to be provided within the development in accordance with the recommendations contained in the Access Review Report prepared by Mark Relf (Accessibility Solutions (NSW) Pty Ltd) dated 20th October 2011. Details indicating compliance with the AS1428 & AS4299, Building Code of Australia and the recommendations contained in the above Report are to be submitted to the Principal Certifying Authority (PCA) prior to the Construction Certificate being issued.
39. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties (including any public place) that may be affected by the construction work. A copy of the survey is to be submitted to the PCA (*and Council, if Council is not the PCA*).
40. **Reflectivity.** Roofing and other external materials must be of low glare and reflectivity. Details of the approved finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority.

ITEM 12 (continued)

ATTACHMENT 1

41. **Bicycle & Motorbike parking.** Sufficient area shall be designated for bicycle parking on the site within the lower ground level (the entrance level) in accordance with the following:
- (a) Secure bicycle parking racks and manoeuvring area must be provided for at least eleven bicycles.
 - (b) The bicycle parking area must be highly visible, adequately lit and easily accessible by residents and customers.
 - (c) Bicycle parking and access must be designed so as to ensure potential conflicts with vehicles are minimised.
 - (d) Provision for motorbike parking on the site must also be provided.

Bicycle parking must be designed in accordance with AS2890.3 Parking Facilities- Bicycle Parking Facilities and the NSW bicycle guidelines. Details are to be submitted on the **Construction Certificate**.

42. **Lighting.** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details are to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.
43. **BASIX Commitments.** The development must comply with all commitments listed in amended BASIX Certificate to be submitted with the amended plans. The fittings, fixtures and materials installed in association with the retail tenancy (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the **Construction Certificate**.
44. **Car parking.** Disabled parking must be provided for both residential and retail activities on the site. 108 car parking spaces are to be provided on the site including 73 residential parking spaces, 22 retail parking spaces, 13 visitor parking spaces and six *accessible* spaces, evenly distributed over all designated parking levels. Details are to be submitted on the Construction Certificate plans.
45. **Access to resident parking.** Access to residential parking should be restricted to residents and their visitors only. Details demonstrating compliance are to be submitted on the Construction Certificate plans.
46. **Services & Substation:** 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.

ITEM 12 (continued)

ATTACHMENT 1

47. **Garbage Room Exhaust:** The garbage room exhaust must be designed so that it is suitably screened from view. Satisfactory screening device must be used and integrated with the architectural feature of the building. Details of all service infrastructure/utilities are to be approved prior to issue of the Construction Certificate.
48. **Tree Removal:** Adjoining owners consent must be obtained prior to the removal of the tree located on the adjoining site.
49. **Underground Gas Pipeline:** All excavation (including pot-holing by hand) should be performed in accordance with 'Work Near Underground Assets Guidelines' published in 2007 by the Work Cover Authority.
50. **Soil Depths:** Minimum soil depth of 800mm must be provided in all planter beds provided throughout the development
51. **Operable Windows:** Windows to the units must be operable where necessary to allow adequate cross ventilation and improved amenity.
52. **Delete tree adjacent to fire door:** The tree planting in front of the fire door is to be deleted so that the area is kept clear.
53. **Seating:** Adequate seating, shading structures and BBQ facility must be provided within the communal open space area. Details to be provided in the plans submitted for Construction Certificate.
54. **Storage Facility:** All residential units must be provided with sufficient secure storage facility (other than the kitchen cupboard areas at a rate of storage facilities at the following rates:
 - studio apartments 6m³
 - one-bedroom apartments 6m³
 - two-bedroom apartments 8m³
 - three bedroom apartments 10m³Storage facility must be lockable and allocated to individual units. The allocated storage facility must be shown on the strata plans.
55. **Remediation of land:** The land must be remediated to the extent necessary for the proposed use and a copy of the site validation report must be submitted to Council for consideration. The site validation report must comply with the *Guidelines for Consultants Reporting on Contaminated Sites* (EPA, 1997) and demonstrate that the site is suitable for the proposed use.

No Construction Certificate is to be issued for any building work on the land until Council has confirmed in writing that it is satisfied that the land is suitable for the proposed use, without the need for further remediation.
56. **Remediation Work:** All remediation work must be carried out in accordance with:

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- (a) *State Environmental Planning Policy No. 55 - Remediation of Land*;
 - (b) any relevant guidelines published under the *Contaminated Land Management Act 1997*; and
 - (c) any council policy or development control plan relating to the remediation of land.
57. **Site Audit:** If requested by Council, a site audit statement and a site audit summary report from an accredited site auditor under the *Contaminated Land Management Act 1997* must be submitted to Council verifying the information contained in the site validation report.
58. **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 dedicated 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.
59. **Grease Trap Room:** The grease trap room must be constructed in accordance with the following requirements:
- (a) The floor, walls and ceiling must be constructed of solid materials finished to a smooth even impervious surface free of any cracks, holes or other openings that may allow the escape of odours.
 - (b) The room must be fitted with an air-tight (eg. coolroom type) door.
 - (c) The room must be provided with an approved system of mechanical exhaust ventilation.
 - (d) The room must be provided with intrinsically safe artificial lighting.
 - (e) A hose tap with a backflow prevention device must be provided in or adjacent to the room to facilitate cleaning.
60. **Grease Trap Pump:** A fixed pump out line must be provided in accordance with the requirements of Sydney Water Corporation to facilitate servicing of the grease trap.
61. **Garbage and Recycling Room:** A garbage and recycling room must be provided in an approved location in the basement carpark of the residential flat building. The garbage and recycling 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;

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- (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
- (j) a hose with a trigger nozzle must be provided in or adjacent to the room to facilitate cleaning.

Details to be submitted on the Construction Certificate plans which ensure compliance with this requirement.

- 62. **Storage of Discarded Items:** A separate room or caged area with minimum 5m² floor area must be provided in the basement carpark of the residential flat building for the storage of bulky discarded items such as furniture and white goods. Details are to be submitted on the plan submitted for Construction Certificate.
- 63. **Kitchen Exhaust:** Adequate provision must be made for the installation of kitchen exhaust systems to the proposed retail premises.
- 64. **Mechanical Ventilation:** Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**. Such details must include:
 - (a) Plans (coloured to distinguish between new and existing work) and specifications of the mechanical ventilation systems;
 - (b) A site survey plan showing the location of all proposed air intakes exhaust outlets and cooling towers, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity; and
 - (c) A certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and setting out the basis on which the certificate is given and

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the extent to which the certifier has relied upon relevant specifications, rules, codes of practice or other publications

65. **Air Handling:** All air-handling and water systems regulated under the *Public Health Act 1991* must be installed, operated and maintained in accordance with the requirements of the *Public Health (Microbial Control) Regulation 2000*.
66. **Water Cooling System:** All water-cooling and warm-water systems regulated under the *Public Health Act 1991* must be registered with Council within one (1) month of installation.
67. **Road Noise:** The residential flat building(s) must be designed and constructed so that road traffic noise levels inside the building(s) comply with the satisfactory design sound levels recommended in Australian/New Zealand Standard AS/NZS 2107: 2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*, when the windows and doors are closed.
68. **Noise Attenuation Measures:** The recommendations contained under Section 6 of the Acoustic Report prepared by West & Associates Pty Ltd (Document No. 11183 Issue A dated 21 September 2011 must be incorporated in the Construction Certificate drawing prior to its approval.
69. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, car parking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
70. **Road Anchors:** Where road anchors are proposed to support the proposed development excavation, detailed structural plans indicating the number of anchors are proposed are to be submitted to Council and road anchor fees are to be paid to Council in accordance with Council's Management Plan.
71. **Hoarding Fees.** Where hoarding are proposed, fees in accordance with Council's Management Plan are to be paid to Council prior to the issue of the Construction Certificate for the erection of a protective hoarding along the street frontage of the property. The fee is based on Council, schedule of fees and charges and is for a period of 6 months. If the time of use of Council's footpath varies from this an adjustment of the fee will be made on completion of the works.
72. **Dilapidation Report.** To determine the extent of restoration works that may be 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:

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- (a) Road Pavement
- (b) Kerb and gutter.
- (c) Constructed footpath.
- (d) Drainage pits.
- (e) Traffic signs.
- (f) Any other relevant infrastructure.

These reports shall be submitted to Council development engineer, prior to the issue of the Construction and 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. All restoration works deemed necessary by Council's development engineer are to be completed to Council satisfaction prior to the issue of Occupation Certificate

73. **Excavation.** To ensure the proposed site excavation will not impact on the adjoining property structures foundations and services.

The applicant shall submit to the Principal Certifying Authority for approval a geotechnical report prepared and certified by a chartered practicing geotechnical/structural engineer addressing, but not be limited to the following items:-

- a) The likely impacts of the proposed excavations will have on structures and services of adjoining properties & Roadway*
- b) Detail what measures are to be taken to protect the structures and services of adjoining properties from structural damage and undermining during construction*
- c) A copy of the report including geotechnical/structural engineer certification should be submitted to Council.*

The above matters shall be completed prior to the issue of the construction certificate.

All recommendations of the Geotechnical Engineer are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

74. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps etc shall comply with relevant section of AS 2890.1 & AS2890.2 where applicable. Detailed engineering plans including engineering certification indicating compliance with this condition are to be submitted with the Construction Certificate application.

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75. **Car Parking.** All internal driveways, vehicle turning areas, grades, parking space dimensions, headroom clearance etc shall be designed to comply with relevant sections of Australian Standards AS 2890 where applicable and shall incorporate but not be limited to the following additional requirement.
- a. Internal signposting and line marking plan shall be provided to in accordance with relevant Australian Standard for the PCA approval.
 - b. All loading and unloading must take place within the confines of the loading dock for at least a medium rigid vehicle MRV.

Detailed engineering plans including engineering certification confirming compliance with this condition is to be submitted with the Construction Certificate application.

76. **Traffic Management.** Traffic management plans must be prepared and procedures must be in place and practised during the construction period to ensure safety and minimise construction traffic conflict on adjoining pedestrian and vehicular traffic movement. These procedures and systems must be in accordance with *AS 1742.3 1985* and the RTA's Manual – "Traffic Control at Work Sites" where applicable.

Accordingly, a detailed plan of traffic management prepared by a traffic engineer including certification indicating compliance are to be submitted with the Construction Certificate application.

77. **Stormwater Runoff.** Stormwater runoff from site shall be collected and piped to Council's underground drainage system via an On-site detention (OSD) system designed in accordance with the City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management. The design shall incorporate but not be limited to *the following*:
- a. All gutters, down pipes and pipeline conveying runoff to the OSD tank(s) are required to be designed for a 1 in 100 year storm.
 - b. The design shall ensure back water flow will not occur or influence the functioning of the outlet pipe from the OSD tank for all storm events and durations, including preventing the ingress of overland flows into the OSD tank.
 - c. Discharge from the site shall be limited to a single point discharge at maximum of 30l/s to the street kerb and gutter. Should this is exceeded, the discharge shall be to the nearest Council's underground drainage system, in which case extension of Council's existing drainage system may be required to facilitate this solution. Where extension of Council's existing stormwater line is required detailed engineering plans shall be submitted to and approved by Council with payment of all applicable fees in accordance with Council's management plan, prior to written approval being given by Council.

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Accordingly, detailed amended engineering plans including certification from a chartered civil engineer with NPER registration with Engineers Australia indicating compliance with this condition are to be submitted for approval with the Construction Certificate application.

78. **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.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

79. Site Sign

- (a) A sign must be erected in a prominent position on site:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

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- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
80. **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.
81. **Compliance Certificate.** A Compliance Certificate must be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and the City of Ryde, Development Control Plan 2006: - Part 8.1; Construction Activities.
82. **Vehicle Footpath Crossings.** Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council's Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.

DURING CONSTRUCTION

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

83. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
84. **Noise and Vibration.** The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations.
85. **Noise and Vibration.** The L₁₀ noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.

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86. **Survey of footings and walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
87. **Sediment, soil and dust.** No sediment, dust, soil or similar material shall leave the site during construction work.
88. **CCTV Surveillance** cameras must be installed in and around the property to maximise surveillance opportunities. CCTV should be used throughout the retail complex and communal areas such as lobbies, lifts etc, and paying particular attention to the internal area of the shopping centre especially entry and exit points. CCIV should also be used around the loading dock area and car park entry and exit points. CCIV should be placed on the external area of the building capturing the area outside the retail stores along Trelawney Street and also capturing the area along Rutledge Street. Digital technology should be used to record images from the cameras. Installed surveillance equipment needs to be able to zoom in on a person without loss of focus. Management must ensure that the requirements of the Surveillance and Privacy Act are adhered to.
89. **Landscape maintenance plan must be prepared for the site.** Landscaping close to the building should be regularly maintained to ensure branches cannot act as a natural ladder to gain access to higher parts of the building and trimmed to ensure concealment opportunities are eliminated.
90. **Lighting** shall be provided to all common areas including the car parking levels as well as the stairs and access to and including the public outdoor courtyard, communal gardens and the bin storage rooms. Such lighting to be automatically controlled by time clocks, and where appropriate, sensors to provide an energy efficient and controlled environment for residents.
91. **Signage.** Signage must be provided at entry/exit points and throughout the development to assist users and warn intruders that they will be prosecuted.
Warning: these premises are under constant surveillance.
Warning: trespassers will be prosecuted.
92. **Security Signs:** Signs should be erected in the car parks and near entry and exit points which details security measures and reminds people to lock their vehicles and remove valuables from their vehicles.
93. **Graffiti:** All surfaces on the street frontages that are not glass should use graffiti resistant paints and/or other surfaces that discourage graffiti.
94. **Intercom Facility:** The entry to the car park should have a ticket/boom gate system. Intercom facilities should be incorporated into these entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development.

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95. **Access control to residential lifts:** Access should be restricted to residents only to the lifts and stairs leading to the apartments.
96. **Installation of Locksets:**
- (a) The main entry/exit points for this development should be fitted with single cylinder locksets (Australia and New Zealand Standards - Locksets), which comply with the Building Code of Australia.
 - (b) An auxiliary lock set should also be incorporated into the design of each of the entry/exit points to enable emergency services to access the development particularly in emergency situations.
 - (c) Fire exit doors to the development should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the development.
 - (d) The main entry/exit doors to individual units should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.
 - (e) The balcony doors to individual units should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.
 - (f) The windows to individual units should also be fitted with key operated locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.

PRIOR TO OCCUPATION CERTIFICATE

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

97. **Basix commitments.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate referred to in this Development Consent.
98. **Public domain.** All landscaping & public domain improvement works required to be carried out under condition 7 are to be completed.

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99. **Consolidation.** All land titles within the site must be consolidated into one allotment. Documentary evidence of such consolidation shall be submitted prior to the issue of any Occupation Certificate under the Environmental Planning and Assessment Act 1979.
100. **Disabled access.** Access for disabled people shall be provided in the building or portion of the building in accordance with the applicable standards and the requirements set out in AS 1428.1. Documentary evidence is to be and certification obtained from a suitable qualified person confirming that the development meets these requirements is to be provided prior to the issue of any Occupation Certificate.
101. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Interim/Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

102. **Sewer Connection:** All sanitary fixtures must be connected to the sewerage system by gravity flow and documentary evidence of compliance must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.
103. **Sydney Water.** 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 Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site 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 Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim/Final Occupation Certificate.

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104. **Design Verification:** Prior to an Occupation Certificate being issued to authorise a person to commence occupation or use of a residential flat building, the Principal Certifying Authority (PCA) is to be provided with design verification from a qualified designer. The statement must include verification from the qualified designer that the residential flat development achieves the design quality of the development as shown on plans and specifications in respect of any Construction Certificate issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 154A of the Environmental Planning and Assessment Regulation 2000.
105. **Post construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties.
106. **Disused Gutter Crossing.** All disused gutter and footpath crossings where occur shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
107. **Parking Management Plan:** An external (on-street) parking management plan to be prepared by and submitted to Council's for the Local Traffic Committee approval prior to the issue of OC.
108. **Compliance Certificates – Engineering.** Compliance Certificates should be obtained for the following (If Council is appointed the Principal Certifying Authority [PCA] then the appropriate inspection fee is to be paid to Council) and **submitted to the PCA:**
- Confirming that all vehicular footway and gutter (layback) crossings are constructed in accordance with the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria - 1999*.
 - Confirming that the driveway is constructed in accordance with the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria - 1999*.
 - Confirming that the constructed internal car park and associated drainage complies with AS 2890, the construction plan requirements and Ryde City Council's *Environmental Standards Development Criteria - 1999*.
 - Confirming that the site drainage system servicing the development complies with the construction plan requirements and the City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management.
 - Confirming that the connection of the site drainage system to the trunk drainage system where applicable complies with Section 4.7 of AS 3500.3 - 1990 (National Plumbing and Drainage Code).

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- Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - From Council confirming that all external works have been completed to Council's satisfaction.
109. **On-Site Stormwater Detention System - Marker Plate.** Each on-site detention system basin shall be indicated on the site by fixing a marker plate. This plate is to be of minimum size: 100mm x 75mm and is to be made from non-corrosive metal or 4mm thick laminated plastic. It is to be fixed in a prominent position to the nearest concrete or permanent surface or access grate. The wording on the marker plate is described in the City of Ryde, Development Control Plan 2006: - Part 8.2; Stormwater Management. An approved plate may be purchased from Council's Customer Service Centre on presentation of a completed City of Ryde OSD certification form.
110. **Work-as-Executed Plan.** A Work-as-Executed plan signed by a Registered Surveyor clearly showing the surveyor's name and the date, the stormwater drainage, including the on-site stormwater detention system if one has been constructed and finished ground levels **is to be submitted to the Principal Certifying Authority (PCA)** and to Ryde City Council if Council is not the nominated PCA. If there are proposed interallotment drainage easements on the subject property, **a Certificate from a Registered Surveyor is to be submitted to the PCA** certifying that the subject drainage line/s and pits servicing those lines lie wholly within the proposed easements.
111. **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.

PRIOR TO SUBDIVISION CERTIFICATE

The following conditions in this Part of the consent apply to the Subdivision component of the development.

All conditions in this Part of the consent must be complied with prior to the issue of a Subdivision Certificate.

112. **Final plan of subdivision.** The submission of a final plan of subdivision plus 3 copies suitable for endorsement by the Authorised Officer of Council.

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113. **Final plan of subdivision – title details.** The final plan of subdivision shall contain detail all existing and/or proposed easements, positive covenants and restrictions of the use of land.
114. **Section 88B Instrument.** The submission of an Instrument under Section 88B of the Conveyancing Act 1919 plus 3 copies, creating Easements, Positive Covenants and Restrictions on Use. This Instrument shall nominate the City of Ryde as the authority empowered to release, vary or modify the terms of the Instrument.
115. **Occupation Certificate.** A final occupation certificate in relation to this development must be in force. A copy of the Occupation Certificate is to be submitted with the application for final subdivision certificate.
116. **Section 73 Certificate.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted with the application for final subdivision certificate.
117. **Utility provider – compliance documents.** The submission of documentary evidence of compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc).

OPERATIONAL CONDITIONS

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

118. **Garbage Collection:** Where necessary, staff or contractors must be employed to take the waste containers from garbage and recycling room to the container emptying point for servicing and to return the containers to the garbage room after servicing.
119. **Gym to be used by residents only:** The use of the Gym within the building shall only be used by the residents living within the site.
120. **Indemnity:** Where it is necessary for waste collection vehicles to enter the property to service the waste containers, the property owner must indemnify Council and its contractor in writing against claims for damage to the driveways and manoeuvring areas.
121. **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*.
122. **Noise from Plant & Machinery:** The operation of any plant or machinery installed on the premises must not cause:

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- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at the most affected noise sensitive location in the vicinity. 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.
123. **Hours of operation.** The use of the retail part of the development is restricted to the following hours of operation: 7.00am and 9pm Monday to Saturday and 8.00am to 8pm on Sunday.

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ATTACHMENT 2

- 2 3-5 TRELAWNEY STREET, EASTWOOD. LOTS A & B in DP 401296.
Construction and strata subdivision of a mixed use development,
consisting of a building with six retail /commercial tenancies; 61 units
and basement parking for 108 cars. LDA 2011/0611.

INSPECTION: 4.20pm

INTERVIEW: 4.40pm

Report prepared by: Willana Associates, Planning Consultants

Report approved by: Team Leader - Major Development Team; Manager
Assessment; Group Manager - Environment & Planning

Report dated: 29/06/2012 **File Number:** grp/12/5/5/3 - BP12/778

1. Report Summary

Applicant: Morris Bray Martin Ollmann.

Owner: N&G Projects Pty Ltd.

Date lodged: 28/11/2011

This report relates to Local Development Application No. 2011/0611 which generally proposes the construction and strata subdivision of a mixed-use development at 3-5 Trelawney Street, Eastwood.

The development will generally consist of a new building with a total of part seven/part eight levels, including two levels of parking. The parking will contain a total of 108 car spaces, as well as a loading bay, four motorbike parking spaces; bicycle parking; service rooms (such as plant rooms and waste bin store rooms), and unit storage areas. The building will consist of 61 units in total. Six retail/commercial tenancies will extend along the Trelawney Street frontage of the site at footpath level. A communal gymnasium will be set back behind.

The development proposal includes some works to the public domain such as the provision of new footpath paving; a new driveway; street trees; bicycle racks and an awning over the footpath. The development proposal also includes a voluntary planning agreement (VPA). A separate report is provided in Appendix 4. The VPA generally involves the payment to Council of a one off monetary contribution of \$150,000. This contribution will be in addition to the payment of all applicable Section 94 contributions required by Council, public domain improvements and construction related fees relating to hoardings, construction parking zone permits and hoarding inspections.

The site is located within the Eastwood Town Centre that is subject to specific local planning controls. The specific controls are generally contained within both the Ryde Local Environmental Plan 2010 (RLEP 2010) and Ryde Development Control Plan 2010 (RDCP), in particular Section 4.1 of the DCP which consist of detailed controls applicable only to development within the Eastwood Town Centre. The RLEP prescribes a height limit of 15.5m in which the development exceeds by a maximum of 5.65m.

Agenda of the Planning and Environment Committee Report No. 9/12, dated Tuesday 17 July 2012.

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ATTACHMENT 2

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The development is also subject to various state planning provisions contained within SEPP No. 65 – Design Quality of Residential Flat Development; SEPP (Infrastructure) 2007; SEPP No. 55 – Remediation of Land; SEPP (Building Sustainability Index: BASIX) 2004 and Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Three submissions - two objections and one letter of support - were received during the public notification/exhibition period. The issues raised in the objections relate to inadequate parking, non-compliant building height, excessive scale, loss of privacy and solar access, garbage build up, unsatisfactory shop displays, insufficient infrastructure capacity, and traffic congestion.

The development has been designed in conjunction with that proposed at 7-9 Rutledge Street, Eastwood under Development Application No. 2011/0612 as to achieve a visual "gateway" into the Town Centre. Despite this, the proposal fails to comply with a number of the key controls, in particular the controls relating to height and building envelope. This is not acceptable in terms of the urban design outcome. It also does not achieve an appropriate separation to the north and west. In this regard the development will be forced to borrow amenity from adjoining sites.

The subject development application (DA) is therefore recommended for refusal.

Reason for Referral to Planning and Environment Committee: Nature of the proposed development; and received VPA.

Public Submissions: Three submissions were received. One submission was in favour of the development and two submissions were objections.

Is a Clause 4.6 RLEP 2010 objection required? Yes. A variation is proposed to the 15.5m building height standard of Clause 4.3(2) of Ryde Local Environmental Plan 2010.

Value of works: \$ 12,491,314.

RECOMMENDATION:

- (a) That Local Development Application No. 2011/0611 at 3-5 Trelawney Street, Eastwood, being Lots A and B in DP 401296 be refused for the following reasons:
- a. The proposed development is inconsistent with State Environmental Planning Policy No. 65 with respect to Context, Scale, Built Form, Density and Amenity and therefore does not represent a good design outcome, particularly in the following areas:

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- i. The development does not respect the desired future character of the area as the development extends well beyond the applicable building height and building envelope controls.
 - ii. The development does not respect the desired massing, topography and human scale initiatives.
 - iii. The development will not be stepped to appropriately relate to the existing or anticipated height of the building to the north and topography along Trelawney Street, nor will it appropriately address the site's corner location.
 - iv. The development does not provide adequate separation to the north and west boundaries and in this regard the built form will be forced to borrow amenity from adjoining properties.
- b. The proposed development proposes significant non-compliances with the maximum 15.5m height standard for the site prescribed under Clause 4.3 – Height of Buildings of the Ryde LEP 2010 which has not been justified.
 - c. The proposed development application has not been adequately demonstrated by the applicant that the proposed height variance will be satisfactory with respect to Sub-clause 4(a) (ii) in that the development will be in the public interest because it will be consistent with the objectives of the height standard and the objectives of the land.
 - d. The design is such that it will not meet the objectives (a), (c), (d) and (e) for building height listed under Clause 4.3 – Height of Buildings of RLEP 2010 and objectives of the zone listed under the Land Use Table of RLEP 2010 with regard to '*creating an attractive environment for pedestrians*' and '*recognising topography and unique location in design*'. The proposed development will not meet Objective (b) of Clause 4.6 – Exceptions to development standards. It will not achieve a better outcome for and from development.
 - e. The proposed development does not meet the objectives (a) of Clause 6.5 – Eastwood Urban Village and West Ryde Urban Village with respect to '*creating an attractive environment for pedestrians*' given the proposed height, scale and lack of regard to the human scale initiatives for height.
 - f. The proposed development will not meet the following aims of the DLEP 2011 listed under Clause 1.2 - Objective: (2) (b) (ii) and (iii) and (2) (g) given the massing, height and scale relationship with adjoining development and existing character.
 - g. The proposed development does not comply with the maximum permissible height of 15.5m prescribed under Clause 4.3 – Height of Buildings of the DLEP 2011.

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- h. The proposed development does not achieve objectives (a), (b), (c) and (d) for building height listed under Clause 4.3 – Height of Buildings of the DLEP 2011.
- i. The proposed development application has not adequately justified that the proposed height variance will be satisfactory with respect to Sub-clause 4(a) (ii) in that the development will be in the public interest because it will be consistent with the objectives of the height standard.
- j. The proposed development will not meet Objective (b) of Clause 4.6 – Exceptions to development standards as it will not achieve a better outcome for and from development.
- k. The proposed development seeks significant variation to the applicable Ryde DCP 2010 controls, particularly in relation to the envisaged urban form. The degree of variation has resulted in an excessive design that is inconsistent with the object of the envelope and corner treatment controls. The development does not achieve a design outcome that is sought by Council's controls nor reflect the future character for the Eastwood Shopping Village.
- l. Insufficient information has been submitted to verify compliance with the RFDC requirement that private open spaces for at least 70 % of apartments in a development should receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.
- m. The proposed development is not considered to be in the public interest, particularly as it will set an inappropriate precedent for dispensing with Council's development standards without appropriate justification and given the significant departures to the Ryde LEP 2010 maximum height standards and the Ryde DCP 2010.

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

ATTACHMENTS

- 1 Map
- 2 A4 Plans
- 3 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 4 Voluntary Planning Agreement Report
- 5 LEP2010 map extract showing heights

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Report Prepared By:

**Stuart Harding Associate Director
Willana Associates, Planning Consultants**

Report Approved By:

**Sandra Bailey
Team Leader - Major Development Team**

**Liz Coad
Manager Assessment**

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

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2. Site (Refer to attached map)

Address : 3-5 Trelawney Street, Eastwood

Site Area : Site Area: 2131m²
Frontages: The site has a southern frontage to Rutledge Street of 40.72m in length and an eastern frontage to Trelawney Street of 47.245m (both excluding the 3.405m corner splay).
Western Boundary: 49.225m
Northern Boundary: 43.145m

Topography and Vegetation : The site comprises two lots, (LOTS A and B in DP 401296) and is located on the northwest intersection of Trelawney Street and Rutledge Street, Eastwood. The submitted survey indicates that the site has a general fall from its southwest to its northeast corner of approximately 3m and from its west to east side boundaries of an average of 1.2m.

However, the slopes/RLs do not represent those that currently exist on the site as the survey is dated 26 May 2010 which is well before the site was altered to remove an existing service station. The service station, which was demolished in March 2011. The site was subsequently subject to remediation work, which included the removal of underground tanks and associated infrastructure and backfilling including the establishment of imported fill on the site. The site is secured by barrier fencing. Some of the fencing is set back from the Trelawney Street frontage and corner splay.

Vegetation is limited to two established trees near the northeast corner and retained garden areas along the Trelawney Street frontage and at the site corner. One tree is a Silky Oak and the other is a Cedar Tree. Directly adjacent to the east boundary are planter beds along the footpath.

Existing Buildings : There are no buildings on the site, with the exception of a small substation along the Trelawney Street frontage. There are two vehicular crossings that service the site. One is located along Rutledge Street (near the southwest corner) and the other is located almost centrally along the Trelawney Street frontage. The site is affected by an easement over and around the substation.

Planning Controls Zoning B4 Mixed use

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Other

Environmental Planning and Assessment Act 1979
SEPP No. 55- Remediation of Land
SEPP (Building Sustainability Index: BASIX) 2004
SEPP (Infrastructure) 2007
SEPP No. 65 – Design Quality of Residential Flat Development
Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005
Ryde Local Environmental Plan 2010
Ryde Development Control Plan 2010
Residential Flat Design Code
Section 94 Contributions Plan 2007



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3. Councillor Representations

Name of Councillor: Councillor Maggio.

Nature of Representation: Called up to Planning & Environment Committee.

Date: 3 May 2012.

Form of Representation (e.g. via email, meeting, phone call): Email to the Councillor Helpdesk.

On behalf of applicant or Objectors: Not stated.

Any other persons (e.g. consultants) involved in or part of the representation: No.

4. Political Donations or Gifts

Any political donations or gifts disclosed? No disclosures.

5. Proposal

The subject development application proposes:

- Erection of a mixed-use building, with a total of part seven/part eight levels, including two levels of parking (a basement level and a lower ground level) and part five/part six levels above, arranged around a central court. The sixth level will extend along the length of the Trelawney Street frontage of the site. The parking will contain a total of 108 car spaces, as well as a loading bay; four motorbike parking spaces; bicycle parking, service rooms (such as plant rooms and waste bin store rooms) and unit storage zones. Six retail/commercial tenancies will extend along Trelawney Street at footpath level. A communal gymnasium will be setback behind. The building will contain a total of 61 units, including five units at ground level opposite the retail/commercial tenancies. Two lifts will facilitate access to all levels.
- Establishment of new on-site landscaping.
- Removal of existing vehicular crossings and provision of a new vehicular crossing. Vehicular access is proposed to extend from Trelawney Street and along the northern side of the site.
- Installation of new stormwater infrastructure, including on-site detention.
- Provision of two substations to the front, northeast corner of the site.
- Strata subdivision.

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In addition to the above, the following public domain improvements are proposed:

- Provision of new footpath paving in Rutledge Street.
- Provision of new street tree planting along the Trelawney and Rutledge Street frontages, including the removal of existing footpath planting.
- Erection of awnings over the Trelawney and Rutledge Street frontages.
- Provision of bicycle parking racks along the Trelawney Street footpath.

Prior to building construction the following site preparation works will be undertaken:

- Removal of the existing substation on the subject site.
- Removal of two trees, and existing planter beds. In addition, pruning of at least three trees and the removal of one tree on adjoining properties is likely to be warranted as specified in the submitted Tree Assessment.
- Soil excavation works to an approximate depth of about five to seven metres below existing ground level. The excavation works will extend up to all boundaries of the site. Dewatering may be required during excavation works. It will be pumped out and disposed of off-site, or discharged into the sewer; subject to obtaining the required approvals.
- Remedial and validation works to ensure the site is suitable for residential use. (NB: The site was previously subject to remediation, but this was limited and the site was validated for commercial (non-sensitive) use only).

Building Composition

In total 13 x 1 bedroom units, 46 x 2 bedroom units and 2 x 3 bedroom units will be provided, including nine units designed to be adaptable in accordance with AS 4299-1995 – Adaptable Housing. Lift access will be provided via two separate cores (one to the north and the other to the south side of the central court), to facilitate convenient access between the building parts and levels, including the rooftop communal areas and parking levels.

The basement level will contain car parking spaces and other ancillary facilities allocated for residential use (such as motorcycle parking and residential stores). Access to the basement level will be restricted by a security roller shutter. Loading facilities, retail parking, visitor parking, some resident spaces, bicycle parking and waste storage facilities will be provided at the Lower Ground Floor Level.

Table 1: Building Composition

Level	Building A
Basement Level	67 resident car parking spaces (including 6 accessible spaces and 2 small car spaces)
	2 motorcycle parking spaces

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Level	Building A
	2 store rooms with storage cages and 2 rows of storage cages for allocation to the residential allotments
	Service rooms (including a grease trap provision)
Lower Ground Floor Level	12 resident car parking spaces (including 1 accessible space)
	14 retail car parking spaces (including 1 accessible space)
	15 visitor car parking spaces (including 1 accessible space)
	1 Loading Dock (suitable for a small rigid vehicle)
	4 Retail Tenancies
	8 bike stores
Ground Floor Level	2 Retail Tenancies
	1 x 1 bed. unit (adaptable) 4 x 2 bed. units
Levels 1 to 4	3 x 1 bed. unit (2 adaptable) 10 x 2 bed. units
Level 5	2 x 2 bed. unit 2 x 3 bed. units

Landscaping

It is proposed to remove the existing trees and planter beds on the subject site and provide the following on-site landscaping:

Ground Level:

- A central communal area including planter beds with tree planting.
- Private open spaces within the west and north building line setbacks.
- A row of tree planting along the Rutledge Street frontage and west and rear boundaries generally forming part of the private open spaces.
- Masonry fencing along the Rutledge Street frontage and west side boundary.

Level 1:

- Private open spaces in the form of balconies around the building.
- Row of planter beds with tree planting along the Trelawney Street frontage and rear boundary.

Levels 2 – 4:

- Private open spaces in the form of balconies around the building.

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Level 5:

- Roof top communal area behind Level 6 with perimeter planting, outdoor furniture and pergola over.

Voluntary Planning Agreement

The VPA generally involves the payment to Council of a one off monetary contribution of \$150,000. This contribution will be in addition to the payment of all applicable Section 94 contributions required by Council, public domain improvements and construction related fees relating to hoardings, construction parking zone permits and hoarding inspections. A separate report is provided in Appendix 4, which provides more details about the VPA.

Key Figures of the Project

Number of one bedroom apartments	13
Number of two bedroom apartments	46
Number of three bedroom apartments	2
Number of retail units	6
Area of retail/commercial units	534m ²
Number of car spaces	108, plus one loading bay
Area of communal open space	263m ²
Area of deep soil planting	Nil

6. Background

i. Previous Applications:

The subject site formerly contained a Mobil service station, including a retail and workshop building with an attached canopy extending to the south and car park area to the north. A development application (LDA 2010/0674) was approved for the demolition of the service station and the remediation of the site on 23 February 2011. The buildings were demolished in March 2011 and the site was subsequently remediated and validated for commercial (non-sensitive) purposes. The demolition included the removal of all underground storage tanks and associated infrastructure, as well as backfilling.

ii. Background for Subject DA:

The subject LDA was lodged on 28 November 2011, concurrently with LDA No. 2011/0612 for the erection of a mixed use development at 7-9 Rutledge Street, Eastwood.

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Prior to lodgement, an initial scheme was subject to a 'predevelopment application review' and reviewed by Council's Urban Design Review Panel. The reviews resulted in a number of recommendations. The subject proposal is generally similar to the initial scheme as only a number of minor changes have been made as a result. They have been outlined in the section below titled '*Urban Design Review Panel*'.

Below is a chronology of events, (including meetings, discussions and correspondence), between the applicant/applicant representatives and Council Officers.

Date	Event
Pre-DA Submission	
17/08/2010	A meeting was held between Council's Group Manager, Environment & Planning and the applicant to discuss the concept proposal for the redevelopment of the site.
25/2/2011	A pre lodgement Meeting and UDRP meeting was held.
19/07/2011	A workshop was held and verbal presentation was made to the Councillors.
4/10/2011	
Post – DA Submission	
28/11/2011	DA was lodged.
05/12/2011	The DA was placed on public exhibition/notification from 5/12/2011 until 18/1/2012. The applicant was notified of the public exhibition/notification period.
08/12/2011	The Voluntary Planning Agreement (VPA) was referred to the Executive Team (ET).
23/12/2011	A letter was sent to the applicant advising that the VPA offer was not supported by ET at its meeting of 16/12/2011. Amendments were requested.
04/01/2012	A letter was sent to the Eastwood Chamber of Commerce granting an extended submission period until 15/02/2012 as requested.
12/01/2012	Item included in CIB advising that a VPA offer was submitted by the applicant for the DA.
22/02/2012	The applicant submitted a written response to the submissions received during the DA notification/exhibition period. It generally included further justification of the scheme and amendments to address vehicular access/safety. They are addressed in the section below ' <i>Submissions</i> '.
08/03/2012	A letter was sent to the applicant requesting additional information and design changes. (The applicant was advised that the application in the form submitted could not be supported by staff). This resulted in two (2) meetings in which the matters raised in the letter were discussed.
22/03/2012	Flood Information was provided to the applicant
04/04/2012	A meeting was held with the applicant re VPA

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Date	Event
05/04/2012	CIB item prepared advising of the details of the VPA
13/04/2012	In response to Council's letter dated 8/03/ 2012, the applicant submitted a formal written response with accompanying documentation. (The additional information and amendments requested in the letter are listed in italics below this table). No major changes have been made and further justification in support of the scheme has been provided by the applicant. Changes have been limited to the following: <ul style="list-style-type: none"> - Reduction in the number of retail tenancies from 7 to 6. - Provision of additional basement storage area. - Addition of steps along the Trelawney Street frontage of the site. - Addition of bicycle parking on the footpath and within the lower ground level. - Increase to the lower floor levels to address the flood issue raised by Council's Engineer but no change to the overall building height.
14/5/2012	The applicant provided a further submission that separately addressed technical issues raised by Council's Public Domain Officer, Waste Officer, Traffic Engineer and Stormwater Engineer. Generally no major changes have been made. Changes have been limited to the following: <ul style="list-style-type: none"> - Minor adjustments to the lower ground bin store areas. - Addition of a hard waste area and collection area at lower ground level. - Minor adjustments to the lower ground floor levels of retail tenancies and ramped vehicular access. (This has included the deletion of steps along the Trelawney Street frontage and provision of accessible entries into retail tenancies via the provision of internal ramping). - Increase to the area of Retail 1 from 169sqm to 171sqm.
20/04/2012	Amended plans were referred to the Roads and Maritime Services (RMS).
21/05/2012	Amended plans were submitted indicating minor changes to some levels adjacent to the Trelawney Street footpath in response to the flood levels.
19/04/2012	An amended VPA was considered by Council's Executive Team (ET).
29/05/2012	The VPA was considered by Council's Voluntary Planning Agreement Panel. The Panel identified substantial areas of concern in relation to the VPA and the Explanatory Note. The applicant was advised of the issues on the same day.
30 May 2012	Amended explanatory note was received by Council.

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Date	Event
6 June 2012	Amended VPA was received but did not address all the concerns as raised earlier.
13 June 2012	Further amendments to the VPA was carried out by the applicant but still failed to address a number of that were raised earlier (refer to the VPA report as Attachment to this report for details).
18 June 2012	The applicant/owner was advised again that the VPA documentation had to be amended.
25 June 2012	A further request/ reminder was sent to the applicant/owner and no further response was received.

iii. Response by Applicant to Council's letter dated 8/03/2012

The additional information and amendments requested in Council's letter dated 8/03/2012 are provided in italics below this table. A comment is provided for each in relation to the applicant's response.

- **Height / Amendments to Plans** - *A reduction to the overall height of the building to ensure greater compliance with the height development standard including the deletion of the Level 6 units facing Trelawney Street and Units 403 - 406. The roof terraces should be maintained, setback from the eastern side of the building (similar to the setback proposed) and provided with a screen/wall along the eastern side (preferable with landscaped treatment as per other sides of the roof terrace).*
- **Eastwood Urban Village** – *The scheme is required to respond to be consistent with objectives (a) to create a safe and attractive environment for pedestrians and (b) to create a mixed use precinct with emphasis on uses that promote pedestrian activity and safety at ground level as outlined in Clause 6.5 of the RLEP 2010 – Eastwood Urban Village and West Ryde Urban Village with respect to the proposed height, visual bulk and scale of the development.*

Comment: The plans have not been amended to address the building height or objectives for the Eastwood Urban Village. Further justification has been provided by the applicant with respect to the height and urban design outcome of the built form.

- **SEPP No. 65** - *A detailed response is required as to how the design has responded to the comments made in pre lodgement advice regarding SEPP65. Where design changes have not been made, and are pressed by the applicant, justification is required as to why the scheme should be supported by Council. Particular emphasis should be given to levels of amenity and the relationship of the building to the public domain and the adjoining development.*
Context: *The development doesn't respect the existing and desired future character. The development has extended outside the desired building envelope both in terms of heights and to side boundaries resulting in a building that is excessive in bulk and scale.*

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Scale: Bulk/height doesn't reflect the topography, scale of street / surrounding buildings (existing and expected). In particular, the absence of adequate side boundary setbacks would result in a building of a scale which is inconsistent with the desired future character of the area and which has corresponding amenity impacts.

Density: The density is dictated by the height, envelope and setback controls in the absence of an FSR or other dwelling or population density controls. Non compliances with these controls verify the development consists of excessive floor space.

Building Height: The proposed number of storeys is in excess in comparison to that achievable based on the minimum floor – to – ceiling heights and maximum permissible height of 15.5m. The built form does not express a strong corner form. A step in form of the building along the street is required to reinforce the role of the corner.

Setbacks: The 6m separation requirement is not met to the north and west boundaries. The boundary setbacks are not sufficient to ensure adequate amenity. They result in a built form that is forced to borrow amenity from adjoining sites.

Mass / Apartment Layouts: Building mass will not deliver a reasonable standard of amenity, solar access, outlook and cross ventilation. The access courtyard/light well configuration creates impacts in terms of reduced solar access, outlook, cross ventilation and poor amenity in inclement weather. The layout does not maximise opportunities to facilitate natural ventilation and solar access. Some apartments exceed 8m in depth from a window and 8m from the back of a kitchen to a window. The number of single-space apartments with a southerly aspect exceeds 10% of the total units.

Comment: The matters of setbacks and mass/apartment layouts have been addressed below in the section 'Urban Design Review Panel'. The following comments have been provided with respect to the matters of context, scale, and density.

In relation to Context, the applicant has justified the development with respect to its context on the following grounds:

- The desired future character has been established by the approved Eastwood Shopping Centre and proposal will successfully integrate with the future character as established by the approved Centre.
- The approved Eastwood Shopping Centre has established character and massing for the area beyond the RLEP and RDCEP.
- The development creates a unified gateway with the development at 7-9 Rutledge, both of which replicate near identical elements in relation to scale, proportion, architectural treatment and colour.
- The remaining built form presents a block edge treatment and is appropriate in scale in context of the desired future character and land to the north and west.

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The matters raised by the applicant have been addressed previously. As discussed, the planning controls cannot be disregarded for the Eastwood Town Centre based on the approved Eastwood Shopping Centre Development.

In relation to Scale, the applicant has advised that the building generally complies with the LEP height plane along Rutledge Street; successfully delivers the outcomes envisaged by Council's planning controls in terms of bulk and scale; exceeds the height as a result of the topography to a maximum of 1.4m in the northwest corner and height variances will not result in any environmental or amenity impacts and are important to meeting the SEPP 65 objectives and Council's controls.

The concerns with the Rutledge Street frontage as opposed to Trelawney Street frontage and treatment of the sites corner have been addressed previously. Generally, there is less of a concern with the Rutledge Street frontage than the Trelawney Street frontage. A variance in height would be accepted for an appropriately designed corner element. The maximum height variance is indicated in the LEP section above. It is in excess of that stated by the applicant. It has been verified above that the variance will be contrary to some objectives in the LEP in relation to the sites zone and building height.

In relation to Density, the applicant has advised that the proposed density is:

- Appropriate for the site and context since it lies within a transportation hub and growing infrastructure.
- The 61 units will contribute to Council's strategy to increase the population living close to public transport and which will re-energise the Eastwood retail precinct.
- The retail density will provide an active street frontage.

It is concurred that the density is appropriate in the sense advised by the applicant, however it is not appropriate with respect to achieving other objectives for the Eastwood Town Centre, such as those specified by the LEP zone objectives, building height objectives and objectives of Clause 6.5 - Eastwood Urban Village and West Ryde Urban Village.

- **Storage:** *Some units fail to achieve the minimum storage area requirement. Further drawings should include clarification of the division and unit allocation of the basement storage areas.*

Comment: The applicant has amended the plans to provide additional storage areas. The plans indicate the storage areas within the lower ground and basement levels as shaded zones but do not indicate the division or unit allocation of the zones.

- **Bicycle parking:** *No facilities are proposed.*

Comment: The plans have been amended indicating 8 bike stores in the lower ground level, as well as bike racks on the Trelawney Street footpath.

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- **Survey Plan** - *The submitted survey plan is not current and is inaccurate. Our site inspection revealed that the buildings, indicated on the plan, no longer exist. Given the requirements of Clause 55 (as follows) of the State Environmental Planning Policy (Infrastructure) 2007, details of any existing gas pipeline corridors should be provided by the surveyor.*

Comment: The applicant has advised that 'existing boundary levels to the site and existing footpath have not altered following site clearing and therefore the survey can be relied on'. This matter is discussed further below in the section 'Clause 4.3'.

Details of the existing gas pipelines have been submitted.

- **Ground Levels** - *The drawings do not adequately illustrate the existing and proposed ground levels. The provided cross sections and elevations fail to clearly indicate the whole building envelopes of existing buildings on adjoining properties, to the north of the site. Additional drawings should be provided accordingly.*

Comment: The applicant has submitted information.

- **Strata Subdivision** – *The subject application proposes strata subdivision. It is requested that the applicant submit three (3) paper copies and a PDF copy of draft strata subdivision plans particularly to indicate the common property, unit entitlements and proposed easements.*

Comment: No draft plans have been submitted. If the development application was to be approved, it would be necessary to include conditions of consent which would require a final plan of subdivision prior to the issue of any Subdivision Certificate.

- **Shadow Diagrams** - *The solar access requirement of the whole development needs to be considered in light of the overshadowing impact of the proposed development at 7-9 Rutledge Street. Accordingly, the shadow diagrams (including elevation solar access diagrams of the development) and the submitted solar access table should be amended to include that impact. The solar access table should also be amended to separately indicate achievement of the solar access requirement in living areas as opposed to the private open spaces / balconies of each unit, as the RFDC indicates the achievement of at least 2 hours of solar access to living rooms and private open spaces.*

Additional elevation solar access diagrams shall be provided to indicate the impact on the south elevation.

A statement shall be provided by the Architect to certify that the solar access diagrams have been prepared to true north.

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Comment: The solar table has been amended to indicate the additional impact of 7-9 Rutledge Street. It has not been amended to separately indicate achievement of the solar access requirement in living areas as opposed to the private open spaces / balconies of each unit.

Additional elevation solar access diagrams indicating the impact on the south elevation and a statement certifying that the solar access diagrams have been prepared to true north have been provided by the applicant.

- **Stormwater** - As required by Clause 3.2(a) of 'Part 4.1- Eastwood Town Centre' of the Ryde Development Control Plan 2010 the applicant is to submit a 'stormwater inundation impact assessment' or 'stormwater management strategy'.

Comment: Following consultation with Council's Engineer, the plans have been amended to address the 100 year ARI Flood Level with 300mm freeboard.

- **Traffic and Parking –**
 - Amendments to the plans of the proposed development at either 7-9 Rutledge Street or 3-5 Trelawney Street to indicate an off-set between the proposed driveways of each development site.

Comment: The plans have not been amended to provide an off-set.

- Submission to Council of a Road Safety Audit for both accesses from Trelawney Street.

Comment: A Road Safety Audit has been submitted and reviewed by Council's Engineer and the RMS.

- Amendments to the plans to specify land dedication (where not already undertaken) as to allow for the future widening of the Rutledge Street and Trelawney Street intersection and along the Rutledge Street frontage, as required by the RMS.

Comment: Roads and Maritime Services has advised that they have previously acquired a strip of land for road along the Rutledge Street frontage of the site. No other part of the site is required by RMS for road purposes.

- Amendments to the traffic reports for both the Rutledge Street and Trelawney Street DA's. The results of each traffic report differ in terms of intersection performance. It is requested that both sites are included in each report to give a more accurate representation of the impacts.
- Amendments to the SIDRA modelling to take into consideration pedestrian counts.

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Comment: Additional advice from the applicant's traffic consultant has been submitted and reviewed by Council's Engineer and RMS.

- *Submission of an electronic copy of the SIDRA modelling to Council.*

Comment: An electronic copy has been submitted and reviewed by Council's Engineer and RMS.

- **Architectural Drawings** - Further drawings should include clarification of the following details:

- *Which external glazing will be operable or fixed. A schedule shall be provided accordingly.*

Comment: No details have been provided. The applicant has advised that details will be provided at Construction Certificate (CC) stage. These details are necessary to ascertain whether or not units will be provided with natural ventilation opportunities. Natural ventilation is discussed further in the section 'SEPP No. 65' below.

- *The exact nature of the easement encroachment indicated on the lower ground floor plan.*

Comment: The applicant has advised that an easement will be provided over and around the 2 proposed substations in the lower ground level. This matter will be dealt with by the developer and Ausgrid and a satisfactory easement created as per Ausgrid's requirement.

- *Whether or not all balustrades on the west elevation will be glazed. If they are not, then amendments to the solar access diagrams and solar access table for this elevation should be provided to indicate the impact of masonry balustrades.*

Comment: The solar access diagrams have been amended. They take into account the impact of the balustrade materials (i.e. permeable or non-permeable).

- *Further justification with respect to Clause 4.6(3)(b) of Ryde Local Environmental Plan 2010 addressing the additional impact resulting from the non-compliant height portions particularly with respect to privacy, views (including the relevant provisions of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 as the site is within the catchment area), additional overshadowing and achieving the objectives for height. This may include shadow diagrams indicating a compliant situation and/or the impact during the equinoxes.*

Comment: Further justification has been provided. This has been outlined in the section 'Clause 4.6' below.

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- *Whether or not any car spaces will be caged. This should be considered for any resident spaces on the same level as non-residential spaces for security reasons. The plans shall be amended accordingly.*

Comment: The applicant has advised that the details will be provided at CC stage. If the DA is approved, a condition is recommended to ensure any caged spaces and other surrounding spaces maintain the minimum dimensions as required by AS 2890.1.

- *Whether the proposed 'Gym' will be a communal facility or an independent facility for general public use.*

Comment: The applicant has advised that the 'Gym' will be for the use of residents only. If the DA is approved, a condition is recommended to ensure the area to be indicated as common property on any corresponding strata plan and a management plan include by-laws with respect to the maintenance and use of the gym.

- *Whether any discussions have been had with Energy Australia with respect to the proposed substation and provision of the power supply underground. Whether any discussions have been had with other utility providers with respect to providing installations underground. Any related correspondence should be forwarded to Council to indicate that the utilities can be and will be provided underground.*

Comment: The applicant has provided evidence of discussions with an Ausgrid representative. The evidence indicates that the following matters are being considered by Ausgrid:

- Dispensation to the overhead substation easement encroachment;
- Proposed gap between the easement and site boundary with the kerb;
- Requirement for 2m cable easement in the driveway;
- Provision of a 4m right of way in the driveway for the passage of Ausgrid trucks;
- Erection of steel bollards that do not encroach the substation easement; and
- Fire rating of walls within 3m of the substation.
- Whether the landscape scheme of the landscape plans should be relied on or that indicated on the architectural plans. (Both schemes differ, particularly with respect to the street planting). The landscape plans or architectural plans shall be amended accordingly to reflect the preferred scheme.

Comment: Should the application be approved, a condition is recommended to require the adoption of the landscape scheme indicated on the landscape plan.

- *The proposed RL's along the Trelawney Street footpath adjacent to the site boundary.*

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Comment: The applicant has advised that the RL's of the footpath will be generally as per the existing levels.

- *The location and height of the rooftop mechanical exhaust structure required for internal toilet/bathroom/laundry areas of the residential units.*

Comment: The applicant has advised that exhaust structures required for internal toilet/bathroom/laundry areas will be below parapet level and therefore screened from view. If the application is to be approved, appropriate conditions should be included in the consent to ensure this and that the same is achieved with respect to the garbage room exhaust.

- **Acoustic Impact of Development** - *It is recommended that the submitted acoustic report be amended to indicate the combined additional acoustic impact of the proposed developments at both 7-9 Rutledge Street and 3-5 Trelawney Street, Eastwood (i.e. the impact of the proposed uses, additional traffic noise and plant / AC/ exhaust noise) on the existing residential properties on the opposite side of Rutledge Street.*

Comment: The acoustic report has not been amended.

- **Voluntary Planning Agreement (VPA)** – *It is also noted that a VPA has been submitted with this development application and the VPA has been rejected by Council's Executive Team. It will be necessary to resolve the VPA matter to enable this assessment to be completed.*

Comment: An amended VPA has been submitted and deemed acceptable by Council's Executive Team on 19 April 2012. The VPA has been discussed in greater detail in the separate report provided in Attachment 4.

7. Submissions

The proposal was advertised and notified in accordance with Ryde Development Control Plan 2010 - Part 2.1, Notification of Development Applications (RDCP). The application was advertised / notified from 7 December 2011 until 18 January 2012.

One submission was received in favour of and two submissions were received objecting to the development. The issues raised in the submissions were:

- **Inadequate Parking**

Comment: The RDCP compliance table below indicates that the minimum requirement prescribed under Section 9.3 – Car Parking will be met by the proposal. A condition is recommended to ensure the spaces are appropriately allocated to respect the RDCP requirement.

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- *The building height is substantial which could potentially invade our privacy and block direct sunlight (6 Rutledge Street)*

Comment: No adverse privacy implications would result given the separation between the existing dwelling house and proposed building. The RFDC recommends a building separation of 18m between habitable rooms and balconies from 5 to 8 storeys (25m in height) and 12m up to 4 storeys (12m in height). The building will have a separation of over 24m.

An adequate amount of solar access will be maintained to the property. In particular, a useable portion of the primary private open space will receive at least 3 hours of sunlight during 9am and 3pm on June 21.

- *I enjoy Asian foods, but do not enjoy the way many of the shops are displayed and maintained and the build up and smell of garbage.*

Comment: The matters are not specific to the subject DA however, conditions are recommended to be included in a consent to ensure appropriate waste storage facilities, maintenance of the facilities, and frequent waste collection services are provided.

At this stage the intended use of the retail uses is not known. In all likelihood any food shop would require a new DA as it may not fall into the category of exempt development. At this stage further attention could be given to waste issues.

- *I am concerned that the infrastructure of the small Eastwood Shopping Centre will not be able to support such a large development and services will be overstretched.*

Comment: The submission has not identified what infrastructure is of concern. Regardless, it is noted that the proposed stormwater drainage scheme has been reviewed by Council's Engineer, who has recommended conditions be included in a consent to ensure an acceptable outcome. Conditions are also recommended to ensure that the applicant liaises with the necessary service providers (for gas, water, electricity and telecommunications) and services are installed in accordance with the requirements of the provider. The RMS and Council's Traffic Engineer have reviewed the application. They have not raised any concerns with respect to the existing road infrastructure. Council's Traffic Engineer has advised that the surrounding roads will adequately cater for the development.

- *Cars and delivery vehicles entering and exiting from the proposed buildings will cause further traffic congestion.*

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Comment: Council's Engineer and the RMS have reviewed the related traffic impacts of the proposal. They have not raised any concerns to the traffic impact. Council's Traffic engineer advised that increases in queue lengths and average delays are generally acceptable. Conditions have been recommended to be included in a consent, including a condition for queuing spaces at the driveway entrance.

- *Overdevelopment of the site / Excessive Size / The developments are out of scale to the surrounding buildings and are too close to the Eastwood Public School. I would appreciate Council reconsidering the size and height of the developments.*

Comment: Agreed. The development does not meet the RLEP height and objective controls resulting in a building that has excessive height and scale. These matters have been discussed in the section below 'Clause 4.6'. The setback to the school is discussed in the section 'Residential Flat Design Code'.

- *The proposals will complement the Eastwood Centre Development and provide the much needed gateway into the Eastwood town centre from Trelawney Street. The sites as they exist now present a very poor image of the town.*

Comment: The proposal will match the architectural style of the Eastwood Shopping Centre development; however it will represent excessive height and scale which does not meet the RLEP height and a couple of objectives of the control, as well as respect the existing and anticipated massing of neighbouring developments and topography of the area. These matters are discussed further below. The gateway concept can still be achieved, with a development that better responds to the LEP controls and its immediate surrounds.

- *The additional residents are expected to increase the spend within the town centre.*

Comment: It is acknowledged that the development will result in a positive economic impact with respect to supporting the economic viability of existing and proposed shops within the centre.

8. Clause 4.6 RLEP 2010 objection required?

Is a Clause 4.6 RLEP 2010) objection required? A variation is sought under Clause 4.6 of RLEP 2010 in respect to the maximum height standard applicable to the site. The maximum height standard is prescribed by *Clause 4.3 – Height of Buildings* is 15.5m, as indicated on the extract below.

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The proposed maximum building height will be 21.15m if the RL's provided on the submitted survey are relied upon. The maximum will be located at the northeast building corner in the location of proposed Unit No. 504. This represents a difference of 5.65m to the maximum permissible height of 15.5m. Whilst both the edge of the sloped roof, above Unit 504 and the rooftop plant will be at a higher RL, they will result in a maximum height of 21.05m for the sloped roof, 19.67m for the plant further north and 19.42m for the plant further south, given that the survey indicates the existing ground levels directly underneath to be higher.

9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Local Environmental Plan 2010

Zoning



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The site is zoned B4 Mixed use under the Ryde Local Environmental Plan (RLEP) 2010. The proposed development is permissible with consent under this zone. The proposal has been considered in relation to the objectives of the zone. Reference should be made to the assessment provided in the table below. In summary, the development will be consistent with the objectives of the zone other than the last two objectives when considered in relation to the proposed height, corner location and topography.

Zone Objectives	Comment	Complies
<i>To provide a mixture of compatible land uses.</i>	The proposal is for a mixed use development, which includes residential and retail/commercial uses, in a compatible manner, with the retail/commercial being contained at street level and the residential predominantly above.	Yes
<i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i>	The subject site has convenient access to both bus and rail facilities. The proposal will integrate the proposed uses in a highly accessible location to maximise public transport use, walking and cycling.	Yes
<i>To create vibrant, active and safe communities and economically sound employment centres.</i>	The proposal appears to generally adopt the Crime Prevention Through Environmental Design (CPTED) principles, with respect to passive surveillance to both street frontages, and active retail uses at the street level. Conditions have been recommended by the NSW Police Force to adequately address the other CPTED principles. These conditions should be included in a consent, should the application be approved. The residential use will assist in supporting commercial/retail uses in the area. The development will facilitate active street frontages.	Yes
<i>To create safe and attractive environments for pedestrians.</i>	The development will be excessive in height and bulk/scale, particularly along the Trelawney Street frontage. It will not respect the human scale, fall of the street, existing and anticipated massing of development on adjoining sites or express a strong corner form. (Refer to discussion in Section 'Clause 4.6' below).	No

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Zone Objectives	Comment	Complies
To recognise topography, landscape setting and unique location in design and land-use.	As above.	No

Mandatory Requirements

Clause 4.3 - Height of Buildings

The maximum permissible height applicable to the subject site, as indicated on the RLEP 'Height of Buildings Map' is 15.5m.

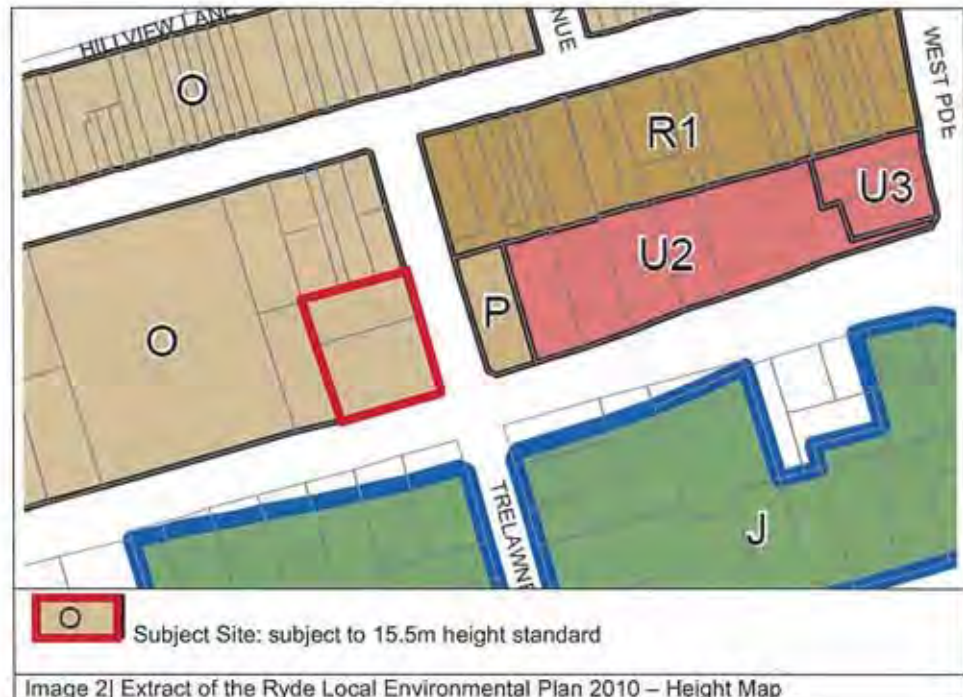


Image 2| Extract of the Ryde Local Environmental Plan 2010 – Height Map

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The definition of 'building height' contained within the RLEP 2010 states:

'building height (or height of building)' means the vertical distance between ground level (existing) and the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like."

'ground level (existing)' means the existing level of a site at any point.

The submitted survey plan does not indicate the 'existing' ground levels. It indicates ground levels and buildings that existed prior to demolition and earthworks undertaken in March 2011, (the subject of Development Consent No. 2010/0674).

The applicant was requested to submit a current survey of the site. In response, the applicant advised that *'existing boundary levels to the site and existing footpath have not altered following site clearing and therefore the survey can be relied on'*. Whether or not the levels at the site boundaries and footpath have been altered is less of a concern in this case. The levels of concern are those located under the proposed higher building sections and the setback from the boundaries of the site. The demolition undertaken in 2011 included the removal of all underground storage tanks and associated infrastructure, and remediation, including filling on the site. Therefore the RL's indicated on the survey over the site (not along the boundaries and footpath), are unlikely to accurately represent the existing levels. The height non-compliances discussed below and referenced in other sections of this report are based on the submitted survey and therefore should not be relied upon to give exact/actual variances. They should be regarded as approximates.

The maximum building height will be 21.15m and located at the northeast building corner in the location of proposed Unit No. 504 (to the west side where the survey indicates an RL of 72.55) and exclusive of the upper, stepped section of the sloped roof. This represents a variation to the prescribed 15.5m height of 5.65m (36.45%). The following diagrams demonstrate the height non-compliance. If the stepped roof is included the height will be approximately 21.35m which represents a variance of 5.85m.



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Diagram 1: North Elevation:

-  Area of non-compliance with maximum 15.5m RLEP 2010 Height Standard
-  Building Envelope of RDCP 2010


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Diagram 2: East Elevation:

 Area of non-compliance with maximum 15.5m LEP Height Standard

— Building Envelope of RDCP 2010 (measured from existing Rutledge Street boundary)

Clause 4.6 – Exceptions to development standards

Clause 4.6 of RLEP 2010 allows exceptions to development standards. Consent must not be granted for development that contravenes a standard unless the consent authority has considered a written request from the applicant that seeks to justify contravention of the standard by demonstrating the following:

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The consent authority must be satisfied that the applicant's written request has satisfied the above criteria and that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out. In addition, consent cannot be granted unless the concurrence of the Director – General has been obtained. These matters are discussed below.

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1. **Written request provided by the applicant.**

The applicant has provided a written request seeking to justify the variation to the development standard in Section 7.1 of the Statement of Environmental Effects prepared by Ludvik & Associates and a letter dated 12 April 2012 prepared by Morris Bray Martin Ollmann Architects.

2. **Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.**

The applicant has argued that the variation in respect of the height control is acceptable given the following:

- a. *The 'gateway location' of the site, i.e. it is necessitated 'to create an entrance statement at the Trelawney Street and Rutledge Street intersections together with the proposal at 7-9 Rutledge Street.*
- b. *The future character and form of the Eastwood Town Centre is largely dominated by the approved redevelopment of the Eastwood Shopping Centre site at 3-5 Rutledge Street, 152-188 and 196 Rowe Street. It will provide context for other development in this part of the centre.*
- c. *The approved Eastwood Shopping Centre buildings exceeded the building height standards. Council accepted a SEPP 1 objection against the height standard to allow a twelve (12) storey element adjacent to the corner of Rutledge Street and West Street.*
- d. *It will maintain the character and proportions of development fronting Rutledge Street.*
- e. *It will not have any significant effect on the overshadowing of surrounding development.*
- f. *It will facilitate a satisfactory built form in the context of future development in this locality.*
- g. *It will be satisfactorily located in terms of existing major public transport services and the arterial road network.*
- h. *The proposal is consistent with the objectives of the B4 Mixed Use zone.*
- i. *The land is not visible from Sydney Harbour or the Parramatta River nor have any influence on matters required to be taken into consideration under the terms of the SREP.*
- j. *The RLs of the proposed building are substantially less than that of the approved Eastwood Shopping Centre site development.*

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The reasons provided by the applicant, are not considered to be well-based, except for reasons, 'e', 'g' and 'j'. They do not adequately address the objectives of the control, particularly with respect to the 'human scale issue' along the Trelawney Street frontage of the site. The non-compliance along the Trelawney Street frontage is excessive, inconsistent with the objectives of the zone and height standard. The development does not achieve a design outcome sought by Council's controls. These issues have been addressed below.

It should be noted that the approved Eastwood Shopping Centre development is not the key determinant of the future character of the Eastwood Town Centre. The key determinants are Council's controls, in particular how a development addresses and achieves these controls.

The DA assessment reports considered by the Planning and Environment Committee with respect to the Eastwood Shopping Centre redevelopment (inclusive of the Section 96 report) indicated a compliant building height, particularly for the building (Building A) directly adjacent to the site 7-9 Rutledge Street. At the time of these approvals, the height control was based on the number of storeys.

The land at the corner of Rutledge Street and West Street, that formed part of the Eastwood Shopping Centre redevelopment is located over 150m away from the subject site, nevertheless it is subject to a higher building height standard of 33.5m under the RLEP 2010 and DLEP. It has little correlation with the subject site in terms of the 'human scale' issue along Trelawney Street. Trelawney Street is identified as being a pedestrian priority street under the RDCP 2010, unlike that part of West Street and Rutledge Street.

The height of the approved buildings of the Eastwood Shopping Centre development are much higher because it has higher maximum height controls (33.5m and 30.5m) prescribed under RLEP 2010, as opposed to that of the subject site, being 15.5m. Based on the LEP 2010 Building Height map, the massing/scale that is intended to be achieved steps down in height along Rutledge Street from east to west. i.e. from 33.5m to 30.5m, then to 18.5m opposite the subject site (on the opposite corner of Trelawney and Rutledge Streets) and then to 15.5m for the subject site.

The justification of the approved RL's for the Eastwood Shopping Centre Development to allow a breach of any development on the land at the corner of Rutledge and Trelawney Street (forming part of the development of 7-9 Rutledge Street) which is subject to a lower 18.5m height limit and translation of that breach to the proposed development at 3-5 Trelawney Street is not well-based.

The justification of the additional height based on an upgrade to the locality is also not well-founded. The height control does not need to be exceeded to such an extent as to reinvigorate the area.

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3. Environmental grounds to justifying contravening the development standard.

As demonstrated in this report, the development will not be consistent with the existing and desired future character of the area. The built form will not be acceptable in terms of its massing, scale and height and resultant streetscape impact.

The applicant has indicated that the variation will not adversely affect any views from surrounding residential properties or influence the matters for consideration listed under Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. This is concurred with.

As discussed below, the west and north boundary setbacks will not comply with the 6m setback requirement of the RFDC. It is acknowledged that there will be no substantial impact on the existing, neighbouring properties however, should these properties be redeveloped/extended the issue of amenity will arise. The proposed development will not facilitate a 12m separation between built forms to ensure adequate amenity is maintained and is therefore borrowing amenity from the neighbouring properties.

4. Consistent with the zone objectives and objectives of the development standard.

The development will not be in the public interest because it will be inconsistent with the following height and zone objectives:

The objectives for height:

- (a) *to maintain desired character and proportions of a street within areas,*
- (c) *to enable the built form in denser areas to create spatial systems that relate to human scale and topography,*
- (d) *to enable focal points to be created that relate to infrastructure such as train stations or large vehicular intersections,*
- (e) *to reinforce important road frontages in specific centres.*

The objectives for the B4 Mixed Use zone

- *To create safe and attractive environments for pedestrians.*
- *To recognise topography, landscape setting and unique location in design and land-use.*

The extent of the non-compliance is not considered appropriate in this case. The variances, both the vertical variances and continual horizontal variances, are along major building portions. Of more concern are the variances along the Trelawney Street frontage and part of the rear (north elevation), rather than along Rutledge Street and west side elevations.

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The main concerns with the variances are as follows:

- The variances are not consistent with the objectives of 'building height' as well as some objectives of the zone.
- The development does not respect the existing and desired future character of the area.
- The achievement of a 'gateway entrance' can be achieved without the necessity of varying the height control to such an extent.
- The development will not respect the fall of the street.
- The development will be excessive in density.
- The height has not been supported by the Urban Design Review Panel.
- The variances are not consistent with the objectives of 'building height' as well as some objectives of the zone. / The development does not respect the existing and desired future character of the area.

Objective (a) for building height is 'To maintain desired character and proportions of a street within areas'. Objective (c) is 'To enable the built form in denser areas to create spatial systems that relate to human scale and topography'.

Any future development on adjoining sites to the north and west will also be subject to a 15.5m height limit. Approval of the proposed development will set precedence in terms of providing a higher height than that anticipated by the RLEP. This is likely to impact on how future development will proceed along Rowe Street, which is also subject to the 15.5m height control. Development will not appropriately respond to the topography of the area. If higher development is provided on surrounding sites, the 'gateway' emphasis proposed (even though not considered appropriate for reasons discussed further below) will be illegible.

It is noted that Draft Ryde Local Environmental Plan 2011 maintains the 15.5m maximum building height standard for the site and surrounding sites to the north and west. This demonstrates the development will not be consistent with the likely future planning controls.

The applicant has advised that the development to the north, on the adjoining site at the corner of Rowe and Trelawney Street is unlikely to be developed as it consists of a relatively new building. Even if this is the case, the proposed development will not provide a sympathetic transition in height to respect the fall of the street and height of the existing and any future building on this property, as well as appropriately emphasise the Trelawney and Rutledge Street corner of the site. (The corner location is discussed below).

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The proposed Trelawney Street building frontage does not represent a sympathetic transition that respects the fall of the street. The street has a slope from the Rutledge intersection to Rowe Street. The proposed building will achieve a height of 18.9 metres to the outer roof edge and an approximate height of 19.1 metres to the stepped roof edge, both of which extend along most of the length of the Trelawney Street frontage of the site and a building length of 46m. Accordingly, the building will step down from the corner along Trelawney Street to respect the fall and achieve a corner emphasis.

The building on the adjoining site to the north, has a height of approximately 10.81 metres adjacent to the proposed development. The proposed height of the development represents a variance of 7.7m – 7.5m in comparison to the neighbouring building. This is excessive and will not facilitate a sympathetic transition between buildings and generally along Trelawney Street.

If the proposed development were to achieve the maximum permissible building height of 15.5m, a sympathetic stepping along the streetscape would be created with the neighbouring building. If the proposal were to remain as proposed and neighbouring buildings were to be increased in height to the maximum permissible of 15.5m, the proposed development would represent a variance of two levels, i.e. a height difference of approximately 6m. This would provide some improvement but is still representative of excessive height based on the maximum permissible heights indicated on Council's LEP map. The RLEP height standard suggests the massing and visual presentation anticipated between the subject site and neighbouring site is reliant on the topography rather than any height differences as the same height standards apply. This is also the case with the DLEP. In addition, as advised by the applicant the building is unlikely to be further developed as it consists of a more recently constructed building. Regardless, this would not resolve the other concerns with the proposed height with respect to the strong corner emphasis and human scale issue discussed below.

- A 'gateway entrance' can be achieved without the necessity of varying the height control to such an extent.

Objective (d) of building height is 'to enable focal points to be created that relate to infrastructure such as train stations or large vehicular intersections'. Objective (e) is 'to reinforce important road frontages in specific centres'. Objective (e) can be related back to Objective (d) with respect to the road intersection treatment.

The proposed urban design outcome creates an extensively high and long facade along the Trelawney Street frontage. This solution does not frame the corner of the site, but effectively the length of the site, which is not an appropriate design approach for corner sites based on standard practices, (as expressed in RDCP 2010) and achieving Objective (c) which refers to the human scale. This scale is important along Trelawney Street particularly given that the DCP aims to retain this street as a high

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pedestrian amenity street and sets a building envelope control to limit the height of buildings. The objective for the building envelope is stated to be: *'To ensure that the existing human scale element of the streetscape is retained'*.

Council's RDCP 2010 provides further details on acceptable design solutions to treating corner sites. As is evident, elements should be limited specifically to defining the sites corner rather than the whole length of a site. It includes the diagram below. Any variance to the height control could be justifiable and likely to be supported in the circumstance of providing appropriate definition to a site's corner.

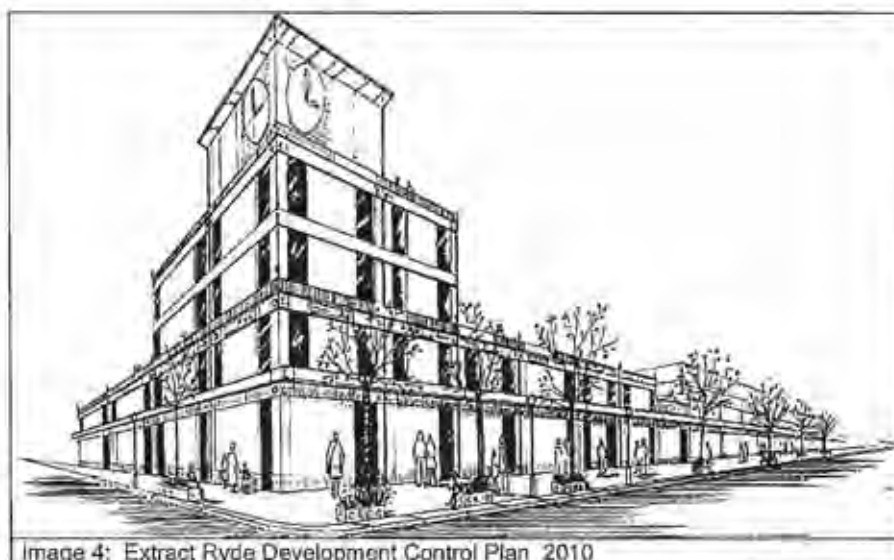


Image 4: Extract Ryde Development Control Plan 2010

The specified DCP objective for corner allotments is: *'To ensure buildings situated on corner allotments provide for visual interest and address intersection that they front'*. This supports that the emphasis that buildings should be limited to the corner of the building rather than the whole length of the corner location of the site. In addition, the following controls also support this:

The design of buildings at gateway locations should consider the following:

1. *The height of adjacent buildings;*
2. *Stepping the building up where the building turns the corner;*

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As stated above, Objective (e) is 'to reinforce important road frontages in specific centres'. Objective (e) can be related back to Objective (c) which is 'to enable the built form in denser areas to create spatial systems that relate to human scale' and Objective (a) which is 'to maintain desired character and proportions of a street within areas'. The Trelawney Street frontage is identified in Council's DCP 2010 to be an important pedestrian priority street. The 'future character statement' and provisions of Section 3.3 - Architectural Characteristics of the DCP, reinforce that an attractive public domain and desirable setting for users needs to be aimed for. The DCP refers to the 'Eastwood Commercial Centre Planning Study and Masterplan' (master plan) which provides guidance for development of the town centre to the year 2020. The essence of the master plan is to provide for future development that is consistent with the urban village character. In terms of the height and scale, a natural relationship between people and the built environment needs to be maintained.

The importance of the 'human scale' issue is further reinforced by a building envelope control prescribed under Section 4.1 of the RDCP 2010, (which is specific to development in the Eastwood Town Centre), as well as the judgement of *Crown Atlantis Joint Venture v Ryde City Council*. As discussed in the table below of the section RDCP 2010 Part 4.1 Eastwood Town Centre, the proposed development will result in substantial variances to the required envelope and fail to achieve the related objective.

The court findings for *Crown Atlantis Joint Venture v Ryde City Council* indicate that the achievement of the 'human scale' is important to the design outcome and should not be disregarded. The relevant findings are stated below:

1. *The intention of DCP 39 is that new development should have an urban village character. Development should be of human scale in the streetscape, being generally two to three stories in height. Taller building elements set back from street are permissible but they should not dominate.*
2. *Trelawney Street is to be developed for the enjoyment and utility of pedestrians with a high level of aesthetic amenity at street level.*
3. *Trelawney Street is a retail/pedestrian priority street, and at its intersection with Rutledge Street, forms a gateway to the Eastwood Town Centre. The street corner portion of the site is therefore a gateway site for the purposes of DCP 39 and notwithstanding the first objective above should be developed accordingly. More particularly the corner element of the building should address both streets and be stepped up especially in relation to structures at the street frontages.*

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The third point verifies that the street corner portion of the site, not the whole length of the site, is that part that should form a gateway feature and should be developed accordingly. If appropriately designed and limited to the corner of the building, this would have minimal impact on retaining the human scale along Trelawney Street, reflecting the topography and providing a sympathetic transition to neighbouring properties to the north, if the remainder of the building is stepped down as discussed above.

The applicant was requested to make changes to the building to require some units above the 15.5m height limit along the Trelawney Street frontage and north elevation to be deleted, minor structures to be setback within the height plane and the corner to be redefined. Deletion of the units along the north elevation would achieve a transitional massing, scale and height with respect to neighbouring properties and topography, as well as increase sunlight penetration within the proposed building and provide a better relationship to the human scale.

- *The development will be excessive in density.*

The development is representative of excessive floor space and density. In the absence of any specific density controls, (such as floor space ratio, population or dwelling density), the density of the development is dictated by the applicable height, envelope and setback controls. The proposal fails to meet these controls, as discussed above with respect to building height, and below with respect to setbacks and building envelope.

- *The height has not been supported by the Urban Design Review Panel.*

The applicant was advised in the pre-lodgement meetings that the proposed height is not acceptable and compliance should be achieved. The height was also not supported by Council's Urban Design Review Panel, who raised the following:

'The Panel considers that the development should remain entirely within the statutory height limit to respect the topography of the street which falls to the north along Trelawney Street. A step in the form of the building along the street reinforces the role of the corner as an entry way to the centre'.

The above discussion reinforces that the following objectives for the B4 Mixed Use zone are not satisfied:

- *To recognise topography, landscape setting and unique location in design and land-use.*
- *To create safe and attractive environments for pedestrians.*

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As discussed above, little regard has been given to the topography with respect to height and scale. The gateway design approach has not been properly applied as intended by Council's controls. An attractive pedestrian environment will not be achieved as inadequate regard has been given to the 'human scale' issue.

It is noted that the applicant has not submitted information, as requested, to indicate that the private open spaces will meet the RFDC requirement of a minimum of 2 hours solar access during 9am and 3pm on 21 June. In this respect it cannot be confirmed that objective (b) for building height is satisfied. This objective is *(b) to minimise overshadowing and ensure a desired level of solar access to all properties.*

5. Concurrence of the Director General.

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-Generals concurrence for exceptions to development standards.

Conclusion

The submission does not satisfy the criteria outlined in Clause 4.6. Therefore the variation is not supported.

Clause 6.5 – Eastwood Urban Village and West Ryde Urban Village

Sub clause (3) requires that the consent authority must not grant consent to development on land within the Eastwood Urban Village unless it has considered whether the proposal is consistent with the following objectives:

- a. *To create a safe and attractive environment for pedestrians,*
- b. *To create a mixed use precinct with emphasis on uses that promote pedestrian activity and safety at ground level (existing),*
- c. *To create a precinct that contains opportunities and facilities for living, working, commerce, leisure, culture, community services, education and public worship,*
- d. *To increase the number of people living within walking distance of high frequency public transport services,*
- e. *To increase the use of public transport.*

The previous discussion with respect to building height has established that the development will not be consistent with Objective 2(a).

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Other Relevant Clauses from the RLEP 2010

Clause 1.4 – Definitions

The development is defined as '*mixed use development*', and also falls under the definition of '*shop-top housing*', both of which are permissible uses under the zone of the land.

Clause 2.6 – Subdivision-consent requirements

Clause 2.6 requires development consent for subdivision. Whilst the proposal includes strata subdivision, no draft plans have been submitted for assessment. Draft plans are not normally provided at this stage. Conditions of consent can be imposed to ensure that final plans are submitted prior to the issue of any Subdivision Certificate.

Clause 2.7 – Demolition requires development consent

The development necessitates some minor demolition works. On site works relate to the removal of the existing substation and low retaining walls, such as those around planter beds. Public road works relate to the removal of existing road paving and vehicular crossings.

Clause 5.9 - Preservation of trees and vegetation

Refer to 'Landscape Officer' comments below. As indicated in the proposal description above, the proposal will result in the removal of two (2) trees, (both located near the northeast corner and adjacent to the Trelawney Street frontage), the pruning of at least three (3) trees on adjoining properties and the removal of one tree on an adjoining property. Consent for the removal of the tree will be required from the adjoining owner before the issue of a Construction Certificate.

Clause 6.2 - Earthworks

Refer to 'Engineer' and 'Environmental Health' comments below.

Clause 6.4 – Eastwood Urban Village

This clause applies to land in Eastwood as identified on Council's '*Eastwood Urban Village Map*'. It relates to addressing stormwater inundation / and potential flooding on this land.

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While the subject site is not indicated on the 'Eastwood Urban Village Map', the applicant has made amendments to the ground floor level based on flood data provided by Council's Engineer. To cater for a 1 in 100 Year ARI flood event / minimise risks, the ground level has been raised by 300mm. This has not altered the overall proposed building height.

(b) Relevant SEPPs

SEPP No. 55- Remediation of Land

The provisions of *SEPP 55 – Remediation of Land* (SEPP 55) apply to the subject DA. Clause 7 of SEPP 55, states that a consent authority must not consent to any development on land unless it has considered whether the land is contaminated. If the land is contaminated, the consent authority must be satisfied the land will be suitable in its contaminated state, or will be suitable after remediation, for the purpose for which development is proposed. If the land requires remediation, it must be satisfied that the land will be remediated before the land is used for that purpose.

The policy requires the submission of a preliminary investigation and, (where necessary), a detailed investigation of the land. The applicant has submitted a Remedial Action Plan as the site previously contained a Mobil Service station that was demolished in March 2011 and subsequently remediated and validated for commercial (non-sensitive) purposes only.

Council's Environmental Health Officer has reviewed the DA and recommended conditions of consent, should the application be approved.

SEPP BASIX

Clause 3 of the *Environmental Planning and Assessment Regulation 2000* defines a 'BASIX affected building' as a building that contains one or more dwellings, but does not include a hotel or motel. Clause 2A of Schedule 1 of *Environmental Planning and Assessment Regulation 2000* requires the submission of a BASIX Certificate/s (issued no earlier than 3 months before the date on which the application is made) with a DA for a BASIX affected development.

The proposed development is a 'BASIX affected building'. Accordingly, the subject DA is accompanied by a BASIX Certificate (No. 385935M issued on 12 October 2011) that indicates the development will achieve the minimum ratings for energy, thermal comfort and water.

Should the subject DA be approved, conditions are recommended to require compliance with the BASIX commitments detailed within the submitted certificate.

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SEPP (Infrastructure) 2007

Clause 55 - Development adjacent to corridor

Clause 55 (1) states that *'before determining an application for development adjacent to a gas pipeline corridor, the consent authority must:*

- (a) *be satisfied that the potential safety risks or risks to the integrity of the pipeline that are associated with the development or modification to which the application relates have been identified, and*
- (b) *take those risks into consideration.*

The applicant has provided details on the location and type of gas infrastructure on and around the site. Should the application be approved, a condition is recommended to require compliance with the following to minimise any risks to gas pipelines that are located on or near the site, where works will be undertaken:

- The location of gas pipelines are to be confirmed by carefully pot-holing by hand excavation prior to proceeding with mechanical excavation in the vicinity of gas pipelines. If the gas main is not located, the local depot should be contacted on 131 909.
- All excavation (including pot-holing by hand) should be performed in accordance with 'Work Near Underground Assets Guidelines' published in 2007 by the Work Cover Authority.

Clause 101 - Development with frontage to classified road

Clause 101 refers to development with frontage to a classified road. It states that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
 - (i) *the design of the vehicular access to the land, or*
 - (ii) *the emission of smoke or dust from the development, or*
 - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) *the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

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Clause 101 applies to the subject DA as Rutledge Street is identified as a classified road. With respect to matter (a) vehicular access will not be provided by Rutledge Street, or any other classified road.

Both Council's Traffic Engineer and the RMS have reviewed the proposed development. No major concerns have been raised with respect to the safety, efficiency and ongoing operation of Rutledge Street. Conditions have been recommended should the application be approved.

The submitted acoustic assessments indicate that the traffic volumes of the adjacent streets, will result in intrusive internal noise levels that exceed the acceptable standards for dwellings and therefore measures need to be provided to minimise the impact. The measures include the installation of acoustic glazing to outward facing windows, and sealing of windows and door frames. Should the application be approved, conditions should be included in a consent to require acoustic glazing and sealing of window frames and door frames. The windows should not be inoperable, as this would limit natural ventilation opportunities.

Clause 104 - Traffic-generating development

This clause applies to the proposed development as it constitutes traffic generating development given:

- It is a type of development specified in Column 1 and of a size/capacity specified in Column 3 of the Table to Schedule 3 of the SEPP; and
- The site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection the size or capacity specified opposite.

Clause 104 generally requires the consent authority to give written notice to the RMS prior to determining the DA and consider any submission made in response to that notice.

The DA was notified as required and in response, the RMS requested additional information. The applicant submitted information. The RMS has reviewed the additional information and has raised no major concerns subject to certain details being provided and/or complied with. These can be addressed via the inclusion of conditions in a consent, should the application be approved.

Clause 104 also requires the consent authority give consideration of the following prior to determining the DA:

- (ii) *the accessibility of the site concerned, including:*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*

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- (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
- (iii) *any potential traffic safety, road congestion or parking implications of the development.*

The above relevant matters have been considered. Reference should be made to the comments provided by Council's Traffic Engineer and DCP assessment in relation to adequacy of the proposed parking.

SEPP No. 65 - Design quality of Residential Flat Development

This policy aims to improve the design quality of residential flat buildings in NSW. It encourages that the design quality of residential flat developments is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

There are 10 design quality principles identified within the SEPP 65. The following table provides an assessment of the development proposed against the 10 design principles.

Planning Principle	Comment	Complies
Principle 1: Context		
<p>Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.</p> <p>Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.</p>	<p>It is evident by the discussion in the 'Clause 4.6' above, the development will not reflect the desired future character as stated in local planning and design policies. In particular, the height, massing and scale will not respect the provisions prescribed by the LEP, DCP, and masterplan relating to the 'human scale', 'urban village character', topography, and/or neighbouring built forms.</p>	No

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Planning Principle	Comment	Complies
<p>Principle 2: Scale</p> <p>Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.</p> <p>Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.</p>	<p>As discussed previously, the resultant scale will not be appropriate with respect to the topography and surrounding buildings, as well as the desired future character anticipated by Council's LEP, DCP and master plan.</p>	No.
<p>Principle 3: Built form</p> <p>Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The development does not appropriately contribute to the character of the streetscape.</p> <p>The building bulk has not been appropriately manipulated to adequately address the gateway aspect, fall of the land, and scale of development on adjoining land to the north (at the corner of Rowe and Trelawney Streets), including the general massing anticipated by the maximum allowable height prescribed under the RLEP. The built form does not express a strong corner built form.</p>	No
<p>Principle 4: Density</p> <p>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</p> <p>Appropriate densities are sustainable and consistent with</p>	<p>There is no applicable floor space ratio or other density controls, (such as dwelling or population density), that are applicable to the site. The density is therefore governed by the height, setback and envelope controls applicable to the site. As discussed above and below, the development</p>	No

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Planning Principle	Comment	Complies
<p>the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.</p>	<p>does not achieve compliance with these controls and therefore represents a greater density.</p>	
<p>Principle 5: Resource, energy and water efficiency</p> <p>Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.</p> <p>Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.</p>	<p>The applicant has submitted a BASIX Certificate which indicates that the residential component will meet the energy and water use targets set by the BASIX SEPP.</p> <p>A waste management plan has been submitted and reviewed by Council's Environmental Health Officer. The plan is considered acceptable.</p> <p>Should the application be approved a condition of consent is recommended to ensure appropriate soil depths are provided for tree planting as recommended in the Residential Flat Design Code.</p>	<p>Subject to conditions</p>
<p>Principle 6: Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</p>	<p>The landscaping will assist in improving the aesthetics of the building as well as improving the on-site amenity of the future residents.</p> <p>The landscaping along the building elevations will ensure that the appearance of the development is</p>	<p>Subject to conditions</p>

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Planning Principle	Comment	Complies
<p>Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise usability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.</p>	<p>softened as viewed from the surrounding streets.</p> <p>The landscaping of the communal open space as well as other design features (such as seating and a BBQ area) will ensure that this space provides an aesthetically pleasing and useable facility for the residents.</p> <p>The development will be void of any deep soil planting. In this regard, appropriate soil depths should be provided for substantial tree growth. Council's Engineer has recommended conditions to ensure an effective and appropriate stormwater drainage system is provided. The RFDC recommends appropriate stormwater treatment measures in circumstances where deep soil planting is not provided. Related conditions should be included in a consent to address this. This matter is also discussed in the section below '<i>Urban Design Review Panel: Communal Open Space and Rooftops</i>'.</p>	
<p>Principle 7: Amenity</p> <p>Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p>	<p>The separation requirement is not met to the north and west boundaries. It is acknowledged that there will be no substantial impact on the existing neighbouring properties, however should these properties be redeveloped/ extended the issue of amenity will arise. The proposed development will not facilitate a 12m separation between built forms to ensure adequate amenity and is therefore forced to borrow amenity from the neighbouring properties.</p> <p>As discussed below, the acoustic assessment submitted with the DA</p>	No

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Planning Principle	Comment	Complies
	<p>indicates that certain measures will need to be adopted to ensure that the units meet the required standards for internal amenity. The measures include double glazing, and sealing of door frames and externally facing windows. The sealing of externally facing windows is not appropriate as it will limit natural ventilation opportunities. The amenity of private open spaces has not been considered in the acoustic assessment, particularly the impact of traffic noise on the use of ground level private open spaces facing Rutledge Street. The objective for acoustic privacy contained in the RFDC refers to ensuring a high level of amenity both within units and private open spaces. Should the application be approved, conditions should be included to require an acoustic assessment and adoption of recommended measures.</p> <p>The visual privacy impact to ground level units has not been adequately addressed by the proposed design. As indicated in the RFDC assessment below the following measures have not been incorporated in the design: stepping up of the ground level of units from the footpath level and establishing window sill heights to minimise sight lines into units. Boundary screening through vegetation is proposed to mitigate overlooking into units. A more appropriate solution that also adequately addresses security is a 1.8m high wall that steps into the site with a planter bed in front to shield its upper portion as to minimise its visual impact to the street. Should the application be approved, a condition is recommended to require this.</p>	

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Planning Principle	Comment	Complies
<p>Principle 8: Safety and security</p> <p>Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.</p>	<p>NSW Police has reviewed the application and have made recommendations to improve the development with respect of achieving better consistency with the CPTED principles. As stated above, appropriate fencing needs to be provided adjacent to the ground level units facing Rutledge Street. Should the application be approved, conditions should be included in a consent accordingly.</p>	<p>Subject to conditions</p>
<p>Principle 9: Social dimensions and housing affordability</p> <p>Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing</p>	<p>The development will include dual aspect, single aspect and corner apartment layouts, as well as adaptable housing. The following housing mix is proposed:</p> <ul style="list-style-type: none"> • 13 x 1 bedroom apartments; • 46 x 2 bedroom apartments; • 2 x 3 bedroom apartments. <p>Given the limited size of the site it would be difficult to accommodate a greater mix on the site. The proposed mix will result in an affordable range of housing which should attract singles, couples and family occupants into an area which is highly accessible to public transport and local shopping. In this regard, as a guide the Housing NSW Centre for Affordable Housing</p>	<p>Yes</p>

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Planning Principle	Comment	Complies
types to cater for different budgets and housing needs.	suggests 1 and 2 bedroom apartments contribute towards achieving housing affordability.	
Principle 10: Aesthetics Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.	The development will consist of a variety of materials and finishes to assist in the articulation and visual interest of the building, as well as facilitate the differentiation between the uses and different building sections.	Yes

Residential Flat Design Code

The SEPP also requires the Council to take into consideration the requirements of the *Residential Flat Design Code*. The development generally complies with the requirements provided in this document relating to unit sizes for housing affordability, internal building separations, stormwater management, waste management, bicycle parking, housing choice, driveways, roof designs, and energy efficiency appliances. The non-compliances are indicated and discussed in the table below.

Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
Building Height	Test heights against the number of storeys and the minimum ceiling heights	When tested against the maximum permissible height (15.5m), the number of storeys is attainable is about 4 storeys. In actual practice it would be around 3 storeys, if the height of the proposed rooftop plant is deducted (3.8m max). (It is assumed that the retail level will	No

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		<p>have a floor to ceiling height of 3m, all levels above will have a floor to ceiling height of 2.7m, the general floor/ceiling slabs will have a thickness of 300mm).</p> <p>The number of storeys proposed (taking into account basement projections as per SEPP 65 definition of RFB) is 6 storeys to the west and east.</p>	
Floor Space Ratio	FSR in denser Urban Areas: 80% of Building Envelope. (Footprint area x no. storeys x 80%)	There is no FSR control applicable to the development.	N/A
Building Depth	Apartment building depth: 10-18m.	<p>The building depth is compliant in the location of the central court, otherwise if it is measured on the shorter axis where no break occurs (i.e. along the Rutledge St frontage and north elevation), the development will provide a maximum depth of 37m. This is satisfactory with respect to the street frontage as the Urban Design Review Panel has advised that a continuous street frontage should be created by the built form along Trelawney and Rutledge Streets.</p> <p>The depth along the north elevation is not appropriate when related back to the bulk/massing discussed above. In this respect, the proposal will not satisfy the following objectives of the control where the non-compliant height will result:</p>	Satisfactory

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		<p>- To ensure that the bulk of the development is in scale with the existing or desired future context. However, even if compliance is met with the height control, the building will still maintain a depth of 37m for the levels below. Since compliance will be achieved with the other objectives, no concerns are raised to the depth.</p>	
Building Separation	<p>Up to 4 storeys (12m height):</p> <ul style="list-style-type: none"> ▪ 12m between habitable rooms and balconies ▪ 9m between habitable rooms/balconies & non-habitable rooms ▪ 6m between non-habitable rooms <p>From 5 to 8 storeys (25m height):</p> <ul style="list-style-type: none"> ▪ 18m between habitable rooms and balconies ▪ 13m between habitable rooms/balconies & non-habitable rooms ▪ 9m between non-habitable rooms 	<p>External separation:</p> <ul style="list-style-type: none"> ▪ Between proposed development at 7-9 Rutledge Street: 26m ▪ Between school building: 4.6m - 10m ▪ Between building to the north: 4m <p>As discussed in the SEPP 65 table above, the boundary setbacks are not sufficient to ensure adequate amenity in terms of privacy. They will result in a built form that is forced to borrow amenity from adjoining sites.</p>	No
Deep Soil Zones	Minimum of 25% of the open space area	It is not possible to provide any deep soil zones given the boundary to boundary construction. Refer to below section 'Urban Design Review Panel'. As discussed above,	Subject to conditions

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		conditions should be included in consent to require appropriate soil depths and stormwater treatment measures.	
Communal Open Space	Communal Open Space: 25-30% of site area.	30.5% of the site is to be allocated for communal open space.	Yes
Stormwater Management	Reduce the volume impact of stormwater on infrastructure by retaining it on site.	The proposal has been reviewed by Council's Stormwater Engineer who has advised that the proposal is satisfactory subject to conditions.	Subject to conditions
Safety	Reinforce boundary to strengthen the distinction between public and private space.	Adequate distinction will be provided.	Yes
Privacy	<p>Locate and orient new development to maximise visual privacy between buildings on site and adjacent buildings. Design building layouts to minimise direct overlooking of rooms and POS adjacent to apartments.</p> <p>Use detailed site and building design elements to increase privacy without compromising access to light and air.</p>	<p>The building will not achieve the minimum 8m building separation requirement to the north and west elevations. The development will result in a built form that is forced to borrow amenity from adjoining sites.</p> <p>Ground level units proposed to face Rutledge Street will be at a similar level to the footpath and screening will be provided via planting. The provision of a wall and planting along the private open spaces of ground level units (as discussed above under the section 'Principle 7: Amenity') will better assist in minimising the privacy implications to the ground level units. Conditions should be included in a consent to address</p>	No

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		<p>this matter.</p> <p>The submitted acoustic report indicates that certain measures need to be adopted to mitigate surrounding traffic noise and provide an acceptable internal living environment to the units. Conditions should be included in a consent require the adoption of the measures, except for the sealing of windows to ensure opportunities for natural ventilation are provided, plus measures be adopted to minimise the acoustic impact on private open spaces facing Rutledge Street.</p>	
Pedestrian Access	<p>Follow the accessibility standards of AS 1428.</p> <p>Promote equity by ensuring the main building entrance is accessible for all from the street and from car parking areas.</p>	<p>The plans have been amended to delete steps along the Trelawney Street frontage of the site and add ramps inside most retail / commercial tenancies. To provide appropriate wheelchair access, a condition is recommended to ensure the entries into the retail/commercial tenancies are flush with the footpath level and that an internal ramp is provided, where necessary and openings are wide enough to cater for wheelchair access.</p>	Subject to conditions
Apartment Layout		<p>Opportunities for natural ventilation need to be maximised by providing operable windows. Should the application be approved, conditions are recommended to require all windows to be operable.</p>	Subject to conditions

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
	Single-aspect apartments = 8 m max. in depth from a window.	<p>Generally the single aspect apartments are considered to be those enclosed to the inner facing side by the circulation cores with no windows on this side. The following apartments do not achieve compliance: Units 111-411, 112-412, and 113-413, 105-405, 106-406.</p> <p>The non-compliances for the units to the south elevation are accepted in this case given:</p> <ul style="list-style-type: none"> -Indents have been provided adjacent to main living areas to ensure compliance. -The variances are minimal. -The non-compliant portion contains areas other than main living areas. -Light access is less important in bedrooms and non-habitable areas, where the non-compliance occurs. -The variances will provide more functional space. <p>The variances to Units 105-405, 106-406 are accepted given the following:</p> <ul style="list-style-type: none"> -The variances are minimal. -The units will have adequate access to sunlight and ventilation. -The variances will provide more functional space. 	Satisfactory
	The back of a kitchen = 8m max. from a window.	Generally the apartments achieve this, although Units 105, 106, 205, 206, 305, 306, 405, and 406 fail this control. The kitchens of	Satisfactory

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		these units are approximately 10m from a window and 8-10m from a side sliding door. Given that the variance from the sliding door to the cooking area is minimal (i.e. not more than 500mm), the non-compliance is accepted in this case.	
Internal and External Areas	1 Bed cross through: 50/8m ² 1 Bed single aspect: 63.4/10m ² 2 Bed corner: 80/11m ² 2 Bed cross through: 89/21m ² 3 Bed: 124 / 24m ²	The following units do not achieve compliance: G03: 87 />22 (2 bed cross) G04: 87 />22 (2 bed cross) 107: 93 / 10.5 (2 bed cnr) 108: 86 / 8.8 (2 bed) 109: 87 / 8.8 (2 bed) 110: 83 / 8 (2 bed cnr) 111: 57 / 6.45(1 bed single) 112: 59 / 6.8 (1 bed single) 113: 83 / 8 (1 bed single) 202-402: 92/9.46 (2 bed cross) 203-403: 92/ 9.46 (2 bed cross) 204-404:88/9.42 (2 bed cnr) 205-405: 89/ 12.6 (2 bed) 206-406: 88/ 12.6 (2 bed) 207-407: 93 / 9.6 (2 bed cnr) 208-408: 86 / 8.8 (2 bed cross) 109-409: 87 /8.8 (2 bed cnr) 110-410: 83 / 8.85 (2 cnr) 211-411: 57 / 7 (1 single) 212-412: 59/ 7.74 (1 single) 213-413: 63 / 7.74 (1 single) 502: 92/ 9.46 (2 bed cross) 503: 92/ 9.46 (2 bed cross) 504: 117 / 9.42 (3 bed cnr) The variances to private open spaces are more significant in circumstances where 2 bedroom cross through and 3 bedroom apartments are proposed as a	Satisfactory

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		<p>minimum private open space of 21sqm and 24sqm is required respectively. The private open spaces or unit areas cannot be extended without further breach to building separations and setbacks. This is indicative that the proposal represents an overdevelopment of the site. Given this and the following the non-compliances are accepted in this case:</p> <ul style="list-style-type: none"> - The absolute minimum of 8-11sqm is generally met for the private open spaces - Variances for the private open spaces of 1 bedroom units are minimal. - Variances to unit areas are minimal. - Smaller unit areas and private open spaces will encourage affordable housing. - Ample communal area will be provided. 	
Ceiling Heights	<p>Minimum Floor to Ceiling Heights: Mixed use buildings: 3.3m for ground floor retail or commercial and 1st floor residential, retail or commercial.</p> <p>RFB's or residential floors in mixed use buildings: 2.7m for all habitable rooms,</p>	<p>Retail tenancies will have a minimum F-to-C height of at least 3m. This is satisfactory as the floor levels have been altered to cater for flood level concerns raised by Council's Engineers.</p> <p>Residential units will have a F-to-C height of 2.7m.</p>	Satisfactory

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
	2.4m for all non-habitable rooms, however 2.25m is permitted.		
Ground Level Units	Ensure adequate privacy and safety of ground floor units with no street setbacks by stepping up ground floor from footpath a max. of 1.2m; design balustrades & window sill heights to minimise site lines; ensuring safety bars/screens are integrated in design.	This matter has been discussed above.	Subject to conditions
	Private Open Space at Ground Level: 25m ² & min. dimension 4m.	The units do not meet the minimum 25sqm requirement but achieve the minimum external area requirement listed above.	Satisfactory.
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> ▪ studio apartments 6m³ ▪ one-bedroom apartments 6m³ ▪ two-bedroom apartments 8m³ ▪ three plus bedroom apartments 10m³ 	The plans indicate the storage areas within the lower ground and basement levels as shaded zones but do not indicate the division or unit allocation of the zones. This is required to confirm the zones are large enough (excluding any access ways, enclosures, etc) to cater for the minimum storage area requirement per unit. The applicant has provided an amended table which lists the amount of storage area per unit. This table demonstrates that each unit will achieve compliance with the minimum requirement, except for Units 502 and 503. They will	Subject to conditions

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		<p>require another 2m³ of storage area each. Should the application be approved, a condition is recommended to require each unit (particularly Units 502 and 503) to be provided with the following minimum storage areas and such areas to be indicated on the plans, including the division of storage zones within the basement and lower ground levels:</p> <p>1 bedroom Unit: 6m³ 2 Bedroom Unit: 8m³ 3 Bedroom Unit: 10m³</p>	
Acoustic Privacy	<p>Resolve conflicts between noise, outlook and views by using design measures adequate building separation within the development and from neighbours.</p> <p>Reduce noise transmission from common corridors or outside the building by providing seals at entry doors.</p>	Addressed in above section 'privacy' and DCP table below.	Subject to conditions.
Daylight Access – skylight and sunlight	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units and increase their window area	The number of single aspect units with a southerly aspect: 13. This represents 21.3% of the total number of units. (Units G01, 111-113, 211-213, 311-313, 411-413). This is satisfactory given that: The Urban Design Review Panel has advised that a continuous street wall should be created	Satisfactory

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		along Rutledge Street. Even if the units at the top level are deleted to achieve strict compliance with the height standard, compliance would not be achieved with the 10% requirement.	
	Design for shading and glare control, particularly in summer.	A condition can be included in a consent to avoid reflective films; require use a glass reflectance below 20%; and consider reduced tint glass.	Subject to conditions
	Living rooms and private open spaces for at least 70 % of apartments in a development should receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.	Living rooms of 75% of units will receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter. The applicant has not submitted details that verify private open spaces of at least 70% of the units will receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.	Satisfactory. Insufficient details
Natural Ventilation	60% of units should be naturally cross ventilated. Select doors and operable windows to maximise natural ventilation opportunities established by the apartment layout.	The details of operable and fixed windows have not been provided. Should the application be approved, a condition is recommended to require all windows to be operable. In this regard approximately 65% of units will have access to natural cross ventilation via window openings and doorways. Doorways on the inner facing elevations will assist in natural ventilation opportunities given that the circulation core will be partly open.	Subject to conditions

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
	25% of kitchens (i.e. 15) should have access to natural ventilation	86.88 %. Refer to section above 'Apartment Layout'. The back of a kitchen = 8m max. from a window. (NB: It is assumed that if a kitchen is 8m or less from a window or sliding door, then it has access to natural ventilation).	Yes
Energy Efficiency	<p>Reduce reliance on artificial lighting by:</p> <ul style="list-style-type: none"> ▪ providing a mix of lighting fixtures, including dimmable lighting, to provide for a range of activities in different rooms ▪ designing to allow for different possibilities for lighting the room, for example, low background lighting supplemented by task or effect lighting for use as required ▪ using separate switches for special purpose lighting ▪ using high efficiency lighting ▪ using motion detectors for common areas, lighting ▪ doorways and entrances, outdoor security 	<p>Units will have access to energy efficient lighting. Conditions can be included in a consent to ensure the implementation of the commitments indicated on the BASIX certificate, as well as require:</p> <ul style="list-style-type: none"> ▪ lighting adjacent to windows be switched separately to those not adjacent to windows; ▪ dimmable lighting in living areas; and ▪ security lighting for units doorways/entrances. 	Subject to conditions

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
	lighting.		
Water Conservation	To reduce mains consumption of potable water. To reduce the quantity of urban stormwater runoff.	It is stated that there is potential for rainwater harvest and reuse. The application will also comply with BASIX in terms of meeting the water efficiency target.	Subject to conditions
	Use AAA rated appliances to minimise water use;	Should the application be approved, a condition can be included in a consent.	Subject to conditions

Urban Design Review Panel

Council's Urban Design Review Panel (Panel) considered a similar scheme to that proposed development on the 25 February 2011. This was prior to lodgement of the subject DA. Comments made by the Panel have been included in bold, italics below. A response in respect to this comment has also been provided below, including any changes made by the applicant to address concerns raised by the Panel or further justification of the scheme provided by the applicant.

Building Height:

The panel considers that the development should remain entirely within the statutory height limit to respect the topography of the street which falls to the north along Trelawney Street. A step in the form of the building along the street reinforced the role of the corner as an entry way to the centre.

Comment: The applicant has justified the building height on the following grounds:

- *It will enable the development to directly relate to the scale and proportion of the proposed development at 7-9 Rutledge Street and provide an opportunity to design a significant gateway.*
- *Suggesting to step the top section of the building along Trelawney Street is directly at odds with what SEPP 65 describes as a desirable outcome for sloping sites. In addition this would destroy the sense of duality with the development at 7-9 Rutledge Street.*
- *There are no adverse impacts in relation to bulk, scale and public amenity.*
- *The development more than satisfies the objectives of Council's LEP controls.*

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The issues raised by the applicant relating to the gateway presentation, impact on bulk/scale, impact on public amenity and meeting the objectives of Council's LEP controls have been addressed previously. The justifications are not well founded.

The applicant has advised that the resultant outcome with respect to the proposed building scale is necessary to produce 'appropriate built forms' as referred to in diagram 1.54 of SEPP 65. No diagrams are provided in SEPP 65. Diagram 1.54 in the RFDC refers to sites with steep slopes and states 'the height plane should be modified along the street edge to facilitate appropriate built forms'. Diagram 1.53 refers to gently sloping sites and states that 'the height plane should follow the slope of the site'. The latter is relevant in this case based on the topography.

Street Setback

The Panel considers that the building should comply with the statutory street setbacks required in the DCP. The non compliance on the corner of Rutledge and Trelawney Street where the residential portion of the building encroaches into the required setback towards Rutledge Street is not supported and should be deleted. The resultant built form should still express a strong corner form. Retail 1 on the Street corner should be extended to the Rutledge Street boundary to provide strong corner definition.

Comment: The pre-DA plans were amended to reduce a 1.045m encroachment as well as extend Retail 1 to the Rutledge Street elevation which was originally setback 2m from Rutledge Street. These amendments appropriately addressed the street setback issue raised by the Panel.

Boundary Setbacks

The Panel considers that the proposed boundary setbacks are not sufficient to ensure adequate amenity and result in a building form that is forced to borrow amenity from adjoining sites.

All boundary setbacks to residential uses are to be increased to 6m to provide a reasonable outlook, amenity and separation from the existing and likely future building form.

The panel considers that a relaxation of this 6 metre dimension may be appropriate at the northern boundary immediately adjacent to Trelawney Street. The panel encourages the applicant to consider a nil setback for the height of the building for a minimum depth of 6m to achieve a continuous street wall scale for the development to

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Trelawney Street. This will require redesign of the end apartment to achieve an outlook to Trelawney Street or into the site rather than the side boundary.

Comment: The end unit has been redesigned to achieve an outlook to both the north and Trelawney Street.

The applicant has advised that a 3m setback to the west boundary (adjacent to the school) is appropriate given the following:

- *There are no privacy issues to adjacent residential buildings.*
- *There is very little likelihood of any future residential buildings occupying this land so the potential for amenity impacts on the residents are extremely low to non-existent.*
- *There are no adverse shadow impacts since most of the playground adjacent to the western boundary of the site, is already shaded by the large trees and even if these trees were removed there is little percentage change to the shadow impacts of a building 3m or 6m away. There is no potential for any shadow impact on the school site after 11.00am mid winter, no matter what the circumstances.*
- *Acoustic impacts on the residents throughout school hours are the same whether a 3m or 6m is provided.*
- *As a result of reasonable boundary setback of 3m, then the size of the internal courtyard can be maximised and cross ventilation, solar access and quality of residential amenity in this area can be optimised.*
- *The existing interface to the school is heavily screened on both boundaries with well established planting to provide screening and privacy.*
- *Additional privacy planting is proposed within the subject site boundary between the school and the proposed development.*
- *Consultation has been undertaken with the school principle and no concerns have been raised.*

The school is subject to a 15.5m height limit and therefore could be developed as a result to provide additional school facilities. In this regard, the visual and acoustic privacy implications would need to be addressed in the interest of protecting the amenity of the proposed units facing west. The provision of a 6m separation for the proposal would facilitate the achievement of the minimum separation requirement of 12m between habitable rooms and balconies for appropriate visual and acoustic privacy.

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The applicant has advised that a 3m setback to the north boundary, adjacent to the retail/commercial properties, is appropriate in this case given:

- *The land is under various ownerships. If amalgamation ever occurred and redevelopment was to take place, then it is most likely that the bulk of the building would sit towards the Rowe Street frontage, and substantial setbacks to the south would likely occur to accommodate access and parking.*
- *The UDRP suggested that a 3m setback in the NE corner would be a reasonable outcome in relation to achieving a continuation of built form along Trelawney Street.*
- *To initiate any future adverse impacts on residents, the units numbered 4 & 5 on each floor have been designed to have their living spaces in the NE and NW corners respectively, to maximise the view potential and solar access opportunity, should a new development occur to the north adjacent to these units.*

The justification provided is not considered well based in this case. Any future building/s on the properties is likely to consist of residential levels above any basement parking and take advantage of providing a built form up to the minimum setback. The 3m setback recommended by the Panel would be limited to the building corner. The proposed units that are likely to be adjacent to any future residential development would be located on Levels 1, 2 and 3. (This assumption is based on maximum height limit of 15.5m applicable to the neighbouring properties and the fall of the land). To ensure the 12m separation distance between this development and any future residential development, it will be necessary to provide a 6m setback for this site rather than the proposed 3m setback. The provision of a 6m separation is not only important to the residential amenity but also providing consistent spacing between built forms.

The Panel's suggestion to consider a nil setback for the height of the building for a minimum depth of 6m to achieve a continuous street wall to Trelawney Street has not been adopted. The applicant has advised that the development '*has been designed in concert with 7-9 Rutledge Street. The gateway element if continued down Trelawney Street to provide a continuous avenue of consistent built form*'. As discussed above, this gateway solution is not appropriate.

Mass and Apartment Layout

The Panel considers that the building massing as proposed, does not deliver a reasonable standard of amenity.

An alternative or significantly modified building form should be investigated to deliver a higher standard of amenity, solar access outlook and cross ventilation. Forms such as U or L

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shapes with continuous frontage to the two streets should be considered.

The development should also have two lift and stair cores rather than seeking to link all apartments to one core within a light well. A two core solution can avoid the open external walkway access, meet the Residential Flat Code requirements for the number of units per floor and also provide an address to each of the buildings to both streets.

The Panel does not support the open walkway system. This solution creates issues of acoustic and visual privacy, poor amenity in inclement weather and results in units relying on ventilation and outlook onto and over the open access way.

Comment: The applicant has made changes to the scheme to address the issues raised by the UDRP. These changes include:

- Provision of a two core lift solution.
- Deletion of the central bridge and lift.
- Increase in the separation between habitable rooms from 12m to a minimum of 16.4m
- Relocation of habitable rooms from the internal facades, (facing the circulation routes) to the external facades.
- Provision of courtyard surface finishes and treatment to mitigate acoustic impacts.
- Changes to the Trelawney and Rutledge Street facades to provide continuous frontages.
- Deletion of high level windows.
- Addition of screening to bedroom windows of units to the east and west. (NB: This will limit ventilation opportunities unless the screens consist of adjustable louvers to facilitate air flows. Consent can be conditioned accordingly).

NB: The Panel's recommendations with respect to the street frontages were made in the context of providing a 'U' or 'L' shaped form with continuous street frontages. However, the development does not adopt any of these forms.

Street Frontages

The panel believes that a better solution would be achieved for the ground floor apartments and terraces facing Rutledge Street if there was a reasonable grade difference between the street and the level of the terrace.

This would allow some outlook whilst avoiding privacy issues and the need for a 1.8m high screen to the street.

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Comment: The applicant has advised that the location of the ground level units facing Rutledge Street are appropriate as living spaces will be set back 5.5m from the street and it is proposed to reduce the fence height to Rutledge Street and provide screening through vegetation to mitigate any outlook issues. As discussed above, a more appropriate solution to providing appropriate security and privacy is to erect a 1.8m high wall with a setback at approximately 1.2m in height and planting box within the setback. The planting will screen the visual impact of the wall.

Internal Apartment Amenity

Generally the internal layout of the units is supported other than where the design results in bedrooms looking onto access ways.

The Panel believes that all bedrooms should have openable windows that provide a reasonable outlook without compromising visual and or acoustic privacy. High level windows above 1.5m are not considered adequate for the primary bedroom window.

Comment: The plans have been amended to remove all bedrooms looking out onto the access way and high level windows.

A limited number of bedrooms will face onto the central courtyard. Through stepping in the building form and erection of privacy screens, the visual and acoustic privacy implications will be reduced. As mentioned above, the screening is likely to impact on natural ventilation flows unless it consists of adjustable louvers.

Communal Open Space / Deep Soil and Rooftops

Communal Open Space is to be provided to meet the RFDC requirements. Deep soil planting or sufficient soil volume and depth is to be provided to support mature trees, particularly within any communal open space and along the boundary to the school.

Comment: The development will be void of any deep soil planting. In this regard, appropriate soil depths should be provided for substantial tree growth as recommended in the RFDC. Consent can be conditioned accordingly.

The RFDC recommends appropriate stormwater treatment measures in circumstances where deep soil planting is not provided. Council's Engineer has recommended conditions to ensure an effective and appropriate stormwater drainage system is provided.

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Architectural Character

The architectural expression of the development is considered appropriate for its context

Comment: Noted.

(c) Relevant REPs

Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The site is located within the catchment area identified under Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. Division 2 lists matters that Council must consider before granting consent to an application. The proposed development will be satisfactory with respect to the relevant matters, as discussed below.

Biodiversity, Ecology and Environment Protection:

The scale and setback of the development and proposed drainage and sediment and erosion control measures will limit any of the following:

- Potential threat to any terrestrial and aquatic species, ecological communities, populations or their habitats;
- Adverse impacts to any natural intertidal foreshore areas, natural landforms, native vegetation and riparian land;
- Pollution or siltation of the waterway; and
- Changes to drainage patterns.

Conditions should be included in a consent to ensure the site is appropriately remediated to minimise any detrimental impact on the water quality. The objectives for water quality have also been addressed below with respect to Section 8.2 of DCP 2010. Council's Engineer has advised that the stormwater disposal is generally in accordance with Part 8.2.

Interrelationship of Waterway and Foreshore Uses:

There will be minimal interrelationship between the proposed development and the use of the foreshore and waterway, as well as any access thereto, given the setback of the site from the waterway and foreshore.

Foreshore and Waterways Scenic Quality:

There will be no imposing impact to the scenic quality as the site is set back from the foreshore and waterway and surrounding built form will shield views of the development.

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Maintenance, protection and enhancement of views:

No unreasonable obstruction of views or vistas is expected. The site is set back from the foreshore and waterway, amongst other built forms.

Part 5 – Heritage Provisions

Clause 57 refers to Aboriginal heritage. There is little evidence to suggest that the site is a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or an archaeological site of a relic that has Aboriginal heritage significance. However, should the application be approved, a condition is recommended to ensure that in the instance, any Aboriginal cultural materials are discovered during any stage of construction, all work will cease and the Metropolitan Local Aboriginal Land Council and NSW National Parks and Wildlife Service will be notified.

Clause 58 refers to non-Aboriginal heritage. The subject site is not identified as being an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance.

Clause 59 requires Council to assess the impact of development on the significance of any heritage items within the vicinity. There are no heritage items identified under the deemed SEPP within the vicinity.

(d) Any draft LEPs

Draft Ryde Local Environmental Plan 2011

The relevant provisions of the 'Draft Ryde Local Environmental Plan 2011', in addition to those addressed above with respect to RLEP 2010, are addressed in the table below.

Control	Comment	Complies
<p><i>Clause 1.2 – Aims of Plan</i></p> <p>Aims of Plan (2) (b) <i>to provide opportunities for a range of housing types and density that: (ii) are compatible with the existing environmental character of the locality,</i></p> <ul style="list-style-type: none"> ▪ <i>(iii) have a sympathetic and harmonious relationship with adjoining development.</i> ▪ 	<p>As discussed above, the development will not have a sympathetic and harmonious relationship with adjoining development or existing character and therefore would not meet the objective (2)(b). The development will not preserve or improve the 'urban village' character (particularly with respect to the 'human scale' issue discussed</p>	<p>No</p>

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Control	Comment	Complies
<ul style="list-style-type: none"> (2) (g) to preserve and, where appropriate, improve the existing character, amenity and environmental quality of the land to which this Plan applies. 	above) and therefore will not be consistent with objective (2) (g)	
<p>Clause 2.3 – Zone Objectives and land use table</p> <p>Zone B4 Mixed Use Objectives of zone</p> <ul style="list-style-type: none"> To provide a mixture of compatible land uses. To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. 	The proposed mixed use development is permissible with consent and consistent with the objectives of the zone.	Yes
<p>Clause 4.3 – Height of Buildings</p> <p>O2 = 15.5m</p> <p>(a) to maintain desired character and proportions of a street within areas, (a) to minimise overshadowing and ensure a desired level of solar access to all properties, (b) to encourage a built form that relates to human scale and topography, (c) to concentrate building heights around railway station, to provide focal points that clearly highlight the role of railway stations, transport nodes, or large vehicular intersections, (d) to reinforce the important road frontages along road corridors.</p>	<p>The reference to the height control has changed from O1 to O2 but not the actual standard.</p> <p>The objectives indicated are similar to those of RLEP 2010. There has been some minor rewording but the inconsistency of the development in the section 'Clause 4.6' above remains the same.</p>	No
<p>Clause 6.7 - Environmental Sustainability</p> <p>All buildings with a minimum of 1,500m² in gross floor area</p>	The BASIX provisions override this control. The subject DA is accompanied by BASIX Certificate No. 385935M issued on 12 October 2011	-

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Control	Comment	Complies
constructed on land zoned business or industrial, are required to have at least a 4 Star Green Star certified rating issued from the Green Building Council of Australia where the Green Building Council rating tool can be applied.	that indicates the development will achieve the minimum targets.	
Clause 6.8 - Stormwater Quality	Council's Engineer has advised the stormwater drainage scheme is acceptable subject to conditions.	Subject to conditions.

(e) Any DCP (e.g. dwelling house, villa)

The relevant provisions of Council's DCP are addressed in the table below.

Control	Comments	Compliant
Ryde Development Control Plan 2010 Part 4.1 Eastwood Town Centre		
2.1.1 Planning Principles for Eastwood		
Regional Role Development should contribute to the status of Eastwood as an important business, employment and residential location. Development is to promote a compact working and living environment to maximise the efficient use of resources and infrastructure provision.	The proposal is for a mixed use development. It will: provide two active, retail/commercial street frontages; and promote a compact working and living environment.	Satisfactory
Integrated Planning and Development Planning and development is to ensure that social, economic, environmental and urban design issues are considered together and with proper regard of their	The only concern is the cumulative impact with respect to the excess height, scale and massing and disregard to achieving the 'human scale' initiatives for the locality.	No

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Control	Comments	Compliant
<p>mutual and cumulative impacts. All planning, design and development activities must take account of and effectively respond to the linkages and interfaces between public space and private land.</p>		
<p>Public Domain</p> <p>Development is to define and contribute to the public domain so as to create a high quality physical setting for buildings, which is safe and accessible and can be enjoyed by shoppers, residents and workers.</p> <p>Development of the public domain is to enhance the integration between individual precincts and their surrounding areas.</p> <p>Public space areas will be set aside for public use and enjoyment. Development that enhances the enjoyment of these public spaces, such as kiosks, restaurants, recreation facilities, will be encouraged.</p> <p>Car parking facilities should be set back away from the public spaces and should not prejudice pedestrian and cycle use of the public space.</p> <p>Public streets and spaces will be created generally in accordance with the Master Plan for Eastwood.</p>	<p>Should the subject application be approved, a condition is recommended to ensure that the public domain is upgraded to reflect the 'Eastwood Public Domain Manual'.</p>	<p>Subject to conditions</p>
<p>Urban Form</p> <p>Urban form is to reflect its location in relation to transport nodes, existing residential and commercial precincts, be architecturally rich and diverse,</p>	<p>The development doesn't reflect the location in terms of respecting Trelawney Street as being a street of high pedestrian amenity and the corner location of the site. The development will not enhance the public domain</p>	<p>No</p>

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Control	Comments	Compliant
<p>define and enhance the public domain and allow for mixed uses. Building form within specific blocks is to be articulated both in height and mass to provide interest, resolve urban design and environmental issues and satisfy other principles in this plan. Buildings are to be of high quality and adaptable to a variety of uses over time, to ensure their long life.</p> <p>d. Buildings are to support and be integrated into the public domain network to achieve coherence and purpose.</p> <p>e. The integrity of heritage items and significant landscape elements is to be protected and enhanced.</p>	<p>in terms of being sympathetic to the human scale. It lacks appropriate articulation in height and mass, as discussed above,</p>	
<p>Land Use Mix</p> <p>Development is to provide a variety of housing types and employment-based activities and contribute to the character of the Village.</p> <p>Development is to contribute to an integrated mixed use development pattern (both vertical and horizontal) containing a wide range of housing, employment and recreation opportunities.</p> <p>Development is to facilitate the increase and diversity of employment opportunities, which are to be compatible with achieving a high quality, mixed shopping, living and working environment.</p>	<p>The proposed land use mix is appropriate.</p>	<p>Satisfactory</p>
<p>Transport and Access</p> <p>a. Development is to promote the</p>	<p>Development promotes the reduction of motor vehicle dependency and encourages the</p>	<p>Subject to conditions</p>

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Control	Comments	Compliant
<p>reduction of motor vehicle dependency and actively encourage the use of public transport, walking and cycling.</p> <p>b. Accessible environment for people with disabilities and mobility difficulties is to be created to ensure access equity.</p> <p>c. The intensity of development is to be in accordance with the capacity of existing and proposed public transport and road systems.</p> <p>d. Parking provision is to acknowledge accessibility by foot, bicycle and public transport.</p>	<p>use of public transport, walking and cycling.</p> <p>Subject to conditions, an accessible environment for people with disabilities and mobility difficulties will be created.</p> <p>The intensity of development is to be in accordance with the capacity of existing and proposed public transport and road systems.</p>	
<p>Environmental Performance</p> <p>Development is to create a safe and comfortable environment for shoppers, residents and workers in both the private and public space, by "best practice" design to ensure buildings and spaces achieve maximum environmental performance and minimum resources use.</p> <p>Development is to be designed having regard to:</p> <p>a. Wind effect; reflectivity; noise attenuation; solar access and energy conservation; water conservation and re-use; stormwater management; use of recycled materials; and waste reduction,</p> <p>b. The development of public spaces must contribute to greater bio-diversity, habitat protection and enhancement, and air and water quality.</p>	<p>The submitted BASIX certificate indicates that the development will achieve the minimum energy and water targets.</p> <p>The following matters have been discussed in sections below: of wind effect; reflectivity; noise attenuation; solar access and energy conservation; water conservation and re-use; stormwater management; and waste management.</p>	<p>Satisfactory</p>

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Control	Comments	Compliant
3.0 Development Policies		
3.1 Mixed Use Development		
Car parking should be provided at either street level or basement level(s).	All the parking is provided internally at and below street level.	Satisfactory
Retail and other more active public uses, such as restaurants/cafes and libraries should be located at or around street level.	A retail level is proposed at the street level.	Satisfactory
Upper levels of development could be used for either commercial or residential.	Upper levels are residential.	Satisfactory
Buildings should be designed to overlook public and communal streets and other public areas to provide casual surveillance.	The building incorporates adequate casual surveillance opportunities.	Satisfactory
Private living spaces and communal or public spaces should be clearly identified and defined.	Public and private areas are clear and well defined.	Satisfactory
Sufficient lighting is to be provided to all pedestrian ways, building entries, driveways and car parks to ensure a high level of safety and security for residents. Pedestrian and communal areas to be well lit and designed to minimize opportunities for concealment.	The SEE states 'a <i>lighting and security access system are to be installed to achieve a satisfactory level of safety and security</i> '. Additional detail of the lighting will be required as a condition of consent. Any such lighting should have an intensity and be directed as not to cause a nuisance to surrounding properties and traffic.	Subject to conditions
Pedestrian entry to the residential component of mixed use developments should be separated from entry to other land uses in the building/s.	A separate residential lobby has been provided.	Satisfactory

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Control	Comments	Compliant
3.2 Stormwater Management		
A stormwater inundation impact assessment or stormwater inundation management strategy is to be submitted for all developments. Floor levels within any new development should be a minimum of 300mm above the calculated flood level for the 100 year ARI event. Developments should comply with Part 8.2 Stormwater Management of this DCP.	Refer to 'Engineer Comments' below. Conditions are recommended to be included in a consent. NB: The plans have been amended to cater for the flood levels.	Subject to conditions
3.3 Architectural Characteristics		
3.3.1 Height		
Buildings must comply with the maximum height limit shown on the Height of Buildings Map under Ryde Local Environmental Plan 2010.	Refer to LEP assessment above.	No
Development is to be within the envelope of the "sun altitude height plane" being the plane projected at an angle of 26° over a building site measured from the property boundary on the opposite side of the road.	Refer to discussion at the end of this table.	No
3.3.2 Setbacks		
New buildings are to have street frontages built predominantly to the street alignment for the first 2 storeys.	For the lower ground level and ground level the building is proposed to be built to the boundary along both frontages to Rutledge Street and Trelawney Street, with the exception of the residential component along Rutledge Street. This treatment is	Satisfactory

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Control	Comments	Compliant
	appropriate as it reduces the interface of the ground level units with Rutledge Street, being busy street, and enables legibility of the residential as opposed to the adjacent retail/commercial component.	
Buildings may be constructed to the side and rear boundaries for the first 2 storeys.	The building is partially setback for the residential component.	Satisfactory
Buildings (including balconies) are to be set back a minimum of 3 metres from all boundaries above the first 2 storeys.	The building maintains a 3m setback above the first two floors, with the exception of minor encroachments. No concerns are raised to the encroachments, as they are minor. The encroachments occur at the corner of Rutledge and Trelawney Streets. The setback control is a minimum. In order to maintain adequate building separation as required by the RFDC, the development should provide a minimum 5m setback from the northern and western boundaries. Maintaining the 3m setbacks along these boundaries results in a development relying on amenity from the adjoining properties.	No
3.3.3 Urban Design/Exterior Finishes		
Building exteriors are to be designed to avoid extensive expanses of blank glass or solid wall.	The design avoids large areas of blank walls or glass.	Satisfactory
Balconies and terraces should be provided, particularly where buildings overlook public spaces.	Balconies are provided on every elevation which overlooks public spaces.	Satisfactory

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Control	Comments	Compliant
All new buildings and renovations should incorporate a colour scheme using the colour palette.	The colour palette is acceptable.	Satisfactory
The siting and configuration of buildings should take into account the impact on surrounding development and public spaces in terms of amenity, shadowing and visual privacy.	<p>There will be no significant impact on existing surrounding development in terms of overshadowing and privacy. The only concern is the scale/massing of the proposed development along Trelawney Street and its relationship with that of the neighbouring building to the north and general topography.</p> <p>If neighbouring buildings were to be redeveloped / extended then the proposal would not facilitate a 12m separation for adequate amenity (as required under the RFDC). As such the inadequate setbacks to the north and west will force the development to borrow amenity from adjoining properties.</p> <p>As discussed above, any overdevelopment of the site in terms of height and massing will set a precedent and is likely to adversely impact on the urban design outcome of the Eastwood Urban Village.</p>	No
3.3.4 Corner Allotments		
The design of buildings should consider the following: <ul style="list-style-type: none"> i. The height of adjacent buildings; ii. Stepping the building up where the building turns the corner; 	Matters i, ii, iii and iv have been discussed previously. With respect to matter (v), should the application be approved, a condition is recommended to require the submission of a DA for a signage scheme as to	No

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Control	Comments	Compliant
<p>iii. The incorporation of distinctive features to enhance the streetscape, i.e. clocks, flag poles, towers, etc;</p> <p>iv. Giving the corner a splayed, concave, convex or square recess treatment such that it signifies the intersection; and</p> <p>v. Incorporating the removal of clutter such as power poles and advertising signage from around intersections.</p>	avoid visual clutter.	
3.4 Access & Parking		
3.4.2 Contributions		
Cash contributions are to be paid for the number of parking spaces not provided on site.	No cash contribution is applicable in this case.	N/A
3.4.3 Location of Vehicle Access and Footpath Crossings		
<p>The design and location of vehicle access to developments should minimise:</p> <ul style="list-style-type: none"> ▪ Conflicts between pedestrian and vehicles on footpaths, particularly along pedestrian priority streets; and ▪ Visual intrusion and disruption of streetscape continuity. 	The visual impact of the entrance will be satisfactory. No major concerns have been raised at conflicts between pedestrian and vehicles by the RMS and Council's Traffic Engineer. Conditions are recommended to ensure an appropriate queuing area is provided.	Subject to conditions
3.5 Pedestrian Access & Amenity		
3.5.1 Street Frontage Activities		
Buildings with frontages to retail/pedestrian priority streets are to contribute to the liveliness and vitality of those streets by providing one or more of the	The proposed retail/commercial tenancies provide opportunities to facilitate the liveliness and vitality of the Trelawney Street frontage by providing glazed	Subject to conditions

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Control	Comments	Compliant
<p>following at ground level:</p> <ul style="list-style-type: none"> ▪ Retailing, food/drink outlets, customer counter services or other activities which provide pedestrian interest; ▪ Enclosed shop-fronts with window displays of goods and services within, and/or artworks; ▪ Open shopfronts to food outlets and/or interiors with tables and chairs for diners; ▪ Indoor queuing space for activities that may involve queuing (including automatic teller machines) so that footpaths remain free for pedestrian movement. Recesses in the street alignment for these activities are appropriate; and ▪ A high standard of finish for shop fronts. 	<p>shop fronts, direct access to the footpath and a high standard of finish. As indicated above, a condition should be included in a consent to require a separate development application for the use of each retail/commercial tenancy.</p>	
<p>Buildings with frontages to other streets and lanes are to contribute to the liveliness and vitality of those streets by:</p> <ul style="list-style-type: none"> ▪ Providing visual interest; ▪ Providing well designed and attractive entrances, lobbies and commercial uses at ground level; and ▪ Incorporating, where practicable, either open or enclosed shop fronts with window displays of merchandise or services within, and/or artworks. 	<p>A non-residential tenancy will be located at the corner of Rutledge and Trelawney Street. Behind this will be an access core followed by units. Minimising active frontages along Rutledge will be sympathetic with the proposed residential uses.</p>	Satisfactory
<p>Ground floor uses are to be at the same level as the footpath. Split level arcades or open retail forecourts at a different level to the</p>	<p>The ground floor retail/commercial tenancies have been amended to be slightly raised above footpath level. This</p>	Satisfactory

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Control	Comments	Compliant
footpath are inappropriate because they separate the activities within them from the street.	has been necessitated to address the flood levels.	
The ground floor of all development is to be flush with the street footpath for the predominant level of the street frontage and at the main entry to the building.	Main entries will be ramped to facilitate wheel chair access. Conditions are recommended to ensure appropriate gradients and widths are provided to achieve compliance with the Australian Standard.	Subject to conditions
All street frontage windows at ground level are to have clear glazing.	Should the application be approved, a condition can be included in a consent to ensure retail/commercial tenancies consist of clear glazing.	Subject to conditions
Security grilles are to be fitted only within the shop front. Such grilles are to be transparent.	A condition can be included in a consent to advise that no grilles or barriers are permitted on the shop front. This would require separate approval.	Subject to conditions
Recesses for roller doors and fire escapes are to be wide and shallow to provide for personal security. Narrow, deep recesses are to be avoided.	A condition is recommended to ensure that, where appropriate, a barrier/gate is provided along the opening to the 'fire hydrant / sprinkler / booster valves and meter' zone. It may not be appropriate to do the same for the adjacent fire exit given the access requirements, however a condition is recommended to delete the planting next to the fire door (shown in plan only) or provide low lying vegetation (not more than 1m in height).	Subject to conditions
3.5.4 Landscaping & Trees		
Development proposals, incorporating landscaped	A landscape plan has been submitted and reviewed by	Satisfactory

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Control	Comments	Compliant
elements, are to be accompanied by a landscape plan.	Council's Landscape Officer.	
Where appropriate, developments should incorporate landscaping in the form of planter boxes incorporated into the upper levels of the building to soften building form.	The proposal incorporates planter boxes along the perimeter of Level 1 and on the roof garden.	Satisfactory
Ground level entry areas to upper level dwellings should be well lit and not obstructed by planting in a way that reduces the actual or perceived personal safety and security of residents or pedestrians.	Should the application be approved, a condition can be included in a consent to ensure areas are well lit and planting is low in height (not more than 1m) if it is dense or consists of trees with a sparse canopy, (preferably above eye level), and narrow trunk.	Subject to conditions
Street trees shall be provided in accordance with the Master Plan for the Centre and shall be provided at the developers' cost in conjunction with any new building work involving additional floor space.	Should the application be approved, a condition can be included in a consent, requiring that street trees be provided at the developers' cost.	Subject to conditions
Street trees at the time of planting shall have a minimum container size of 200 litres, and a minimum height of 3.5m, subject to species availability.	A condition can be included in a consent to ensure this.	Subject to conditions
Tree sites in the footpath area shall be 1.2m by 1.2m, filled with approved gravel and located 200mm from the back of the kerb line.	This will be as per Council's specification for public domain improvements. A condition can be included in a consent to ensure this.	Subject to conditions
A tree grate of a type that meets Council's specifications shall protect all trees.	A condition can be included in a consent to ensure this.	Subject to conditions

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Where a proposal involves redevelopment of a site with a frontage of at least 40m to a public road, the developer shall arrange for electricity and telecommunication utilities to be placed underground along the entire length of all street frontages. Such utility modifications will be carried out to the satisfaction of the responsible authority (e.g. Energy Australia).	Submitted correspondence from Ausgrid does not confirm that the above ground power lines existing in Rutledge Street cannot be placed underground. However this restriction applied to the approval of the Eastwood Shopping Centre with respect to the 66 kv power lines along Rutledge Street. Should the application be approved, a condition should be included to specify that all services and power lines be located underground, unless otherwise advised by Ausgrid and for written confirmation to be submitted to Council and the private certifying authority prior to the commencement of works.	Subject to conditions
Where utility installations are placed underground in conjunction with new development, Council will waive 50% of the total contribution towards public space acquisition and embellishment, normally payable under Council's relevant Section 94 Contributions Plan.	Electricity lines along Rutledge Street are unlikely to be placed underground. However, undergrounding will be required along Trelawney Street. If the application were to be approved, a condition could be imposed to ensure compliance with this requirement. Accordingly, no reduction applies in this case.	Satisfactory
3.5.5 Awnings and Colonnades		
Buildings with frontage to any street must incorporate an awning or colonnade along that boundary.	An awning is proposed along Trelawney Street and most of Rutledge Street, where pedestrian activities will be generated. This is acceptable given that: - It will discourage high pedestrian traffic and associated acoustic and visual privacy impacts adjacent to ground level	Satisfactory

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Control	Comments	Compliant
	units. - Continuation of an awning further west is unlikely given the school use.	
The pavement level of a colonnade or covered walkway shall be at the same level as the footpath to which it is adjacent.	The same level is provided for the residential entry.	Satisfactory
The height of a colonnade, awning or covered way shall not be less than 3 metres or greater than 4.5 metres.	A minimum height of the awning, indicated on the drawings is 3m and the maximum indicated is 4m.	Satisfactory
The width of a colonnade, awning or covered way shall not be less than 3 metres.	A condition is recommended to ensure the minimum width is complied with, except where tree cut-outs are proposed.	Satisfactory
Any new awnings should: <ul style="list-style-type: none"> • Be continuous for the entire length of the site frontage; • Be set back from the face of the kerb by 0.6m; • Have cut-outs of 1m wide by 1m deep to accommodate street trees, where the frontage is proposed to accommodate a street tree in accordance with the master plan or any public domain improvement plan; • Be weather sealed to the face of the building to which they are attached and to the adjoining awnings; • Have a height clearance above the footpath level of at least 3m or a height consistent with adjacent awnings; and • Maintain sufficient clearances from any overhead electricity or telecommunication 	<p>The awning along Rutledge Street ends after the main residential lobby entry. This is appropriate for the reasons discussed above.</p> <p>The proposed awnings are 3m in width, with a 600mm setback for the tree plantings.</p> <p>Should the application be approved, a condition should be included to require 1m x 1m cut-outs, a 600mm setback from the face of the kerb and weather sealing to the facade of the building, where appropriate.</p>	Subject to conditions

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installations.		
Ground level shop fronts may incorporate see-through security grilles or translucent barriers to ensure that maximum light is transmitted to footpath areas. Blank roller-shutter type doors will not be permitted.	A condition can be included in a consent to ensure this.	Subject to conditions
3.7 Environmental Management		
3.7.1 Sunlight		
Major public spaces should receive a minimum of 50% sunlight on the ground plane for at least 2 hours between 10am and 2pm on June 21.	There are no major public spaces likely to be affected by the proposal in terms of overshadowing.	Satisfactory
All new buildings should have an area of roof, with appropriate orientation and pitch that is suitable for the installation of solar collectors and photovoltaic cells.	The application will comply with BASIX in terms of energy conservation targets.	Satisfactory
In new residential developments, windows to north-facing living areas should receive at least 3 hours of sunlight between 9am and 5pm on June 21 over a portion of their surface. North-facing windows to living areas of neighbouring dwellings should not have sunlight reduced to less than the above 3 hours.	The north facing living room windows of all units will meet the minimum 3 hour solar access requirement. North-facing windows to living areas of neighbouring dwellings will not have sunlight reduced to less than the above 3 hours, where existing.	Satisfactory
3.7.2 Wind Standards		
Building design is to minimise adverse wind effects on recreation facilities and open terraces within developments.	No adverse impact is expected given the height of the development, proposed indents and balustrades.	Satisfactory

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Control	Comments	Compliant
3.7.3 Energy Efficiency of Buildings		
<p>To maximise energy efficiency and sustainable design. Buildings should optimize their passive and operational energy efficiencies, reduce pollution, include waste minimisation systems and use construction materials from renewable resources.</p> <p>New Buildings; should be designed to ensure that energy usage is minimised.</p>	<p>The minimum standards are met. Reference should be made to the submitted BASIX certificate and Energy Report.</p>	<p>Satisfactory</p>
3.7.4 Vibration and Noise Mitigation		
<p>In respect of proposals for new residential buildings:</p> <ul style="list-style-type: none"> • The building plan, walls, windows, doors and roof are to be designed and detailed to reduce intrusive noise levels. • Balconies and other external building elements are located, designed and treated to minimise infiltration and reflection of noise onto the façade; • Dwellings are to be constructed in accordance with: AS 3671-1989: Acoustics – Road Traffic Noise Intrusion, Building Siting and Construction; AS 3671-1987: Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors; and Environmental Criteria for Road Traffic Noise (EPA, 1999). 	<p>An acoustic report has been submitted. Should the application be approved, conditions are recommended to ensure:</p> <ul style="list-style-type: none"> • Sealing of external facing window frames and door frames. • Provision of acoustic glazing on outward facing windows. • Appropriate timeframes for delivery vehicles. • Installation of a ventilation system to each unit that will satisfy internal sound levels detailed in the submitted Acoustic Report. • Implementation of the roller shutter manufacturer's maintenance schedule and recommended servicing of guide rails. • Compliance of the plant and equipment with the noise criteria listed in the submitted Acoustic Report. 	<p>Subject to conditions</p>

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	<ul style="list-style-type: none"> A BCA sound compliance assessment is carried out at CC stage and the required works are implemented to ensure compliance with the airborne and impact sound isolation requirements between Residential Units set out in the BCA. <p>Also refer to 'Environmental Health' comments.</p>	
3.7.5 Reflectivity		
<p>The excessive use of highly reflective glass is discouraged. New buildings and façades should not result in glare that causes discomfort or threatens safety of pedestrians or drivers. Visible light reflectivity from building materials used on the façades of new buildings should not exceed 18%.</p>	<p>The proposal is considered acceptable, subject to a condition in a consent to ensure an appropriate reflectivity index is provided for glazing.</p>	<p>Subject to conditions</p>
3.7.6 External Lighting of Buildings		
<p>Any external lighting of buildings is to be considered with regard to:</p> <ul style="list-style-type: none"> The integration of external light fixtures with the architecture of the building (for example, highlighting external features of the building); The contribution of the visual effects of external lighting to the character of the building, surrounds and skyline; The energy efficiency of the external lighting system; and The amenity of residents in the locality. 	<p>Discussed above.</p>	<p>Subject to conditions</p>

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Control	Comments	Compliant
3.7.7 Waste Management		
All applications for demolition, building and land development must be accompanied by a Waste Management Plan.	A waste management plan has been submitted and reviewed by Council's Environmental Health Officer. Refer to section below 'Environmental Health'.	Satisfactory
Residential Buildings: A waste cupboard or other appropriate space is provided within dwellings for temporary storage of recyclables, garbage and compostable material.	A condition can be included in a consent to ensure compliance.	Subject to conditions
In circumstances where communal facilities are proposed, the area or room is of sufficient size to store Council's standard bins and is easily accessible from each unit and from Council's usual collection point.	Refer to section below 'Environmental Health'.	-
The location and design of facilities does not impact on adjoining premises and the amenity of the dwellings within the development (e.g. odour, noise).	No evident impact, as the bin storage areas will be located centrally within the building in the basement.	Satisfactory
Adequate space has been provided to enable on-site composting.	A condition can be included in a consent to require an area to be set aside should a future communal area be required by residents.	Subject to conditions
Acceptable administrative arrangements for ongoing waste management are determined.	A condition can be included in a consent to ensure by-laws for ongoing waste management, particularly the responsibilities of a caretaker or other employed persons, are specified in a management plan.	Subject to conditions

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A communal on-site waste storage and recycling area or garbage and recycling room must be provided for residential development. The area should be capable of accommodating the required number of standard waste containers. Additional space for storage of bulky waste should be provided.	A communal on-site waste storage room will be provided for the residential component. A separate room is proposed for hard waste.	Satisfactory
Buildings containing more than four storeys shall be provided with a suitable system for the transportation of garbage from each floor level to the garbage and recycling room(s). This may be a garbage chute system. Where such facilities are utilised, space must be provided on each floor for storage of recyclables.	A garbage chute is proposed, as well as an adjacent area to accommodate two bins. Also refer to the section 'Environmental Health' below	Satisfactory
Business and Retail Premises: The system for waste management is compatible with collection services.	No concerns have been raised by Council's Environmental Health Officer.	Satisfactory
On-site source separation is facilitated.	A separate waste room is proposed for the non-residential tenancies which will consist of appropriate bin types to facilitate source separation.	Subject to conditions
An appropriately designed and well located waste storage and recycling area and/or garbage and recycling room is provided on-site.	A separate waste room is indicated on the drawings. Should the application be approved, a condition is recommended to ensure the room has the required facilities, finishes and floor grading.	Subject to conditions

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Clear access for staff and collection services is provided.	Refer to 'Environmental Health Officer' comments below. It is likely that a caretaker or other employed person will be responsible for checking and transporting the bins, where necessary.	Subject to conditions
Facilities are carefully sited, well-designed and do not impact on adjoining premises or the amenity.	Garbage rooms will be well located.	Satisfactory
There are acceptable administrative arrangements for ongoing waste management.	A condition can be included in a consent to ensure by-laws for ongoing waste management are specified in a management plan.	Subject to conditions
Ongoing management is a significant issue - details are required in the waste management plan.	The submitted waste management plan has been reviewed by Council's Environmental Health Officer, who has raised no concerns.	Subject to conditions
Special attention should be paid to food scrap generation. Specialised containment should be provided and a regular and frequent collection service arranged to ensure that no impacts result from the activity.	Should the application be approved, a condition is recommended to require a separate DA to be submitted for the specific use of each tenancy. Waste generation and management will be reviewed in more detail at that stage.	Subject to conditions
7.1 Energy Smart, Water Wise	The development would be required to comply with the BASIX requirements.	Subject to conditions
7.2 Waste Minimisation and Management	Refer to above assessment and comments provided below from Council's 'Environmental Health Officer'.	Subject to conditions
9.2 Access for People with Disabilities	Section 9.2 requires 10% of the total number of units to be adaptable. Seven (7) units are proposed to be adaptable, A	Subject to conditions

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	<p>condition is recommended to require at least 7 adaptable units and one accessible car space per adaptable unit.</p> <p>Should the application be approved, conditions are recommended to ensure that certain details are confirmed and/or indicated on Construction Certificate documentation as discussed in the submitted access report. They relate to the following aspects:</p> <ul style="list-style-type: none"> ▪ External pathway links and building entrance, doorway entry landings and thresholds. ▪ Door schedules and hardware. ▪ Ramp and stairway handrails, tactile surface indicators, step nosings, and risers. ▪ Lift internal floor areas, controls, handrails and the like. ▪ Fittings and fixtures of accessible sanitary facilities. ▪ Raised tactile and Braille signage for common area, public toilets and amenities. ▪ Lift lobby widths and doorway thresholds. ▪ Door widths and lever handles of adaptable units. ▪ Adaptable unit kitchen cupboards, appliances and the like. ▪ Outdoor private open space threshold ramps of adaptable units. 	

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	Conditions are recommended to ensure appropriate door widths, ramping and/or flush levels with the footpath are provided for each commercial/retail tenancy entry.	
<p>9.3 Car Parking</p> <p>Residential: 0.6-1 space/1 bedroom: 7.8-13 0.9-1.2 spaces/2 bedroom: 41.4-55.2 1.4-1.6 spaces/3 bedroom: 2.8-3.2 1 visitor space/5 dwellings: 12.2</p> <p>Retail: 1/25sqm = 21.36 spaces</p>	<p><u>Total Required:</u></p> <p>The total number of residential spaces is 65 – 84</p> <p>The total number of retail is 22.</p> <p>TOTAL Required –87-106 CAR</p> <p><u>Total Proposed:</u></p> <p>The total number of residential spaces is: 94</p> <p>The total number of retail is 14.</p> <p>TOTAL Proposed – 108</p> <p>A condition should be included in a consent to require the reallocation of car spaces to respect the requirements of the RDCP. The reallocation should be: 22 retail spaces, 73 resident spaces, 13 resident visitor spaces.</p>	Subject to conditions
<p>9.4 Fencing</p> <p>A wall, fence or kerb shall be constructed along the front alignment of the property.</p> <p>Fences within the front setback shall not be of paling construction or exceed 1m in height. Boundary fences should not exceed 1.8m in height.</p>	<p>The proposed front fence along Rutledge Street has been discussed in the above section 'Urban Design Review Panel'.</p>	Subject to conditions

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Control	Comments	Compliant
9.6 Tree Preservation	Refer to 'Landscape Architect' comments below.	Subject to conditions

Building Envelope Control

The proposal does not comply with the envelope control as indicated in the diagrams below.



Diagram 3: North Elevation:

-  Building Envelope of RDCP 2010 (measured from Trelawney Street boundary)
-  Area of non-compliance with maximum 15.5m RLEP 2010 Height Standard

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Diagram 4: East Elevation:

-  Area of non-compliance with maximum 15.5m LEP Height Standard
-  Building Envelope of RDCP 2010 (measured from existing Rutledge Street boundary)

RDCP 2010 provides that in certain circumstances buildings may be approved if they project above the building envelope plane where:

- *The non-compliance is consistent with the aims, principles and strategies of the Plan.*
- *In the circumstances of the site the strict application of the provision is unnecessary or unreasonable, such as corner allotments or the presence of an intervening structure.*
- *It can be demonstrated that the intention of the control is largely met.*
- *Variation of the control results in an improved design solution for the site taking into consideration the nature of the adjoining development.*

The discussion of section 'Clause 4.6' indicates the intentions of the control will not be satisfactorily met. The variances will not provide an improved design taking into consideration the nature of adjoining development.

Reference is made to the court findings for *Crown Atlantis Joint Venture v Ryde City Council*. In summary, the findings indicate that the achievement of the 'human scale' is important to the design outcome and the RDCP envelope control should not be disregarded. The relevant findings are stated below:

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ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)

- *The intention of DCP 39 is that new development should have an urban village character. Development should be of human scale in the streetscape, being generally two to three storeys in height. Taller building elements set back from street are permissible but they should not dominate.*
- *Trelawney Street is to be developed for the enjoyment and utility of pedestrians with a high level of aesthetic amenity at street level.*
- *Trelawney Street is a retail/pedestrian priority street and at its intersection with Rutledge Street forms a gateway to the Eastwood Town Centre. The street corner portion of site is therefore a gateway site for the purposes of DCP 39 and notwithstanding the first objective above should be developed accordingly. More particularly, the corner element of the building should address both streets and be stepped up, especially in relation to structures at the street frontages.*

As stated previously, a variance to the standard is likely to be accepted for the creation of a gateway feature as required by the DCP. If appropriately designed and limited to the corner of the building, this would have minimal impact on retaining the human scale along Trelawney Street.

The architect has noted that an awning above the footpath on the opposite side of Trelawney Street would obstruct a sightline projected from the boundary at a height of 1.5m and angle of 26 degrees and hence the higher/non-compliant building portions will not be visible. This is not concurred with given that:

Submitted diagrams illustrate:

- A pedestrian would have to be standing on the site boundary of 7-9 Rutledge Street. This would be difficult as the building would extend up to this boundary and generally a pedestrian would not be walking flush against the building. If the sightline is projected from even 500mm from the footpath edge (approximately one step away), the higher building portions would be visible; and
- The submitted Trelawney Street elevation plan for the proposal at 7-9 Rutledge Street, indicates the awning will generally range from 3.2m to a maximum of just over 4.465m. Only one section may be a minimum of 3m. Therefore sightlines projected from the boundary would not be obstructed by awnings higher than 3m above footpath level.

Section 94 Contribution Plan

Development Contribution Plan – 2007 (2010 Amendment) allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density/ floor area.

ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)

The proposed development will result in the following Section 94 contributions being payable.

Contribution Type	Contribution Amount
Community & Cultural Facilities	\$156,793.58
Open Space & Recreation Facilities	
	\$362,205.60
Civic & Urban Improvements	\$138,563.10
Roads & Traffic Management Facilities	
	\$21,134.68
Cycleways	\$11,806.94
Stormwater Management Facilities	\$39,348.87
Plan Administration	\$3,180.63
The total contribution is	\$733,033.39

Notes:

The March Quarter rates have been applied to the development.

10. Likely impacts of the Development

The likely impacts of the development have already been discussed in this report.

11. Suitability of the site for the development

The site is not classified as a heritage item nor affected by subsidence; however, it is affected by 1 in 100 year overland flow path. The applicant has submitted amended architectural plans that indicate all finished floor levels of the building facing Rutledge and Trelawney Streets are 300mm above the top water level of 1 in 100 year ARI storm event. In this regard, the proposal is considered to be suitable for the site in terms of its impact on both the existing natural and built environment.

12. The Public Interest

The public interest, in respect of this application, would be to ensure that the development application complies with the planning controls that affect the site. As demonstrated in this report, the application is not in the public interest.

13. Consultation – Internal and External

Internal Referrals

Environmental Health Officer:

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

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ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)

Traffic Engineer:

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

Public Domain:

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

Drainage Team:

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

Waste:

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

External Referrals

Roads and Maritime Services (RMS)

RMS has not raised any concerns subject to certain details being provided and/or complied with. These can be addressed via the inclusion of conditions in a consent, should the application be approved.

14. Critical Dates

There are no critical dates or deadlines to be met.

15. Financial Impact

Nil.

16. Other Options

The development is non-compliant with the applicable height, envelope and setback controls. These non-compliances will result in adverse urban design outcomes. Accordingly, the development application is recommended for refusal.

ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)

Other options for Council to consider are listed below.

- 1) The determination of the development application could be deferred to enable the applicant to submit amended plans. The purpose of the amended plans would be to achieve greater compliance with the height, setback controls, envelope and other substantial non-compliances with the current proposal and to achieve a better design outcome for the site.

If Council did resolve to defer the development application for the submission of amended plans, these plans would require re-notification. In addition, the applicant would get the opportunity to revisit the Voluntary Planning Agreement.

- 2) Should Council support the variations to the planning controls, Council could resolve to approve the development application subject to appropriate conditions. This option is not supported due to the issues already raised in the report. However if Council did wish to proceed with this option, it would be in Council's interest to also accept the Voluntary Planning Agreement referred to in Annexure 4.
- 3) Council could also resolve to support the development application; however, resolve to reject the VPA. This option is not supported as Council would not be receiving the additional funding as proposed in the VPA.

17. Conclusion

The proposed development has been assessed against the relevant planning provisions, which have included the provisions of SEPP 65, RFDC, RLEP 2010 and RDCP 2010. As a result, the assessment indicates the following findings:

- The proposed building height will be in excess to the maximum permissible standard. Variances will be great and occur along large building portions.
- The development will result in major encroachments in the building envelope control.
- An inadequate building separation will be provided to the north and west boundaries.

The proposed building height exceeds the 15.5m standard prescribed under the RLEP 2010 by a maximum of 5.85m. This non-compliance will not be appropriate in the circumstances of this case as the height will not achieve related objectives of the control and B4 mixed use zone. It will not respect the desired massing, topography and human scale initiatives. It will not be stepped to appropriately relate to the existing or anticipated height of the building to the north and topography along Trelawney Street, nor will it appropriately address the site's corner location.

ITEM 12 (continued)

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Prior to and during the submission of the subject DA, the applicant was advised by Council officers and the UDRP that compliance needs to be achieved with the maximum height standard and that the applicant's design initiative of providing a 'gateway' entry can still be achieved with a compliant situation.

The desired future character of the Eastwood Town Centre expressed in local controls refers to retaining the 'urban village character'. This is directly related to respecting the human scale. The development does not respect this. The human scale issue is an important objective of not only the height standard of the RLEP but also of the height standard in the DRLEP and prescribed building envelope of the RDCP. The development will extend well outside of the building envelope control of the RDCP. Trelawney Street is identified as a retail/pedestrian priority street under the RDCP, which further reinforces the importance of respecting the human scale along this street. The development design has not had adequate regard to this important aspect.

The proposed development will not facilitate an appropriate building separation to the north and west as required under the RFDC. Accordingly, this will not ensure appropriate amenity between any extensions or new forms on neighbouring properties. In this regard, the built form will be forced to borrow amenity from the adjoining properties to the north and west.

The proposal represents an overdevelopment of the site. The density is dictated by the applicable setback, height and envelope controls. The development does not achieve these controls and therefore is excessive in density.

The applicant has not submitted details that verify private open spaces of at least 70% of the units will receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.

Based on the above, the development is recommended for refusal.

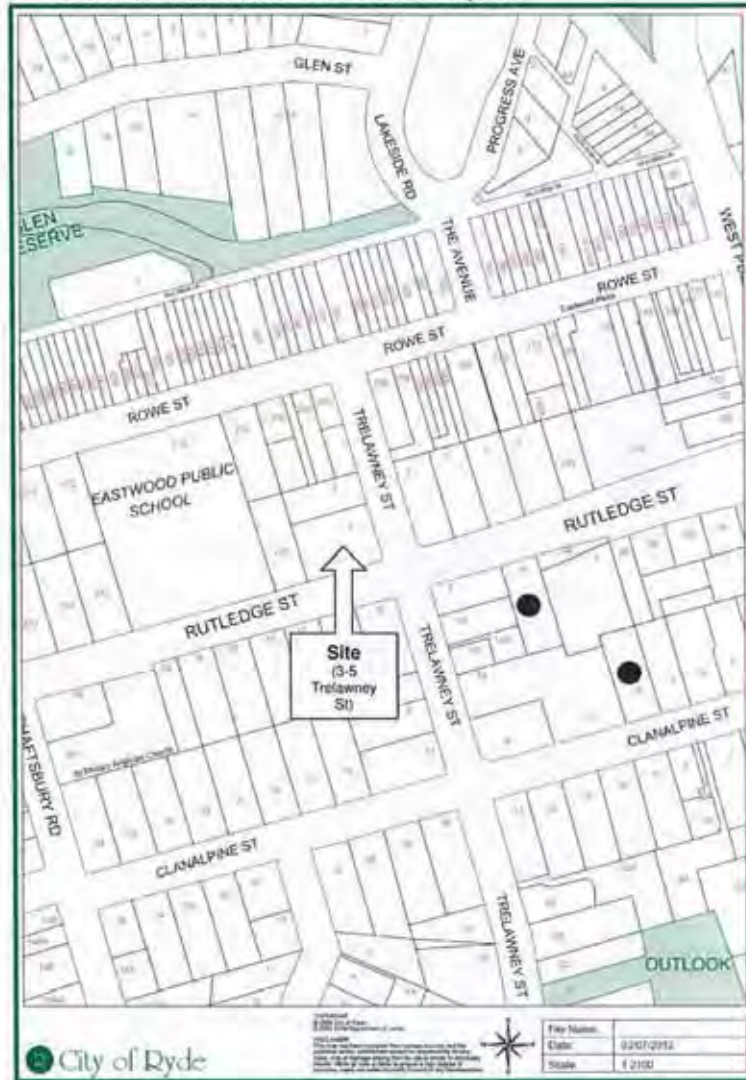
ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)

ATTACHMENT 1

● Indicates submissions received.
One submission was received from outside map area.



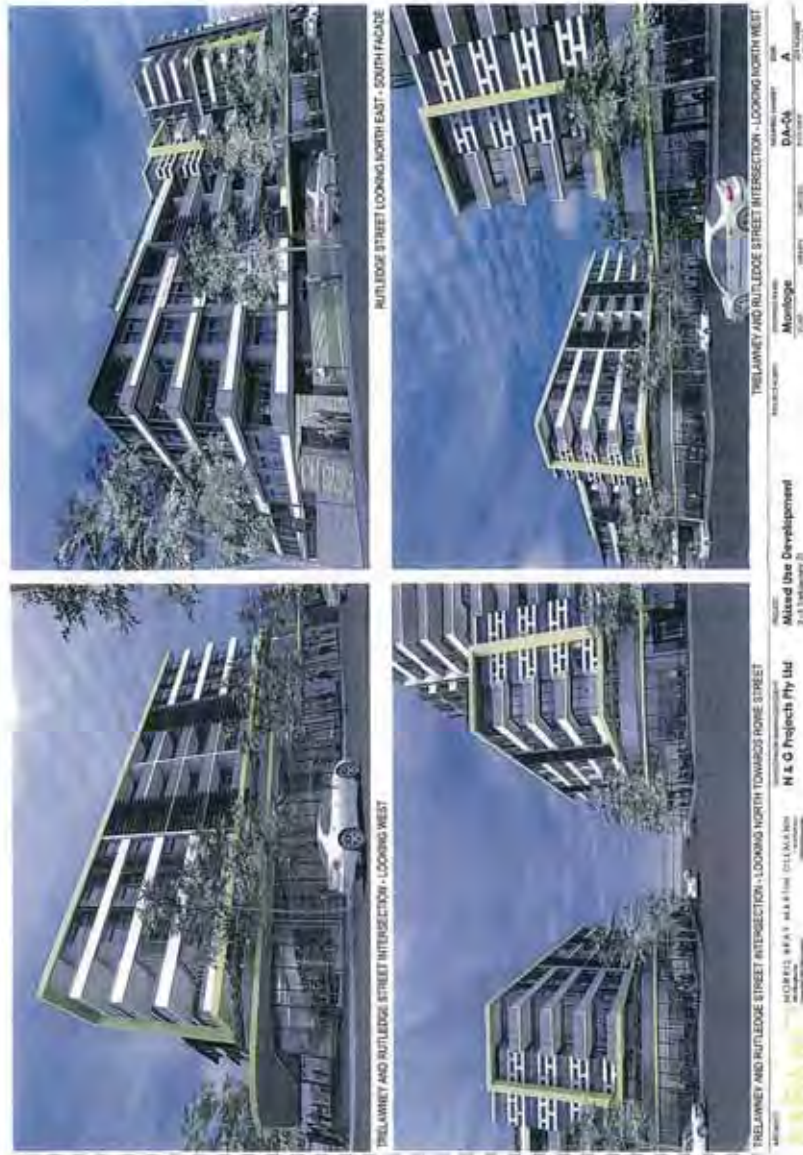
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ITEM 2 (continued)

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ATTACHMENT 4

**1 VOLUNTARY PLANNING AGREEMENT OFFER – 3-5
TRELAWNEY STREET, EASTWOOD.**

Report prepared by: Client Manager

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

Report dated: 27 June 2012

File Number: D12/47050

1. Report Summary

Council is in receipt of Local Development Application LDA2011/611, at 3-5 Trelawney Street, Eastwood for the construction of a part 5 part 6 storey mixed use building containing 61 units, commercial / retail tenancies on the ground floor and basement car parking.

As part of the proposal, the proponents are seeking to enter into a Voluntary Planning Agreement (VPA) with Council. The VPA forms a contractual agreement between Council and the Developer. The purpose of this report is for Council to determine whether it will endorse the VPA should the application be approved by Council. The VPA offers public benefit together with complying with Council's requirements in respect of Section 94 Contributions.

It is recommended that Council determine whether the proposed development is acceptable and if supported, endorse the Voluntary Planning Offer.

RECOMMENDATION:

- (a) That if Council resolves to approve Local Development Application 2011/0611 at 3-5 Trelawney Street, Eastwood then Council give 'in principle' support to the Voluntary Planning Agreement made by N & G Projects Pty Ltd with a reference of PJAC_100970_017.DOC and dated 13 June 2012.
- (b) That the above be communicated to the proponents.
- (c) That the Group Manager, Environment and Planning be delegated to finalise the Voluntary Planning Agreement with N & G Projects Pty Ltd in accordance with the submitted Voluntary Planning Agreement and the applicable legal requirements under the *Environmental Planning and Assessment Act 1979*.

ATTACHMENTS

- 1 Voluntary Planning Agreement – 3-5 Trelawney Street, Eastwood

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ATTACHMENT 2

ITEM 2 (continued)

ATTACHMENT 4

Report Prepared By:

Adrian Melo
Client Manager

Report Approved By:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager - Environment & Planning

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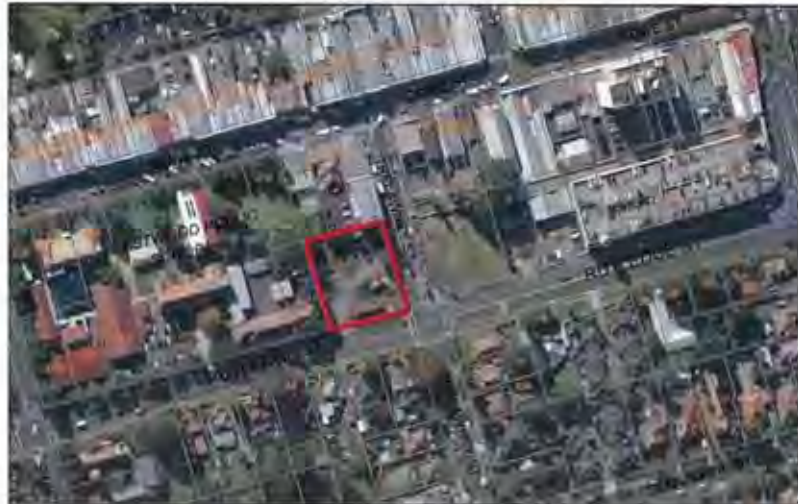
ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)

ATTACHMENT 4

2. Site (Refer to map.)



3. Councillor Representations

Nil.

4. Political Donations or Gifts

Any political donations or gifts disclosed? No.

5. Background

An offer for a VPA was submitted by the proponent at time of lodgement of the Development Application for 3-5 Trelawney St, Eastwood on 28 November 2011.

This VPA was considered by Council's Executive Team at a meeting held 16 December 2011. This original offer was not supported by the Executive Team as, excluding matters necessary and consequential to the development application, it totalled \$60,000.00. Following the initial consideration of the VPA, a letter was sent to the applicant dated 23 December 2011 suggesting amendments to the VPA and that Council would expect the value of the VPA to equate to approximately 20% of the applicable Section 94 Contributions.

The proponent met with Council Staff on 8 March 2012, to discuss the proposed VPA. At this meeting the proponent was advised that the proposed offer was not considered acceptable and that Council's expectation is for the development to equate to 20% of the value of applicable Section 94 contributions at a minimum. In response the proponents lodged an amended VPA and Explanatory Note with

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ITEM 12 (continued)

ATTACHMENT 2

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Council on 3 April 2012. This amended VPA included an increase in the monetary contribution to be paid to Council to \$150,000.00

The proponents met again with Council Officers on 4 April 2012 with the proponents of LDA2011/612 (7-9 Rutledge St, Eastwood). During the meeting the applicant acknowledged that the VPA had been amended to equate to 20% of the total s94 Contributions.

The amended VPA was considered by Council's Executive Team at its meeting held 19 April 2012 and was supported.

Following support of the offer from the Executive Team, the VPA was considered by Council's Voluntary Planning Agreement Panel on 29 May 2012. At this meeting, the VPA Panel identified substantial areas of concerns regarding the wording of the explanatory note and associated VPA. The proponent was advised of the concerns relating to the Explanatory Note on the 29 May 2012 and the concerns relating to the VPA instrument in a letter dated 1 June 2012. The final version of the explanatory note was received by Council on 30 May 2012. The proponent submitted an amended VPA on 6 June 2012 however this did not address the outstanding matters raised by Council.

The proponent was advised of this on 6 June 2012 and in response submitted an amended VPA on 13 June 2012. This amended VPA continued to fail to address all matters raised previously by Council as it continued to include a reference to the dedication of land that did not form part of the matters to be included as part of the VPA. On 14 June 2012 the proponents provided a response that stated no land dedication was included but failed to provide an amended VPA removing all references to land dedication from the legal instrument. On 18 June 2012 the proponents were advised that the VPA would need to be amended to delete these references from the VPA. No response was received from the proponent. A further request was sent on the 25 June 2012 and no response was received.

Accordingly, the VPA in its current form does not constitute a legitimate offer as the VPA includes references to matters not included as part of the VPA offer by the proponents.

6. Report

Council has received Local Development Application LDA2011/611, at 3-5 Trelawney Street, Eastwood. The development seeks consent for the construction of a part 5 part 6 storey mixed use building containing 61 units, commercial / retail tenancies on the ground floor and basement car parking.

A VPA is a contractual agreement between Council and a developer under which public benefit for a public purpose is delivered as part of a Development Application. The Development Application and VPA are considered jointly as they are interlinked. The Assessment Report for the proposed development is to be reviewed and the Development Application determined by Council at the same Council Meeting.

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ITEM 12 (continued)

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Summary of VPA Offer

The planning agreement seeks to provide a one off monetary contribution to Council of \$150,000. The proposed agreement does not seek the suspension of Section 94 Contributions that will continue to apply to the subject development.

It must be noted that the proposed development fails to comply with the applicable planning controls as detailed within the Assessment Report. The Assessment Report recommends that Council refuse the Development Application.

The material public benefits proposed to be made to support the proposed non-compliances is a one off monetary contribution of \$150,000 to Council.

Consultation

The Voluntary Planning Agreement was advertised in the Ryde City View newsletter circulated within the Northern District Times between 30 May 2012 and 27 June 2012. No submissions were received during this period.

Consideration of the Voluntary Planning Agreement

The Section 93F of the *Environmental Planning and Assessment Act 1979* details various matters that must be addressed by a VPA.

It should be noted that the VPA satisfies all requirements of Section 93F and it is recommended that should Council seek to approve the associated Development Application, Council endorse the Voluntary Planning Agreement Offer.

A detailed consideration of Section 93F is provided below.

Environmental Planning and Assessment Act 1979 Clause 93F		
Clause 93F	Proposal	Complies?
(1) A planning agreement is a voluntary agreement or other arrangement under this Division between a planning authority (or 2 or more planning authorities) and a person (the developer):	The proponents are seeking to provide:	
(a) who has sought a change to an environmental planning instrument, or	– A one off monetary contribution of \$150,000	
(b) who has made, or proposes to make, a development application, or	The above is in addition to the applicable Section 94 Contributions and can be used where deemed appropriate by Council.	Yes
(c) who has entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies,	The provisions of additional funds are considered to constitute material public benefit which shall be used and applied towards a public purpose.	Yes
under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or		Yes

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ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)		ATTACHMENT 4
Environmental Planning and Assessment Act 1979 Clause 93F		
Clause 93F	Proposal	Complies?
<i>applied towards a public purpose.</i>		
<i>(2) A public purpose includes (without limitation) any of the following:</i>		
<i>(a) the provision of (or the recoupment of the cost of providing) public amenities or public services,</i>	No public amenities or public services are provided.	N/A
<i>(b) the provision of (or the recoupment of the cost of providing) affordable housing,</i>	No affordable housing is provided.	N/A
<i>(c) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land,</i>	No transport is provided.	N/A
<i>(d) the funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure,</i>	The monetary contribution will be paid to Council to be utilised where deemed appropriate. Council's expenditures will be for public amenities, public services or other infrastructure.	Yes
<i>(e) the monitoring of the planning impacts of development,</i>	No monitoring of planning impacts is provided.	N/A
<i>(f) the conservation or enhancement of the natural environment.</i>	No conservation or enhancement of the natural environment is provided.	N/A
<i>(3) A planning agreement must provide for the following:</i>		
<i>(a) a description of the land to which the agreement applies,</i>	It is considered that the VPA adequately satisfy the requirement of this part.	Yes
<i>(b) a description of:</i> <i>(i) the change to the environmental planning instrument to which the agreement applies, or</i> <i>(ii) the development to which the agreement applies,</i>		
<i>(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,</i>		
<i>(d) in the case of development, whether the agreement excludes (wholly or in part) or does not exclude the application of section 94, 94A or</i>		

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ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)		ATTACHMENT 4
Environmental Planning and Assessment Act 1979 Clause 93F		
Clause 93F	Proposal	Complies?
<p>94EF to the development,</p> <p>(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,</p> <p>(f) a mechanism for the resolution of disputes under the agreement,</p> <p>(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.</p>		
<p>(3A) A planning agreement cannot exclude the application of section 94 or 94A in respect of development unless the consent authority for the development or the Minister is a party to the agreement.</p>	The VPA does not exclude the operation of Section 94 on the proposed development.	Yes
<p>(5A) A planning authority, other than the Minister, is not to enter into a planning agreement excluding the application of section 94EF without the approval of:</p> <p>(a) the Minister, or</p> <p>(b) a development corporation designated by the Minister to give approvals under this subsection.</p>	Section 94EF does not apply to the proposal.	N/A
<p>(6) If a planning agreement excludes benefits under a planning agreement from being taken into consideration under section 94 in its application to development, section 94 (6) does not apply to any such benefit.</p>	The VPA <u>does not</u> seek the exclusion of the application of Section 94.	N/A
<p>(7) Any Minister, public authority or other person approved by the Minister is entitled to be an additional party to a planning agreement and to receive a benefit under the agreement on behalf of the State.</p>	No additional parties are proposed.	N/A
<p>(8) A council is not precluded from entering into a joint planning agreement with another council or</p>	No joint planning agreement with another council or planning authority is proposed.	N/A

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ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)		ATTACHMENT 4
Environmental Planning and Assessment Act 1979 Clause 93F		
Clause 93F	Proposal	Complies?
<i>other planning authority merely because it applies to any land not within, or any purposes not related to, the area of the council.</i>		
(9) A planning agreement cannot impose an obligation on a planning authority: (a) to grant development consent, or (b) to exercise any function under this Act in relation to a change to an environmental planning instrument.	The planning agreement does not impose an obligation to grant development consent or change an environmental planning instrument. Whilst the VPA forms part of the Development Application, support of the VPA does not grant approval to the Development Application.	Yes
(10) A planning agreement is void to the extent, if any, to which it requires or allows anything to be done that, when done, would breach this section or any other provision of this Act, or would breach the provisions of an environmental planning instrument or a development consent applying to the relevant land.	The works proposed under the VPA are to be subject to further consideration by Council and will be determined as part of the application. Subject to careful consideration of the proposed works by Council and standard conditions of consent, it is unlikely that the matters to be dealt with under the application and VPA will breach to <i>Environmental Planning and Assessment Act 1979</i> , applicable environmental planning instruments or development consent applying to the subject site.	Yes

As identified above, it can be seen that the proposed Voluntary Planning Agreement satisfies the principles underlying the use of planning agreements and fulfils several categories of works that Council will consider as part of a VPA. Notwithstanding the above, further consideration of the Voluntary Planning Agreement and the public interest and benefit is detailed below.

The merits of the Voluntary Planning Agreement were discussed during several Executive Team meetings and an internal Panel chaired by Council's Group Manager, Environment and Planning. It was considered that the VPA provided public benefit and was in the public interest. A break down of the value of VPA and the Section 94 Contributions is provided below.

Item	Value
VPA - Cash Contribution	\$150,000.00
Contribution under Council's Section 94 Contribution Plan	\$733,033.39
Total Contributions to Council	\$883,033.39

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ITEM 12 (continued)

ATTACHMENT 2

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ATTACHMENT 4

It can be seen that the proposed VPA represents public benefit and represents approximately 20% of the applicable Section 94 Contributions. Normally, to ensure that the VPA is registered on the title of the land it would be necessary to impose a condition on the consent for this to occur prior to the issue of any Construction Certificate. This condition would be included if Council was of the mind to approve the Development Application.

As detailed within the Background section of this report, the current version of the VPA includes references to the dedication of land that the proponents has clearly stated will not be included within the VPA. The proponent has been given multiple opportunities to submit an amended VPA however has not done so. Given the legal nature of the VPA, the current version of the VPA that includes the references to the dedication of land is not supported. However, given that this is a minor amendment it has been recommended that if Council resolves to approve Local Development Application 2011/0611 at 3-5 Trelawney Street, Eastwood then Council give 'in principle' support to the VPA and that delegation be given to the Group Manager Environment and Planning to finalise the VPA.

7. Policy Implications

There are no policy implications through adoption of the recommendation.

8. Critical Dates

It is recommended that the VPA be considered jointly with the Development Application. Accordingly, the VPA must be determined at the same Council meeting as the Development Application.

9. Financial Impact

If Council is of the view that the variations to the planning controls are acceptable and that the Development Application should be supported, then the VPA should also be supported as the VPA represents a public benefit.

10. Other Options

There are two options in considering the VPA:

- (1) If Council agrees with the recommendation to refuse LDA2011/0611 as detailed in the assessment report, then the VPA should also be refused.
- (2) Council may choose to reject the VPA offer but approve the DA. This option is not supported as it would result in a loss of the additional contribution proposed.

ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)

ATTACHMENT 4

11. Conclusion

Through entering into a VPA for the subject development, Council will receive additional funds to be spent for the public benefit. Council must still determine whether the proposed non-compliances with the applicable planning controls and their associated amenity impacts are acceptable. The VPA has been clearly identified as relating to a planning purpose, providing public benefit and is in the public interest. However as noted within this report, the VPA contains references to the dedication of land that is not intended to form part of the VPA. Accordingly, it is recommended that if Council resolves to approve Local Development Application 2011/0611 at 3-5 Trelawney Street, Eastwood then Council give 'in principle' support to the VPA and that delegation be given to the Group Manager Environment and Planning to finalise the VPA.

ITEM 12 (continued)

ATTACHMENT 2

ITEM 2 (continued)

ATTACHMENT 5



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13 STATE OF ENVIRONMENT REPORT 2011/12

Report prepared by: Sustainability Programs Coordinator
File No.: GRP/12/5/5/5 - BP12/1229

REPORT SUMMARY

This report recommends that the 2011/12 Northern Sydney Regional Organisation of Councils (NSROC) Regional State of Environment (SoE) Supplementary Report for the period 1/7/11 to 30/6/12 and the Draft SoE Community Newsletter of case studies relevant to Ryde (**BOTH CIRCULATED UNDER SEPARATE COVER**) for the same period be received and endorsed.

The 2011/12 SoE (Supplementary) Report satisfies the minimum reporting requirements of the Local Government Act 1993 (as amended) for individual Councils and is due to be submitted by the NSROC Executive before the 30 November 2012.

A regional SoE reporting approach has been favoured by the Department of Local Government and as in the past 7 years, this report has been compiled, with direct input from each of the member Councils, on a regional basis with other Councils of the Northern Sydney Regional Organisation of Councils (NSROC).

The regional report provides comparable statistics on indicators of environmental health, across the NSROC Councils. It also provides comparisons through time that give some indication of changing trends.

City of Ryde has also historically produced an associated user-friendly, SoE Community Newsletter which highlights achievements specific to Ryde and this newsletter has been particularly well received by the local community.

The draft Community Newsletter is a locally focused publication that complements the more technical, regional SoE report, with the purpose of increasing awareness of City of Ryde achievements, and environmental issues relevant to the community.

RECOMMENDATION:

- (a) That NSROC Regional State of the Environment Report (Supplementary) 2011/12 be received and noted.
- (b) That the draft 2011/12 State of the Environment Report Community Newsletter for Ryde be endorsed.
- (c) That the NSROC Regional State of the Environment Report (Supplementary) 2011/12 and associated Ryde Community Newsletter be placed on the City of Ryde website and promoted in the Ryde City View.

ITEM 13 (continued)

- (d) That Council libraries and all secondary and tertiary educational institutions in the City of Ryde LGA, be provided with two copies of the NSROC Regional State of the Environment Report (Supplementary) 2011/12 SoE report.

ATTACHMENTS

- 1 Draft Regional State of Environment Report 11-12 NSROC CIRCULATED UNDER SEPARATE COVER
- 2 Draft Ryde Community Newsletter State of Environment Report 11-12 - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Nilushi Disanayake
Sustainability Programs Coordinator

Report Approved By:

Sam Cappelli
Manager The Environment

Dominic Johnson
Group Manager - Environment & Planning

ITEM 13 (continued)

Discussion

The regional SoE report encourages NSROC Councils to track environmental indicators using comparative methodologies and provides an opportunity to illustrate and compare case studies of environmental projects.

The current reporting has enabled some historical comparisons over seven years, and provides a relatively user-friendly documentation of regional environmental projects.

Financial Implications

The City of Ryde will be contributing approx. \$1,500 towards the compilation of the Regional NSROC SoE Report and a further \$5,000 has been allowed for printing of the report for local libraries and production, printing and distribution of the newsletter.

This amount has been allowed for in the 2012/13 Environment Operational Budget.

Policy Implications

There are no policy implications through the adoption of the recommendations.

History

- For the past seven years, NSROC has prepared a regional SoE Report, with each of the NSROC Councils involved in the process.
- This year's regional SoE report will be NSROC's 7th SoE publication and the version before Council was approved by the NSROC Board on 15 November 2012.
- Council has received and endorsed the annual regional SoE report and associated City of Ryde SoE Community Newsletter in previous years.
- The Community Newsletter appears to have been a popular document. Feedback from the Information Services Librarian suggested that several hundreds of copies of last year's Community Newsletter were taken up by library patrons, within a short time. The Community Newsletter makes the City of Ryde specific case studies of the SoE more accessible, as the main regional report is a larger, more technical document that is not widely read.

Context

- Councils across NSW were required to complete an annual SoE report to satisfy the minimum statutory reporting requirements of the amended Local Government Act 1993.

ITEM 13 (continued)

- A comprehensive SoE report is normally required every four years, with annual supplementary reports required in the interim.
- The method of reporting is being evaluated with regard to integration with the Division of Local Government's Integrated Planning and Reporting (IPR) Guidelines. The latest SoE report is a stand-alone report in the historical format. Future SoE reports may be incorporated in Council Annual Reports with abbreviated regional data.
- Reference to relevant sections of City of Ryde's Community Strategic Plan has been made in the 2011/12 regional SoE report.
- The Division of Local Government has advised that those Councils involved in the preparation of a regional report do not need to complete individual reports.
- Regarding critical timeframes, the following deadline is required to be met: The regional NSROC SoE report 2011/12 needs to be submitted to the Division of Local Government by 30th November 2012. This deadline is being attended to by the Executive Director of NSROC.

Consultation with relevant external bodies

Consultation and information/data detailed in the SoE have involved or been sourced by the following external stakeholders:

- Sydney Water
- Ausgrid
- NSW Department of Planning and Infrastructure
- Office of Environment and Heritage (OEH, NSW)
- Air Services
- Aboriginal Heritage Office (AHO)
- NSROC Sustainability Committee and NSROC Board

Internal Council Business Units that have been consulted and have provided information for the regional SoE report and Community Newsletter include:

- Urban Planning
- Assessment
- Environment
- Environmental Health & Building
- Regulatory Services

ITEM 13 (continued)

- Open Space
- Finance
- Infrastructure Integration, Waste and other Units in Public Works.

The above internal Business Units provided statistics and other information for the SoE report and Community Newsletter. External agencies provided regionally relevant data and the report has been reviewed by the CoR Environment Unit, NSROC Sustainability Committee (with staff representation from member Councils), and the NSROC Board.

Options

The City of Ryde could have chosen not to be part of a regional SoE report approach or produce a separate Ryde SoE Community Newsletter. However, a regional approach to compiling the regional SoE was selected for reasons detailed earlier, such as comparing regional performance. In addition, past iterations of a local SoE Community Newsletter have been particularly well received by the local community and there is a community expectation for this newsletter.

Conclusion

The SoE report encourages measurement and comparison of environmental indicators across the region on several themes. It helps to monitor change over time and inform planning functions to encourage a more holistic management focus for sustaining the quality of the region's natural environment. Both the SoE report and Community Newsletter serve as a means to promote Council environmental initiatives, and engage and educate the community on environmental issues.

14 REQUEST FOR TENDER - GRAFFITI MANAGEMENT SERVICES

Report prepared by: Manager - Operations**File Number:** GRP/11/3/6/7 - BP12/1170

REPORT SUMMARY – TENDER EVALUATION

Request for Tender (COR-RFT-25/11) for the “Graffiti Management Services” closing date Tuesday, 4 September 2012.

Council is seeking a Service Provider to provide Graffiti Management services. The Contract will be for an initial period of one (1) year with an option to extend for a further one (1) year period, by mutual agreement and subject to satisfactory performance.

It should be noted that the tender requests the applicant to supply a price at a base amount. Due to fluctuations, it is difficult to ask Tenderers to supply rates in any other way. It is expected, as has been the case this year, that there will be some extra “overs” (variations).

The services being requested are as follows:-

1. Ongoing removal and inspections of graffiti from all Council assets.
2. Ongoing removal of graffiti from selected Private Property and Utilities (Ausgrid, Australia Post, RMS, Telstra and Sydney Water).
3. Emergency Response Capacity.
4. Maintain Graffiti Register authorised and nominated by Council.
5. Bill Poster removal from four (4) Arterial Roads within the Ryde Local Government Area.

The Tender Evaluation Panel assessed all conforming tenders and recommended that Council accept the tender from Graffiti Clean Pty Limited.

RECOMMENDATION:

- (a) That Council accepts the tender from Graffiti Clean Pty Limited for Graffiti Management services within the City of Ryde to the amount of \$87,000 per annum, for a one (1) year period with an option to extend for a further one (1) year as recommended in the Tender Evaluation Report.
- (b) That Council delegate to the General Manager the authority to enter into a contract with Graffiti Clean Pty Limited on the terms contained within the tender and for minor amendments to be made to the contract documents that are not of a material nature.
- (c) That Council advise all the respondents of Council's decision.

ITEM 14 (continued)**ATTACHMENTS**

- 1 Tender Evaluation Report - Graffiti Management Services COR-RFT-13/12 -
CIRCULATED UNDER SEPARATE COVER - CONFIDENTIAL
- 2 Graffiti Tender Evaluation - CIRCULATED UNDER SEPARATE COVER -
CONFIDENTIAL

Report Prepared By:

Barry Hodge
Manager - Operations

Report Approved By:

Terry Dodds
Group Manager - Public Works

ITEM 14 (continued)**Tender Details**

Council chose the method of public tender utilising Council's e-tendering solution (Tenderlink). Seven (7) Companies submitted Tenders of which all were evaluated using Council's tender evaluation methodology (Tender Evaluation Report COR-RFT-13/12 circulated under separate cover). These companies were in alphabetical order:-

- Asset Security Pty Ltd
- Evolution Solutions Pty Ltd
- Graffiti Clean Pty Ltd
- Kleenit Pty Ltd
- Master Maintenance Services Group Pty Ltd
- Urban Maintenance Systems Pty Ltd
- Workzone Pty Ltd

The tenders were released on the 4 August 2012 and closed on 4 September 2012.

Evaluation

A tender evaluation committee comprising three (3) Council officers assessed all tenders against the following criteria:-

- Conforming tender
- Tenderer's Fixed Lump Sum Price
- Proven experience
- Company Background
- Plant and Equipment
- Work Health and Safety

The tender evaluation committee evaluated the tender submitted by **Graffiti Clean Pty Limited** as the best value submission when compared against the evaluation criteria.

Relationship to Key Outcome Areas

This program meets the following key outcomes for the people (set out on page 12 of the Four Year Delivery Plan 2012-2016):

A City of Liveable Neighbourhoods.

A range of well-planned clean and safe neighbourhoods, and public spaces, designed with a strong sense of identity and place.

Goal One: All residents enjoy living in clean, safe, friendly and vibrant neighbourhoods.

Financial Implications

The annual cost of accepting this tender is \$87,000 and has been provided for in Council's Base Budget for the removal of Graffiti within City of Ryde.

15 CIVIC PRECINCT COST ANALYSIS REPORT

Report prepared by: Project Manager - Development**File No.:** PM2010/37/009/3/11 - BP12/1291

At the Council meeting dated 13 November 2012 Council resolved:

That this matter be deferred to the next meeting of Council to be held on 27 November 2012 and for the General Manager to identify those matters that are Commercial in confidence to enable the report with attachments to be included on the public agenda.

In accordance with this resolution I advise that Council's ability to release details of payments to individual consultants is governed by Council's obligations in accordance with the Government Information (Public Access) Act 2009 (**GIPA Act**). As such the redacted version of the attachments are attached.

To clarify, the Council can make public the estimated cost of contracts but not disclose, without the prior written consent of the contractor, the exact quantum that had been paid to that individual contractor without seeking their prior written consent.

Accordingly the detailed cost report (ATTACHMENT 5) has been provided with the associated estimated costs of the contractors for each stage of the project. The actual amount paid to the individual contractors (consultants) has been redacted although the totals paid at each stage have been reported.

Should Council wish to further pursue the public release of individual payments to each contractor, it can do so by following the consultation processes outlined in Section 54 of the GIPA Act and instruct the General Manager to write to each consultant in accordance with standard letters provided by the Office of the Information Commissioner seeking their permission to do so.

REPORT SUMMARY

This Report provides an itemised breakdown of costs for the Civic Precinct Project in accordance with the approved funding and stages of work in compliance with the Council Resolution of 9 October 2012 and in reference to the Draft 2011/2012 Financial Statements.

It highlights through an independent report from Council's Quantity Surveyor that Council's expenditure on the development agreement of \$4,540,960 was well within or below industry norms for the 3 stages of the project with a better than budgeted overall result of \$78,040. These costs would have been recovered should the project have progressed.

The project was also delivered within the Council adopted project plans for each stage with a delay of 4 weeks at project end.

ITEM 15 (continued)**RECOMMENDATION:**

That the Civic Precinct Cost Report be received and noted.

ATTACHMENTS

- 1 Project Program - CIRCULATED UNDER SEPARATE COVER
- 2 Civic Precinct Planning and Tender Program - CIRCULATED UNDER SEPARATE COVER
- 3 Civic Precinct Consultation Chronology
- 4 BEM GST Margin Scheme Valuation Report
- 5 Ryde Civic Precinct Redevelopment - WTP Technical Advisors Report - October 2012 - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

Malcolm Harrild
Project Manager - Development

Report Approved By:

John Neish
General Manager

ITEM 15 (continued)**Background**

The establishment of a project team, providing skills not available from within Council, to progress the redevelopment of the Civic Precinct and fulfil Council's planning, financial and communication obligations was an integral component of the appointment of the Development Director, as resolved by Council (Council Meeting 13/10, BP10/451 with reference to COR-RFT-05/10). This was further detailed in the Report to Council concerning the appointment of the initial Consultants, dated 14/12/2010, BP10/728, which reiterated the high level initial stages of the project and provided an outline of the project budget. The appointment of other project team Consultants was brought to Council's attention in Reports resolved in Council meetings of 18 October 2011 and 12 June 2012 in which the General Manager's delegated authority for the procurement of the consultants was extended in accordance with Section 55 (3) of the Local Government Act 1993.

The high level programme for the project consisted of 4 Phases, each was adopted by Council.

1. Establishment (July 2010 – Dec 2010)
Undertake appropriate planning to inform decision making, establish the project team and develop the detailed project plan.
 - Council approval for tender process for Civic Precinct
 - Selection and commissioning of the consulting team, establishment of the initial internal team members and governance structure
 - Review all existing documentation and identify gaps and risk assessment
 - Development of key documentation, including project plan, phase 2 budget and internal communication plan
 - Prepare draft project brief
2. Planning and Assessment of Options (Jan 2011 – Dec 2011)
Identify the most appropriate model for the Civic Precinct redevelopment from a commercial and community perspective.
 - Prepare indicative scope of Councils current and future facility requirement
 - Develop draft Master Plans, PPR and high level concept designs
 - Undertake commercial analysis and feasibility testing
 - Seek community/ Council approval to the Master Plan and high level concept designs
 - Revisit planning controls and undertake associated public exhibition period
 - Recommend Council adopt the Model for developing the site that suits the brief

ITEM 15 (continued)**3. Tendering and Selection (Jan 2012 – Dec 2012)**

Select a suitable tenderer through a formal Competitive Design process.

- Obtain Planning height approval
- Formalise Council's requirements (staff amalgamation etc)
- Finalise scopes for Council's future facilities and assets (if preferred model)
- Finalise Project briefs and project plan (depending on preferred model)
- Finalise additional consultants to execute the approved project model
- Documentation of tender documents, including selection criteria
- Competitive Tender process: call Expressions of Interest
- Competitive Tender process: call for Tenders
- Competitive Tender process: selection of Tenderer
- Finalise contractual negotiations

4. Project Delivery (Jan 2013 – TBC)

Develop final design and undergo Development Application process ready to commence construction.

Construction commences -

- Appoint developer to prepare procurement strategy and program
- Appoint Developer and commence detailed designs
- Developer to prepare development application and lodge
- Design Consultants to be retained for Peer review
- Public exhibition
- Development consent issued
- Construction certificate obtained
- Commence construction

The purpose of the Civic Precinct Redevelopment project was to provide Council with a new office building, in which to consolidate its staff and a new Civic building to replace the Civic Hall and Argyle Centre community facilities. The aim was to acquire these new assets without placing a financial burden upon ratepayers.

The subsequent team of Consultants formed under the leadership of the Development Director provided Council with all the skills necessary to determine what would be feasible on the site, to seek appropriate modifications to planning controls, acquire adjacent Crown land to regularise the site, analyse and document infrastructure changes, investigate and specify requirements, assess the market responses to Council's enquiries, analyse commercial risk and assist in negotiating an agreement with a preferred developer.

The disciplines provided by the team included option modelling; land survey and valuation, traffic planning and management, legal advice covering the subdivision of land and development and contract specialties, building regulatory compliance; cost planning, project management, urban planning, urban design, architecture and workplace design, geotechnical survey, civic and construction engineering, community communications and engagement, financial and risk analysis, heritage review, and environmentally sustainable design.

ITEM 15 (continued)

Additionally a Probiy Adviser was appointed to ensure that the project was managed appropriately by all parties and Council's own Manager, Risk and Audit, maintained a watching brief over all procurement matters.

The timescale of the high level program became subject to subsequent Council Resolutions, which in summary, were;

- At the Council Meeting of 18 October, 2011 it was resolved to undertake an Expression of Interest and tendering process to produce a further report to Council recommending a development partner preferably by August 2012.
- The City of Ryde Precinct Redevelopment Tender Report of 6 June, 2012, considered at the Council meeting of 12 June, 2012 identified the two received tenders and with regard to clause 178 (3) of the Local Government (General) Regulation 2005 and pursuant to section 377(1) of the Local Government Act 1993, recommended that a Project Development Agreement be negotiated and entered into with Lend Lease on terms the General Manager approves and is reasonably satisfied are substantially consistent with or more favourable to Council than the Commercial and Risk Principles established as part of the Tender clarification process with Lend Lease Development Pty Ltd.

The effect of these Resolutions was to follow stage 2 with a two staged Phase 3 approach breaking down the tasks involved in preferred tenderer selection, negotiation and contract execution. Phase 3a occurring from December 2011 to May 2012, ending with the identification of the preferred tenderer, and Phase 3b to August 2012 by which time it was expected that negotiations would be finalised with the preferred contractor in the form of a Project Delivery Agreement (PDA).

Considering the complexities of the PDA, the General Manager did not enter into a Contract with Lend Lease before the new Council had the opportunity, to consider that the negotiations had resulted in an outcome substantially consistent with or more favourable to Council than those expressed in the Commercial and Risk Principles document. To demonstrate that the General Manager could comply with all previous resolutions of Council that delegated him the authority to enter "Project Documents " with Lend Lease, all Councillors were invited to a workshop that took place on 19 September 2012.

In this workshop the General Manager, the Development Director, Commercial advisor (MCA Consulting) and Legal representative (Clayton Utz) gave a two hour presentation that outlined the following-

1. History of the Project
2. Councils cash flow position considering full redevelopment or refurbishment options
3. Councils and Lend Lease's commercial position at Tender Stage
4. Councils and Lend Lease's commercial position at the completion of Contract Negotiation

ITEM 15 (continued)

5. Councils and Lend Lease's Legal and risk position at Tender Stage
6. Councils and Lend Lease's Legal and risk position at the completion of Contract Negotiation

Also to fully inform the General Manager of all aspects of the negotiation, the General Manager commissioned legal and commercial comparison reports that sought to compare Councils commercial, legal and risk position at tender to final negotiation stage. A full analysis was also undertaken by Councils Chief Financial Officer whereby the cash flow impact of the tendered position compared to the final negotiated position was considered. A Probity Advisors report was also provided with a Memorandum from the Development Director highlighting key elements of the negotiation. Equipped with this information, the General Manager drafted a Memorandum to the Mayor outlining key criteria which led him to the conclusion that signing the Project Documents would be in accordance with all previous resolutions and be in the best interests of Council.

After Council had been presented with all necessary information at the aforementioned workshop (which was attended by 4 of 12 Councillors) at the first meeting of the newly elected council (25 September 2012) Council resolved:

"That Council declares that it does not intend to proceed with the Civic Precinct Redevelopment project and requests the General Manager to take no further action that would progress the project and that the Mayor immediately make the above declaration and request on behalf of Council"

Discussion**Project Team Activities and Program**Stages 1 and 2

Stages one and two of the project involved establishing the framework and context of the final project delivery.

To undertake this exercise it was important to establish a "Project Brief". This document guided the project plan (program) and all inputs required to establish and ultimately execute this complex project.

Initially it was vital to gain an insight into supply and demand factors that influence market land pricing and determine the preferred use for the land based on commercial return. This information was supplied by Macro Plan Australia.

The next stage of the project involved establishing the project budget and engaging the relevant expertise to input to each element of the project.

The Consulting team included some of the highest regarded companies and individuals in the development sector.

ITEM 15 (continued)

At this point it was discovered that Council did not own (in title) all of the land that makes up the Civic Precinct. This was reported to Council. Following meetings with Crown Land and considering the area's in question had been operated and maintained by Council for over 100 years, Crown consented to Council Compulsory Acquiring the land at no cost.

This complex process took over a year to complete and concluded with approval by the Minister for Local Government in February 2012.

Once the team had been engaged in line with the project program and equipped with market analysis, the feasibility for the project was formed. The feasibility was based around testing 20-30 scenario's with varying usages to determine the most beneficial solution to meet the project brief.

At this point community consultation took place to determine user groups preferences for the proposed facilities and input community opinion in the master planning phase.

To form the complex feasibility model, Council engaged an expert modeller and expert peer review consultant to verify all inputs.

Each scenario involved general master planning of the site considering factors such as good urban design, infrastructure restrictions and Councils requirement for buildings to house its Administration and Civic functions. Whilst master planning formed the overall acceptable envelope for the site it also provided drawings to allow the cost planning team to input overall development cost into the various feasibility models. Revenue inputs were supplied through the market research undertaken and checked by the commercial peer review consultant.

It was very important to establish the cost of the Council facilities at an early stage as this would ultimately guide the required value for the development rights. The specification for the facilities was formed by the Urban Designer and added to the overall master plan to form a complete mixed use design.

In accordance with the program, four options were presented to Council in July 2011. One option met the brief by delivering development rights value to pay for Councils facilities and offer a better urban design than the planning instruments offered at that time. This master plan was principally driven by a residential based scheme that included the Civic Facilities on site and the Administration facilities located off site. This scheme represented the best option for Council but did require an input of \$5m input from Council (as reported).

Upon completion of the feasibility, a planning proposal was undertaken to reduce the overall allowable floor space from 100,000m² to 60,000m². This created a far better urban design outcome. Additionally to provide an appropriate Urban form the height was increased to 24 storey's or RL130.

ITEM 15 (continued)

Extensive community consultation was undertaken and as highlighted in **ATTACHMENT 3 – Civic Precinct Consultation Chronology**. The planning proposal was exhibited twice, firstly for six weeks then again for four. Following the initial exhibition period, an independent planning assessment recommended the restriction of the maximum height for the site and also recommended other varying height controls. The second exhibition period demonstrated the amendments to the masterplan considering the independent planners recommendations and community concerns. This did however restrict the overall envelope available and limit the design potential of the site.

The above tasks were all performed in accordance with the project program that was approved by Council and remained on time with expenditure below budget.

Stage 3

Council determined on 18 October 2011 to seek an appropriate development partner in accordance with an Expression of Interest (EOI) and Request for Tender process (RFT). The process was exercised in accordance with Section 55 of the Local Government Act and Councils own procurement policies and overseen by an independent Probity Advisor and Councils Manager for Risk and Audit. The procurement process is further detailed below under the heading “Development Partner Procurement”.

To form the Tender documents, the team were required to draft comprehensive legal documents that detailed Councils intentions and requirements. In doing so, appropriate specifications for the Council assets were formed utilising a host of expert consultants, most of which had prior knowledge of the project. This comprehensive documentation lead to Council mitigating its risks and supplying enough detail to the tenderers so they could price the project accurately and provide the best Commercial and Design outcome for Council

To ensure Councils risks were being managed, the panel of experts that were established to undertake the Procurement Assessment (evaluation panel) were some of the most highly regarded individuals in their field. The process was again complete on time and within budget.

The findings of the procurement process were reported to Council in a Civic Precinct workshop on the 6 June 2012 and again at the Council meeting on 12 June 2012.

Council elected, on 26 June 2012 to proceed with the project and enter into negotiations with Lend Lease. Negotiations were conducted by the Development Director and Negotiation team including Councils lawyers (Clayton Utz) and Project Manager (Malcolm Harrild). The negotiations utilised a negotiation protocol endorsed by the probity advisor who monitored all activities throughout the negotiation period.

ITEM 15 (continued)

The negotiations involved the drafting of number of “project documents” that formed the overall contractual position between Council and Lend Lease. Throughout the negotiation period, the skills of an expert financial analyst were utilised (HILL PDA).

The Analyst conducted the evaluation of the initial tenders and built a feasibility model from scratch to compare all the tenders against Councils Commercial requirements. As the negotiations progressed and the commercial inputs varied, the feasibility model was kept up to date. In the last two weeks of the negotiation period the feasibility model was reviewed by the commercial peer review consultant. A final report was produced that analysed Councils commercial position at tender compared to the final negotiated and documented position. This report accompanied by a report by Councils CFO, Legal Advisors, Probity Advisors and a Memorandum from the Development Director assisted the General Manger in his determination whether to enter a Contract with Lend Lease or not.

As highlighted above, the work carried out to bring the project to maturity where the Project Delivery Agreement could be signed by both Council and Lend Lease Development was both broad in scope and detailed in its depth of investigation and analysis.

The work carried out by the team was accomplished in Stage 2 in accordance with **ATTACHMENT 1 – Project Program A3 x 4 version (CIRCULATED UNDER SEPARATE COVER)** and in Stage 3a and 3b **ATTACHMENT 2 – Civic Precinct Planning and Tender Program Stages 3-4 detailed (CIRCULATED UNDER SEPARATE COVER)**.

Whilst these two programs denote the milestones of Project Team activities, it should not be forgotten that prior to and in parallel with them consultation and information was maintained within Council and with the local community as listed in **ATTACHMENT 3 – Civic Precinct Consultation Chronology**.

The programs for both Stage 2 and Stage 3 were complied with, the only minor variation being the closing activity of Stage 3b, “negotiate with selected tenderer”, which was programmed to be completed in August 2012. Legal drafting and financial analysis took slightly longer than expected, which, combined with the delay caused by a rescission motion being considered by Council from 12 June 2012 to 26 June 2012 added a month to the finalisation of the Project Delivery Agreement documentation.

Development Partner Procurement

As has been reported to the previous Council, the procurement of the preferred developer was achieved through a two phase approach.

ITEM 15 (continued)

An Expression of Interest (EOI) was published to the open market on 22 November 2011 and closed on 23 December 2011. The EOI was reviewed by 92 organisations but only 9 lodged submissions after securing the returnable schedules for a fee of \$500.

These were -

- All Park Products
- Billbergia Pty Ltd
- Crown Group Pty Ltd
- Frasers Property Australia Pty Ltd
- Ryde Civic Consortium (J. Hutchinson Pty Ltd, Galileo Funds Management and Scott Carver & Associates)
- Leighton Properties Pty Limited
- Lend Lease Developments
- Mirvac Projects Pty Limited, and
- Payce Consolidated Limited

With the exception of All Park Products (a non complying submission) it was gratifying to see that substantial and competent organisations were keen to work with the City of Ryde on this project

Following a full evaluation of these submissions a shortlist of potential tenderers was compiled and upon receiving confirmation from each that they were prepared to tender, the Request for Tenders was issued, on 10 February 2012 -

- Billbergia Pty Ltd
- Leighton Properties Pty Limited
- Lend Lease Development Pty Ltd, and
- Mirvac Projects Pty Limited

On the termination date for submissions, 10 April 2012, Leighton and Mirvac issued letters stating they were not submitting and Billbergia and Lend Lease submitted fully detailed tenders.

An intensive analysis and clarification process was undertaken by the Evaluation Panel under the scrutiny of Council's Probity Advisor and a report issued to the General Manager on 25 May 2012.

The outcome was placed before the Civic Precinct Committee on 6 June 2012 in a Report by the General Manager. Upon receipt of Council's resolution at the following Council meeting held on 12 June 2012 negotiations consequently proceeded in good faith with the preferred tenderer, Lend Lease Development, who immediately allocated significant resources to the tasks.

ITEM 15 (continued)**Funding**

Ryde Town Centre includes two precincts, Precinct 1 represented by the land which accommodates the existing Civic Hall, Civic Centre, public car park, grassed area Council staff car parks; and Precinct 2, the “Town Core” which has now been redeveloped as Top Ryde City shopping centre.

The redevelopment of Ryde Town Centre has incurred expenditure from Council from financial year 2007/2008. However from 2007 until 2010 that expenditure was related solely to the works associated with the activities of Bevillesta Pty Ltd in redeveloping the Town Core.

For example, during 2008/2009 and 2009/2010, Council incurred costs related to;

- the Public Private Partnership with Bevillesta and the RTA for road, bridge, ramp and tunnel works;
- verification of civil engineering works;
- completion of the developers’ public domain works and provision of Council’s new library and office space (VPA contribution \$10M);
- modification works to the Civic Centre to provide tunnel access ramps; and
- community liaison throughout the construction of Top Ryde City.

That expenditure, which was notified to Council by the Chief Financial Officer in a memorandum dated 9 October 2012, as \$518,724 over those two financial years was classified “Ryde Civic Precinct Design” but did not relate to any work proposed for the redevelopment of the Civic Precinct.

The \$518,724.00 assigned to the Civic Precinct project budget had been incurred prior to the Civic Precinct Redevelopment being resolved to proceed on 16 March 2010. Therefore this report and associated financial analysis does not include these previous costs as they do not relate to the Civic Precinct Project.

In the Council meeting of 16 March 2010, when the process to procure a Development Director was approved, the Civic Precinct Reserve was reported at \$2,577,150.

Subsequently, at the Council meeting of 11 May 2010, the 2010-2014 Capital Works Program included a budget of \$1,080,000 for the Civic Centre Precinct Redevelopment in FY 2010/2011. This permitted establishment of Council’s team to manage the project and commence Stages 1 and 2 of the project program.

A Presentation to Council on 12 April 2011 of the 2011-2015 Four Year Plan, included an additional budget of \$940,300 for Stage 2 of the Civic Precinct Redevelopment. This enabled work to continue to the commencement of Stage 3.

ITEM 15 (continued)

In the Extraordinary Council Meeting of 18 October 2011 Council was presented with a Report detailing the results of the Planning Proposal carried out during Stage 2 of the project and an Update of the Civic Precinct program, procurement and financial position including a request to approve a further budget of \$2,599,500, these funds were approved.

The overall funding for the project had therefore, in three resolutions, been allocated as,

Stages 1 and 2, \$1,080,000 and \$940,000	\$2,020,000
Stage 3 (i.e. Stages 3a and 3b), \$2,600,000	<u>\$2,600,000</u>
Total	<u>\$4,620,000</u>

The projected cost of Council's project team for the Civic Precinct project until the end of Stage 4 (when the whole project would have been completed) was forecast at \$9.49M including the \$4.62M up to and including the end of Stage 3. These costs were to be reimbursed by the project, the first contribution of \$1.5M from Lend Lease was due to be paid upon approval of the Early Works DA that was expected to occur in March 2013.

The decision not to proceed removes any opportunity for Council to retrieve its costs of \$4.62M. This impact upon Council's finances was explained by Council's Chief Financial Officer in his memorandum to Council dated 9 October, 2012

Project Delivery Agreement – Asset Outcomes

One aspect of the financial analysis of the redevelopment of the Civic Precinct site concerned the potential application of a GST Margin Scheme as defined by the Australian Taxation Office.

In order to investigate this potential it was necessary, as part of the project, to obtain a valuation of the Civic Precinct site as at July 2000 when GST was introduced. This was carried out by BEM property, specialists in this area, and provided on 20 January 2012, see **ATTACHMENT4 - BEM GST Margin Scheme Valuation Report**.

With due consideration of the zoning as explained in the section of the Report "Valuation Rationale", BEM reported that the value of Council's land was \$15,000,000. Additionally BEM valued the adjacent roads with an area of 5,625m², owned by Crown Land at the time prior to compulsory acquisition, at \$1.

Therefore the value of the Civic Precinct redevelopment site, with its existing buildings and adjacent Crown Land, in accordance with the GST Margin Scheme valuation was \$15,000,001.

ITEM 15 (continued)

In 2006, Council resolved to rezone the Civic Precinct “Mixed Use” and this way gazetted by the Department of Planning as LEP 143 in 2006, confirming the site could accept a 100,000m² development but restricting the height to RL90 (matching the existing building).

In order to provide a viable and acceptable design outcome for the site (retention of RL90 and 100,000 square metres being incompatible and impracticable parameters) the redevelopment proposed to change the planning controls for the site. Council resolved in 2011 through a Planning Proposal to seek a height increase to RL130 (as originally sought at the time of LEP 143 but rejected by State Government) and decrease the developable area to 60,000 square metres. The Planning Proposal results of extensive community consultation were reported to Council on 18 October 2011 whereby Council resolved to exhibit the proposal for a further 28 days reflecting the amendment to the location of height controls on the site as recommended by an independent planner commissioned by Councils department of planning. Following re-exhibition and subsequent gazettal of the amended Planning Proposal by the NSW Department of Planning and Infrastructure, the project proceeded with planning control parameters of RL130 (in a restrictive area) and 60,000 square meters of development potential.

As anticipated in the report from BEM Property, the project team began negotiations with Crown land resulting in a resolution by Council to compulsorily acquire adjacent road areas, with Crown Land’s consent, at nil cost to Council. This enabled the redevelopment site to be regularised and traffic routes to be aligned as originally anticipated in 2006 when development of both Precinct 2 and 1 were viewed as the combined revitalisation of Ryde Town Centre.

Following an open Expression of Interest process and a consequent “invitation-only” Request for Tenders process, the project team was able to report to Council in June 2012 that the potential outcome for Council, delivered by the preferred tenderer, Lend Lease Development, would be a fully redeveloped site including a new Council Office Building and a new Civic Centre for the community and public domain, in return for development rights for part of the site.

The Lend Lease submission was fully compliant with Council’s requirements for a sustainable 5 Green Star Civic Development (the Council’s Office and Civic buildings) and 4 Green Star Commercial Developments (the residential components). The Lend Lease design proposal was particularly interesting in its provision of public open space, landscaped areas and provision of all requirements within a 48,000 square metre area instead of the 60,000 square metres permitted by the planning controls.

The Lend Lease proposal was reported as producing a cost to Council at the end of ten years of \$11.9M (Base Case) or \$5.8M (Alternative Case) were Council to chose the option to make a fully reimbursable loan to the developer at a rate far lower than the developer could secure. The value flowing to Council from this project was forecast at \$79M.

ITEM 15 (continued)

At the conclusion of detailed negotiations with Lend Lease in September 2012, the Base Case cost to Council had been modified to \$6.5M, an improvement of \$5.4M and the Alternative Case, (due to Lend Lease's review of its funding model), reduced to a cost to Council of \$5.3M. A further consequence of the negotiations was a reduction of the proposed end value to Council to \$73.9M, which must be considered in the light of the cost to Council of the base case proposal improving Council's cost position by \$5.4M.

The proposed outcome of the Civic Precinct redevelopment project was therefore to improve value from \$15,000,001 to \$73,900,000 at a cost to Council over ten years of \$6,500,000, resulting in new buildings for community and council staff, new public domain and infrastructure and completion of the revitalisation of Ryde Town Centre. This would have represented a return of \$58.9M for an expenditure of \$6.5M, (906% gain)

Project Cost Report

A review of the administration cost of this project to Council indicates some features that would not normally be encountered in a development of this type.

Planning Controls

The controls relating to this site (RL90 height and 100,000 square metres) area were incompatible with one another. For example, about 72,000 square metres only could be achieved on the land in the site footprint with the RL 90 (10 storey height limitation) building to all boundaries and ignoring any development control plans. Consequently the design outcome, were it remotely viable, would have been unacceptable. The project therefore had to include testing of feasibility principles with the local community, a planning proposal to change the Local Environment Plan, extensive community consultation and the provision of literature and a model to explain the planning proposal as fully as possible. Achieving these changes involved considerable input from Council's consultants assisting with Urban Design and Architecture and Urban Planning, Communications and Engagement before the new planning controls were gazetted by the Department of Planning and Infrastructure.

Land and Titles

Investigation of land holdings revealed two very unusual aspects for the redevelopment proposal. In contradiction of assumed ownership it was discovered that land immediately adjacent to the site, for example Parkes Street and Blaxland Road were not owned by the Council but by The Crown. The development required realignments of these areas to regularise the site and permit the traffic changes required by the Integrated Traffic Solution, (ITS), Stage 2 which had been contemplated by Council and the RTA when approving ITS Stage 1 that put in place traffic management methods to enable the Top Ryde shopping centre redevelopment to function.

ITEM 15 (continued)

The investigation also revealed that this ownership issue extended to land considered by Council as its own (part of Devlin Street) this land that had been leased by Council to Bevillesta Pty Ltd allowing the redevelopment of Top Ryde City.

In order to resolve these anomalies it became essential to acquire the adjacent land compulsorily from Crown Land. The Government agency was an enthusiastic partner to this action, recognising that Council, not Crown, had been maintaining the lands since 1875. The acquisition was completed amicably in a comparatively brief timescale but did involve Council incurring legal and survey fees.

The additional costs categories outlined above must be considered when analysing the expenditure of the project to date and undertaking market comparison exercises.

Cost Analysis

The overall cost of the redevelopment of the Civic Precinct was expected to be in the region of \$350M had the Project Delivery Agreement proceeded. Council's development and project management costs, including all external expertise from Stage 1 and 2 was forecast as \$4.62M. WTP, Councils cost auditor has concluded that this expenditure is well below the typical expenditure on a similar sized project, this is due to efficient program management and effective cash flow. In addition projects of this size and nature regularly experience periods of down time, this was not the case for the Civic Precinct Project as the initial program was followed rigorously; see **ATTACHMENT 5 – Ryde Civic Precinct Redevelopment - WTP Technical Advisor's Report, October 2012 - CIRCULATED UNDER SEPARATE COVER.**

The funding made available for Stages 1, 2 and 3 (i.e 3a and 3b) by Council amounts to \$4.62M, but which includes work on a planning proposal and compulsory acquisition which would not normally form part of development expenditure, (a cost of \$430,000). This has been considered by WTP in their analysis leading WTP to conclude that Councils expenditure during stages 1 and 2 is 0.4% of total project costs whereby a similar project would expect to expend 1% of total project costs, representing a 60% reduction in expenditure.

Stages 1 and 2

These Stages covered the period from July 2010 until December 2011 but no significant expenditure occurred until January 2011. Stage 2 was shortened and effectively finished in October 2011 (invoices accrued to November 2011) rather than December 2011.

Budget \$2,020,000. Established through two Council Resolution of \$1,080,000 and \$940,000 respectively.

ITEM 15 (continued)

Actual Budget Stage 1/ 2 Expenditure = \$1,864,302

Under budget = \$155,698

7.7% under budget

Stage 3

For administration purposed this was divided into Stages 3a and 3b to reflect procurement and negotiation elements of the project.

Budget \$2,600,000. Established through Council Resolution on 18 October, 2011

Actual Budget Stage 3 Expenditure = 2,676,658

Budget Overrun = \$76,658.00

2.9% Over Budget

The reason the budget for this Stage was exceeded was due to the complex final phase of negotiating the Project Delivery Agreement with Lend Lease Development, a subsequent revision of the financial and risk analysis and the services of both Clayton Utz and Michael Collins & Associates for a Council Workshop on 19 September.

Conclusion**Stage 1 & 2 and Stage 3 Expenditure and Budget Reconciliation**

The WTP reconciliation of the actual expenditure against the CoR approved budgets resulted in the total expenditure of **\$4,540,960**. This represents a **\$79,040** under expenditure against approved budget which equates to approximately 1.7% to the total CoR approved budget of **\$4,620,000** for Stages 1 & 2 and 3.

When comparing this project to other similar projects WTP have found that stages 1 and 2 are well under the normal expenditure and Stage 3 is within the standard expenditure range expected for projects of this size and nature.

The project tracked on program throughout stages 1-3 and incurred a very minor delay at the end of Stage 3. The efficient management of the program, effective development and project management and achieving milestones on time led to highly effective expenditure which is lower than other projects of this size and nature

Refer to **ATTACHMENT 5 – Ryde Civic Precinct Redevelopment - WTP Technical Advisor's Report, October 2012 – CIRCULATED UNDER SEPARATE COVER** for a full record of costs by consultant, financial year and Stage.

ITEM 15 (continued)

ATTACHMENT 3

**Ryde Civic Precinct Redevelopment
Summary of Public Consultation and Council Meetings (public information)**

Date	Vehicle	Subject
7/12/04	Committee of the Whole	Commence negotiations with the Beville Group re MOU for CoR space in Top Ryde City
1/3/05	Committee of the Whole	Report of Top Ryde traffic and pedestrian Study by RTA
June 2005	Councillor Workshop	Consider future of all land in Ryde Town Centre as part of preparation for LEP 143
5/7/05	Committee of the Whole	Proposed sale of CoR land, subdivision and proceeds to Civic Precinct Reserve Account
4/10/05	Committee of the Whole	Put & Call option on CoR land sale and Agreement to Lease
November 2005	Councillor Workshop	Consider future of Civic Precinct and desire to redevelop in accordance with shopping centre
October – November 2005	Public Exhibition	Draft LEP 143 and supporting documents
17/11/05	Traffic Committee	Ryde Town Centre LEP Traffic Study
December 2005	Submission	DLEP 143 to Department of Planning (DoP) for gazettal
13/12/05	Council	Signing of Put & Call, Agreement to Lease, and associated transaction documents
14/2/06	Council	Council members appointed to PPP Project Control Group (PPP members = CoR, RTA and the Beville Group).
21/3/06	Committee of the Whole	Civic Precinct Committee Terms of Reference
May 2006	Submission Response	LEP 143 Gazetted RL130 reduced to RL91 and 100,000m ² preserved.
31/5/06	Civic Precinct Committee	Status Report
October 2006	Councillor Workshop	To confirm Civic Precinct Committee with new Councillors
1/5/07	Committee of the Whole	PPP Status Report
5/6/07	Committee of the Whole	Report on LEP 143 with 86% public support for RL130 and 100,000m ² on Civic Precinct Site
19/6/07	Committee of the Whole	Report for road widening to accommodate Integrated Traffic Solution for Top Ryde redevelopment
9/12/08	Civic Precinct Committee	Report of proposed Civic Precinct design process and Draft LEP to amend height limit from RL91 to RL130
23/12/08	Request	Letter to DoP advising Council's decision to seek amendment to change LEP height from RL91 to RL130
11/5/09	Response	DoP letter supporting proposed height amendment for LEP 143

ITEM 15 (continued)

ATTACHMENT 3

Date	Vehicle	Subject
17/11/09	Committee of the Whole	Reports DoP support for LEP amendment and that material be offered to Civic Precinct Committee early 2010 for approval
16/3/10	Civic Precinct Committee	Report of Civic Precinct proposed project methodology, recruit external consultants starting with Development Director, provided funding \$2.6M
2/11/10	Committee of the Whole	Sale and subdivision of CoR land to top Ryde City to facilitate top Ryde redevelopment and compliance with Integrated Traffic Solution
14/12/10	Council	Report to appoint consultants to Civic Precinct project team and proceed to next project gateway.
11/5/11	Civic Precinct Committee	Report of Communications and Engagement Plan for public consultation
June 2011	Development Feasibility Consultation	270 neighbouring residents invited by letter-drop to Feasibility Principles workshop for site redevelopment. 87 groups representing community, business and Hall users invited to separate workshops
August-Sept 2011 (6 week exhibition)	Planning Proposal Consultation	39,000 brochures distributed 270 adjacent households approached directly Drop-in and community day sessions held with development concept model available 550 neighbouring residents and 77 groups invited to sessions. 35 members of local Chambers of Commerce received a separate presentation. 1800 number set up for enquiries Special email address published for enquiries Special web pages enabled on Council's site Advertisements placed in local newspapers on 10 and 17 August and 7 and 14 September.
26/9/11	Council	Report on outcomes of community consultation on Planning Proposal
4/10/11	Council	Report on the condition of the Argyle Centre and Civic Centre
18/10/11	Extraordinary Council Meeting	Planning Proposal – Results of Community Consultation and Civic Precinct Program, Procurement, Budget and Financial Position Update
November 2011 (4 week exhibition)	Amended Planning Proposal Exhibition	Amended Planning Proposal.
13/12/11	Council	Report of outcomes from re-exhibition of amended Planning Proposal reflecting independent planner's recommendations
25/1/12	Open Letter from Mayor in local paper	Copy on website

ITEM 15 (continued)
ATTACHMENT 3

Date	Vehicle	Subject
14/2/12	Open Letter from Mayor in local paper	Copy on website
15/2/12	Civic Precinct Factsheet	Copy of website
21/2/12	Civic Precinct Committee	Redevelopment Stage 3 Status Update including planning/tender programs, Evaluation Panel members' CVs, EOI Probity and Risk & Audit reports
28/2/12	Council	Report of Civic Precinct Committee Minutes of 21 Feb 2012
7/3/12	Open Letter from Mayor in local paper	Copy on website
27/3/12	Council	Probity controls for access to Civic Precinct Redevelopment tender documents
4/4/12	Open Letter from Mayor in local paper	Copy on website
26/4/12	Q&A Session	Q&A Session held in office of John Alexander MP Member for Bennelong
1/5/12	Councillors Workshop	Presentations on Civic Precinct legal matters and Argyle Centre "highest and best use" options
1/5/12	Civic Precinct Committee	Stage 3 Update on EOI and RFT process and contract structure
8/5/12	Council	Report of the Civic Precinct Meeting held on 1 May 2012
6/6/12	Civic Precinct Committee	Presentation of Precinct Legal, Design and Financial outcomes from Tender process
6/6/12	Civic Precinct Committee	Report on Civic Precinct Redevelopment Tender
8/6/12	Civic Precinct Factsheet	Copy of website
12/6/12	Council	Report on Civic Precinct Redevelopment Tender from Civic Precinct Committee meeting of 6 June 2012. Rescission Notice lodged
16/6/12	Open Letter from Mayor in local paper	Copy on website
26/6/12	Council	Rescission Notice – Civic Precinct Redevelopment Tender from 12 June, 2012
27/6/12	Website – latest Civic Precinct update	Contains, Status Update Project timetable FAQs Links to

ITEM 15 (continued)

ATTACHMENT 3

Date	Vehicle	Subject
		Civic Precinct Committee Planning Proposal Facts Ryde Town Centre Key Documents Council & Committee Reports Original Planning Proposal Amended Planning Proposal Tender Evaluation Panel recommendation Open letters from Mayor Factsheets Mayor's video

ITEM 15 (continued)

ATTACHMENT 4

VALUATION REPORT

**GST Margin Scheme Valuations
Ryde Civic Centre & Carpark Sites
Devlin Street, Parkes Street &
Blaxland Road, Ryde**

**VALUATION DATE:
1st July, 2000**

VALUATION NO: 11-2763

ITEM 15 (continued)

ATTACHMENT 4



VALUATION REPORT

GST Margin Schemes Valuations

of

**Land at Devlin Street,
Parkes Street and Blaxland Road,
Ryde**

Date of Valuation: 1 July 2000

Date of Report: 15 December 2011

**Under instructions
from:**

**Mr Malcolm Harrild
Project Manager – Development
City of Ryde
1 Constitution Road
Ryde NSW 2112**

Valuation Number: 11-2763

Prepared by:

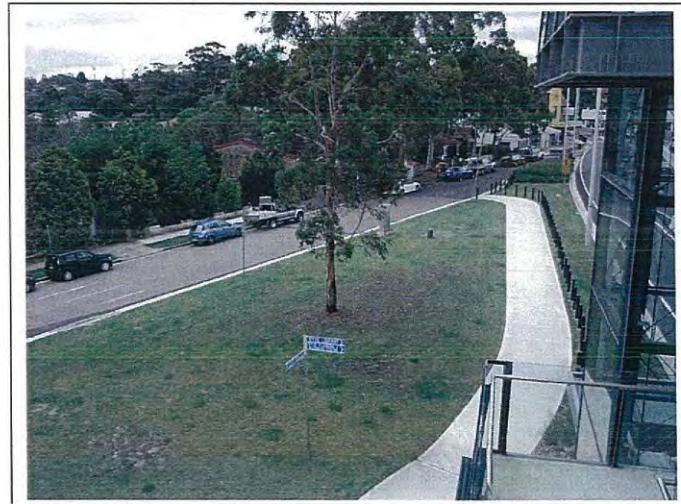
**BEM Property Consultants Pty Ltd
Level 4, 12 Mount Street
NORTH SYDNEY NSW 2059
Ph: (02) 8920 3044
Fax: (02) 8920 3055
Web: www.bemproperty.com.au**

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

Various Views of Subject Land



ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

Various Views of Subject Land



Land on the Corner of Blaxland Road and Parkes Street (Carpark Site)



ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

Cnr Blaxland Road and Devlin Street



Devlin Street Frontage



ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

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ANNEXURES TO THIS REPORT

COPIES OF:-

- TITLES
- DEPOSITED PLANS
- SURVEY SITE PLAN (Norton Survey Partners dated 14/06/2011)

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

1. EXECUTIVE SUMMARY

Property Address: Land on the corner of Devlin Street and Blaxland Road, the Corner of Blaxland Road and Parkes Street and a Section of Blaxland Road, at Ryde.

Purpose of Report: We have been instructed by Mr Malcolm Harrild of the City of Ryde Council to undertake a valuation of the subject property as at 1st July 2000 for Goods and Services Tax (GST) Margin Scheme purposes.

Brief Description: The subject property comprises the Ryde Civic Centre Site, The Council carpark on the corner of Blaxland Road and Parkes Street and part of Blaxland Road.

The majority of the land is relatively level, however the carpark site has a natural fall from the front to rear boundary and a cross fall in a northerly to southerly direction.

Erected upon the Civic Centre site is a 1960's multi-level office building, used as the Council offices and the adjoining Town Hall building.

Titles & Site Areas: The subject land comprises the following titles and site areas

A. Ryde Council Owned Land

Lot 10, DP1110978	Folio Identifier 10/1110978	6,317m ²
Lot 12, DP1110978	Folio Identifier 12/1110978	1,347m ²
Lot Q, DP443304	Folio Identifier Q/443304	509.2m ²
Lot R, DP443304	Folio Identifier R/443304	497.3m ²
Lot S, DP443304	Folio Identifier S/443304	505.8m ²
Lot T, DP443304	Folio Identifier T/443304	490.4m ²
		9,666.7m²

B. Crown Land

Part of Blaxland Road (as shown hatched red on the annexed site plan). This land has no issued title but has been measured by Council to comprise a site area of approximately 5,625m².

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

Zoning: At the relevant date all Council owned land was zoned **Special Uses 5(a) – Public Buildings** under the provisions of the **Ryde Planning Scheme**.

The subject section of Blaxland Road was unzoned roadway in 2000.

In **2006** the Council land was rezoned **Business (Town Centre) under LEP143** and on **30 June 2010** the land was rezoned **B4 Business Mixed Use**.

Purpose of Valuation: To establish the current market value of the subject land as at 1 July 2000 for GST margin scheme purposes.

Basis of Valuation: The unencumbered market value of the subject property (on a vacant possession basis) as at 1 July 2000.

Definition of Market Value: The Australian Property Institute has adopted the following International Assets Valuation Standards Committee definition of Market Value:

“Market value is the estimated amount for which a property should exchange on the date of Valuation between a willing buyer and a willing seller in an arms length transaction, after proper marketing, wherein the parties had each acted knowledgeably, prudently, and without compulsion”.

Date of Inspection: 13 December 2011

Date of Valuation: 1 July 2000

Interest Valued: Unencumbered Freehold title subject to vacant possession.

Statement of Conflict of Interest: The writer wishes to advise that BEM Property Consultants Pty Ltd has provided an unbiased opinion of value and does not have any pecuniary interest in the subject property for the purpose of this Valuation or otherwise.

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

VALUATION: We are of the opinion that market value of the subject land, subject to vacant possession as at 1 July 2000, for GST Margin Scheme purposes is:

A. Ryde Council Land

- (i) Civic Centre Site (Lots 10 & 12 DP 1110978).....\$13,200,000
- (ii) Carpark Site (Lots Q-T DP 443304).....\$1,800,000

B. Crown Land

Part of Blaxland Road (Untitled).....\$1.00

Total \$15,000,001

Note: The above amount is exclusive of Goods and Services Tax.

This Valuation Summary provides a brief overview of the contents of this Valuation Report and does not constitute a Valuation in its own right. We recommend that the full Valuation Report, which contains specific information relative to forming our Valuation conclusion, be fully read in addition to the Valuation Summary.

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

2. BACKGROUND & INSTRUCTIONS

City of Ryde Council owns various land holdings bounded by Devlin Street, Blaxland Road and Parkes Street, at Top Ryde and which is known collectively as the Ryde Civic Centre Site.

There is also a section of Blaxland Road, part of which is to be included within the overall site, however this land is presently owned by the Crown but is to be transferred to Council for consideration in accordance with the Just Terms Act, with the remaining portion then being dedicated by Council as public road following final subdivision of the total site.

Council therefore require two (2) separate current market valuations for GST Margin Scheme purposes as at 1st July, 2000, in compliance with the Australian Taxation Office (ATO) guidelines, of:

- (a) land owned by Ryde Council (hatched red on the attached site survey plan). This land comprises approximately 9,666.7m² and is contained within the following titles:

Lot 10, DP 1110978	Folio Identifier 10/1110978	6,317m ²
Lot 12, DP 1110978	Folio Identifier 12/1110978	1,347m ²
Lot Q, DP 443304	Folio Identifier Q/443304	509.2m ²
Lot R, DP 443304	Folio Identifier R/443304	497.3m ²
Lot S, DP 443304	Folio Identifier S/443304	505.8m ²
Lot T, DP 443304	Folio Identifier T/443304	490.4m ²
		9,666.7m²

(NB: Lot 12 is Statum Land – please refer to the annexed Title and Deposited Plan 1110978)

and

- (b) Blaxland Road, being land owned by the Crown (shown with red hashing on the attached plan). This land has no issued title but has been surveyed to comprise an estimated area of approximately 5,625m².

We note that the valuations will be relied upon by Council in the calculation of their GST liability and our formal margin scheme valuations will also be made available to the ultimate purchaser of the land, for their own calculation of GST using the margin scheme.

We note the directions given by the Australian Taxation Office in their publication Valuations for the Margin Scheme, and confirm our full understanding of what is required in such a valuation and confirm our compliance with the qualification prerequisites required of the professional valuer.

Council requires two separate valuations to be carried out. Both valuations are to be carried out as at 1 July 2000.

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

Valuation 1 – Ryde Council Land: This valuation is to be carried out in respect of that part of the Ryde Civic Centre Site described in Section 3(a) above. When carrying out this valuation the valuer is instructed that:

- (a) the interest to be valued is the market value of the freehold-in-possession of the land;
- (b) the land is to be valued having regard to its zoning as at the date of valuation;
- (c) the land is to be valued assuming that no improvements had been erected upon the land, or appertain to the land, as at the date of valuation.

Valuation 2 – Blaxland Road Land: This valuation is to be carried out in respect of that part of the Ryde Civic Centre Site described in Section 3(b) above. When carrying out this valuation the valuer is instructed that:

- (a) the interest to be valued is the market value of the freehold-in-possession of the land;
- (b) the land is to be valued having regard to its zoning (as a road) as at the date of valuation;
- (c) the land is to be valued assuming that no improvements had been erected upon the land, or appertain to the land, as at the date of valuation.

3. LOCATION

Ryde is located approximately 13 kilometres west of the Sydney CBD and is administered by the City of Ryde Council.

The subject property comprises three (3) parcels of land being:

- (i) The Council Civic Centre site which has its primary frontage to Devlin Street and backs onto Blaxland Road;
- (ii) The Council carpark site, which is situated on the corner of Blaxland Road and Parkes Street, and
- (iii) Part of Blaxland Road, situated between the above two (2) parcels of land.

The surrounding locality is generally serviced by general commercial and retail outlets, with the greater surrounding area comprising residential developments of mixed ages, styles and building materials. The relatively new Top Ryde Shopping Centre is located directly opposite the Civic Centre property.

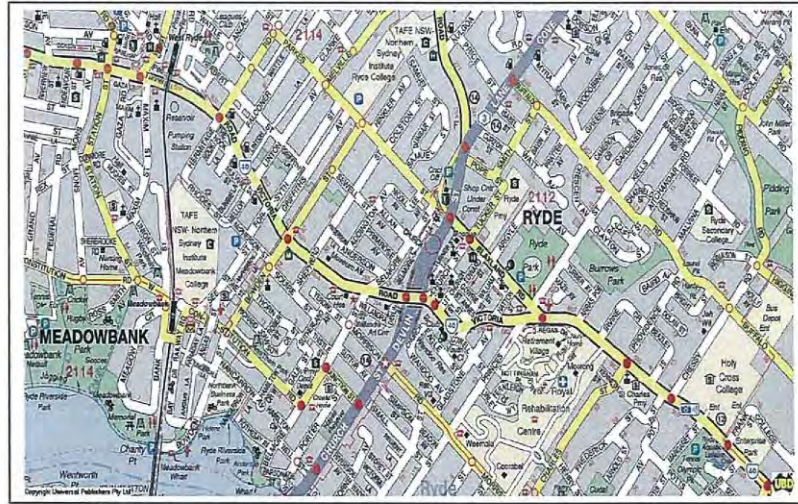
Please refer to the following locality map and aerial photograph:

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

Locality Map



Aerial Photograph



ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

4. ZONING

4.1 Council Land

The Ryde Civic Centre Site, known as 1 Devlin Street, Ryde and the Carpark Site were zoned “Special Uses 5(a) – Public Buildings” under the Ryde Planning Scheme as at 1 July 2000.

The permitted uses on such zoned land, only with the consent of the responsible authority, are as follows:

“Any purpose ordinarily incidental or subsidiary to a purpose to a public building, drainage; open space; roads; telecommunication facilities; utility installations other than gas holders or generating works).”

We are advised by Council that there was no floor space ratio (FSR) or height controls which applied to the land.

The City of Ryde Local Environmental Plan 143, was gazetted on 29 May 2006, and this LEP applied to the subject Council land and the Top Ryde Shopping Centre site. Both sites were rezoned to **Business (Town Centre)**.

The aims of this plan are as follows:-

- (a) Re-zone land known as Top Ryde to ‘Business (Town Centre)’,
- (b) Amend the Ryde Planning Scheme Ordinance as set out, including but not limited to the definitions of “storey” and “net usable area”,
- (c) Promote the objectives of the URBAN VILLAGES STUDY (1995) and TOP RYDE RETAIL PRECINCT – RECOMMENDED MASTER PLAN (1998),
- (d) To encourage the revitalization of Ryde Town Centre as a Centre that services the community,
- (e) To enhance the civic role and character of Ryde Town Centre,
- (f) To encourage a mix of land uses that will contribute to the sustainability of the area,
- (g) To enhance accessibility and public transport, and
- (h) To enhance the public domain and achieve high quality urban design outcomes.

Under the LEP 143, the existing Civic Centre Site was identified as development precinct Site No.1 - Civic, whilst the Top Ryde Shopping Centre was identified as Site No.2 - Retail Centre.

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

Schedule 19 sets out the Planning Controls of the Ryde Town Centre, in respect to the eight (8) precincts differentiated by land use, building height, urban form and character. Briefly, there are a number of conditions in respect to both Precinct 1 – Civic and Precinct 2 – Town Core, with the most relevant being as follows:-

Precinct 1 – Civic

- Public buildings; places of assembly; shops; refreshment rooms; recreation facilities; commercial premises; child care centres; and residential flat buildings may be approved.
- No part of any building or structure (excluding antennae) may exceed RL 89.3AHD.
- Buildings must respond to the prominent ridge line, location, and demonstrate land mark qualities and design excellence.
- Landscape set-backs to street frontages of 7 metres required around all buildings.
- Pedestrian thoroughfare not less than 4 metres wide and running approximately east-west across the site.
- Shops restricted to ground floor level or below.

The subject land was further rezoned by the **City of Ryde Local Environmental Plan 2010**, as gazetted on **30 June 2010**, to **B4 Business Mixed Use**. We are advised by Council that this current zoning allows apartments, offices and ground floor shops. Whilst we understand that the maximum potential gross floor area (GFA) of development was initially envisaged of being up to 100,000m², following a review by Council planning and design consultants the maximum GFA is to be reduced to 60,000m².

We are advised that Council had first considered the possibility of a major redevelopment of their Civic Centre site as far back as 1995.

4.2 Crown Land

Under the Ryde Planning Scheme the subject land was designated as unzoned public roadway as at 1st July, 2000.

4.3 Heritage

We have been advised by an Officer of Council's Town Planning Department, that the subject building is not heritage listed.

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

5. TITLE

5.1 Council Sites

This site currently comprises two (2) contiguous allotments comprising the Civic Centre site (Devlin Street) and four (4) contiguous allotments comprising the carpark site (cnr Blaxland Road and Parkes Street), as follows:-

Civic Centre Site

- Lot 10 in Deposited Plan 1110978 Folio Identifier 10/1110978
- Lot 12 in Deposited Plan 1110978 Folio Identifier 12/1110978

Carpark Site

- Lot Q in Deposited Plan 443304 Folio Identifier Q/443304
- Lot R in Deposited Plan 443304 Folio Identifier R/443304
- Lot S in Deposited Plan 443304 Folio Identifier S/443304
- Lot T in Deposited Plan 443304 Folio Identifier T/443304

NB: All lots are subject to various easements and encumbrances as noted on the annexed copies of each title document.

5.2 Registered Proprietor

The Council of the Municipality of Ryde is the registered proprietor on all of the above titles.

5.3 Blaxland Road

At the relevant date of valuation the subject section of Blaxland Road was owned by the Crown.

6. LAND AREAS

6.1 Ryde Civic Centre

Lot 10, DP1110978	6,317m ²
Lot 12, DP1110978(Stratum)	1,347m ²
Lot Q, DP443304	509.2m ²
Lot R, DP443304	497.3m ²
Lot S, DP443304	505.8m ²
Lot T, DP443304	490.4m ²
Total	9,666.7m²

6.2 Crown Land

No title – 5,625m² per annexed Survey Site Plan.

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

7. IMPROVEMENTS

7.1 Lot 10

Erected upon Lot 10 is the Ryde Civic Centre. The Ryde Civic Centre was constructed during the 1960's, and comprises an older style commercial building constructed of red texture brick with a curved façade. The building has secured car basement parking for thirty-three (33) motor vehicles, a ground floor reception, customer service and general administration office area, and five (5) upper levels of office and administration building.

Our instructions are to assume the land is vacant so we have not undertaken a detailed inspection of the building.

7.2 Lot 12

Vacant Land

7.3 Lots Q, R, S and T

Paved carparking with marked spaces with driveway ingress and egress from Blaxland Road.
Vacant land to the north of the Civic Centre.

8. MARKET COMMENTARY

8.1 Economic Overview

Australia economic growth is closely linked to the world prices for commodities such as agricultural products, minerals, metals and fossil fuels.

Commodities account for 57% of the value of total Australian exports, so fluctuations in commodity prices has a significant impact upon our economy.

Whilst Australia suffered from low economic growth and high unemployment in the early 1990s the economy showed solid annual growth of 4% per annum for the five (5) years leading up to the year 2000.

The Federal Government of the day, led by John Howard introduced a Goods and Services Tax (GST) from 1 July 2000.

Whilst nearly all Asian economies had suffered economic turmoil in the late 1990s the expectation was that Australia was a relatively stable economy with future growth dependent

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

upon international commodity prices, the extent of recovery in nearly all Asian economies, and the strength of US and European markets.

8.2 Real Estate Market

In July 2000, in concert with the introduction of GST into the Australian economy, the Government of the day also introduced a First Home Owners Scheme (FHOS) designed to compensate for price increases associated with the introduction of GST. It was not until March 2001 when the additional FHOS was introduced as a short term stimulus that the first home buyer market showed an immediate positive effective.

Whilst the stimulus helped the real estate market another key driver was the low prevailing interest rate environment at that time. The standard variable home loan rate at July, 2000 was 6.55% and this remained steady for the following 12 month period.

The medium house price in Sydney in July 2000 was \$320,000 which rose steadily to a peak of \$550,000 in July 2004. Unit prices for the corresponding period were \$250,000 and \$375,000 respectively. The commercial, industrial and retail markets in 2000 were relatively steady.

9. SALES EVIDENCE

In undertaking our valuation assessments we have undertaken analysis of sales evidence of predominantly vacant land sites capable of being developed for commercial evidence, residential and mixed uses.

9.1 Commercial Land Sales

1. **Address:** 924 Pacific Highway, Gordon (Corner of Ryde Road)
Sale Price: \$6,375,000
Sale Date: 13 December 2000
Site Area: 7,407m²
Description: A commercial redevelopment site sold with a D.A. for a 7,500m² NLA office building. Purchased by Abigroup
Analysis: \$861/m² of site area
\$773/m² of Gross Floor Area (GFA). (NLA x 1.1 = GFA).

2. **Address:** Lot 101 Delhi Road, North Ryde
Sale Price: \$4,596,000
Sale Date: 3/5/02
Site Area: 13,133 m² (approx.)
Description: This property comprised vacant development land (Lot 101 in DP871858) which was reserved for road use and transferred from the Roads & Traffic Authority to the State Rail Authority of N.S.W. for the proposed Chatswood to Parramatta rail link.

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

- Analysis:* Sale shows \$350/m² of site area.
3. *Address:* **Epping Road, North Ryde**
Sale Price: \$9,760,000
Sale Date: 3/5/02
Site Area: 27,950 m² (approx.) (Lot B DP 345815 & Lot 100 DP 871858)
Description: This property comprised an industrial development site which was zoned "Part Industrial, Part Road Reservation". The vendor was The Dept. of Education, with the purchaser being the State Rail Authority of N.S.W. for the proposed Chatswood to Parramatta rail link.
Analysis: Sale shows \$349/m² of site area and GFA.
4. *Address:* **8 Giffnock Avenue, North Ryde**
Sale Price: \$2,900,000
Sale Date: 22/10/02
Site Area: 4,935 m² (approx.)
Description: This property was zoned for industrial use and comprised an industrial site which, at the date of sale, had development approval for the construction of a commercial office building of 8,932 m². The high land rate reflects the current development approval. The vendor was the Colonial First State Property Trust Group, with the purchaser being the Commonwealth Property Office Fund.
Analysis: Sale shows \$588/m² of site area
\$295/m² of GFA.
5. *Address:* **301-303 Lane Cove Road, North Ryde**
Sale Price: \$12,000,000
Sale Date: 20/12/01
Site Area: 24,600 m² (approx.)
Description: This comprised a commercial development site zoned "3F – Business Centre". The vendor was the Minister Administering the Environmental Plan & Assessment Act, with the purchaser being Thunder Birds Are Go Pty Limited. Property developed at the Eden Gardens Plan Nursery.
Analysis: Sale shows \$488/m² of site area and floor space area.
6. *Address:* **8 Waterloo Road, North Ryde**
Sale Price: \$17,645,000
Sale Date: 3/5/02
Site Area: 5.1379 hectares
Description: This site comprised an industrial development site with a road reservation. The vendor was the Dept. of Urban Affairs & Planning, with the purchaser being the State Rail Authority of N.S.W.
Analysis: Sale shows \$343/m² of site area.

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

9.4 Residential and Mixed Use Development Site Sales

1. **Address:** 1-3 Oxford Street, Epping
Sale Price: \$1,875,000
Sale Date: 30 June 2000
Site Area: 982m²
Description: A mixed use development site located opposite Epping railway station. The property was sold with a DA for 18 units and 284m² of retail space. Estimate gross floor area (GFA) of 2,100m²
Analysis: \$1,909/m² of site area
\$893/m² of estimated GFA.

2. **Address:** 293 Kissing Point Road, Dundas
Sale Price: \$1,062,000
Sale Date: 5 April 2000
Site Area: 2,856m²
Description: A long, narrow site that falls away from the road and adjoins a busy roadway. Now developed with 9x3 bedroom villas.
Analysis: \$372/m² of site area
\$843/m² of estimated GFA.

3. **Address:** 12-16 Station Street, Homebush
Sale Price: \$8,100,000
Sale Date: 30 May 2000
Site Area: 7,664m²
Description: A large vacant site sold with a DA for 189 apartments. This site is located very close to Homebush Railway station.
Analysis: \$1,057/m² of site area
\$429/m² of GFA.

4. **Address:** 947 Victoria Road, West Ryde, cnr Anzac Lane
Sale Price: \$2,100,000
Sale Date: 14th August, 2000
Site Area: 1,290 square metres
Description: The subject property comprised, at the date of sale, a redevelopment site with direct frontage to Victoria Road, West Ryde.
Subsequent development approval had been gained for the construction of 24 residential units and 4 commercial strata office areas at ground floor level.
Analysis: Shows \$1,628/m² of site area.
Shows \$691/m² of GFA.

5. **Address:** 13 Hassall Street, Parramatta
Sale Price: \$7,500,000
Sale Date: 1st December, 2000

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

- Site Area:** 3,187 square metres
Description: This property comprises a development site with DA for 172 residential units and 231 car spaces. Purchased by Meriton
Analysis: Shows \$2,353/m² of site area.
Shows \$436 /m² of GFA.
6. **Address:** Ashfield Boys High School Oval – Hume Highway, Ashfield
Sale Price: \$8,750,000
Sale Date: 1st August, 2000
Site Area: 8,872 square metres
Description: A large site purchased by Meriton who announced at the time of purchase that they intended to seek approval to construct some 169 apartments and 9 shops.
Analysis: Shows \$986/m² of site area.
Shows \$492/m² of GFA.
7. **Address:** 16 Dorahy Street, Dundas
Sale Price: \$7,400,000
Sale Date: 21st November, 2001
Site Area: 19,100 square metres
Description: The subject property comprised a vacant site which was zoned "Residential" and was purchased by Australand Holdings Limited for medium density development. This site comprises open fields with minor improvements and adjoins Marist Brothers School on Marsden Road. The site is ideal for either single residential or medium density development subject to approval.
Analysis: Shows \$387/m² of site area.
8. **Address:** 100 Belmore Street, Meadowbank (Cnr Well Street)
Sale Price: \$7,100,000
Sale Date: 14th June, 2001
Site Area: 7,232 m²
Description: A redevelopment site with residential and commercial permissible uses. We understand the site was totally approved for residential development only, with commercial development to be undertaken upon another site. Approval for 115 units. This site is situated close to the Parramatta river.
Analysis: Shows \$982/m² of site area.
Shows \$617/m² of GFA.
9. **Address:** 84 Belmore Street, Meadowbank
Sale Price: \$5,000,000
Sale Date: 12th July, 2000
Site Area: 14,200 m²
Description: An old industrial site with various buildings that was sold by

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

Analysis: tender and purchased by Nassif Bros, residential developers. The site was zoned Industrial but was later rezoned Mixed Use under the Meadowbank Employment Area Masterplan with a 50/50% commercial/residential use. In 2007 the split was amended to 30% commercial and 70% residential. Shows \$352/m² of site area. Shows \$617/m² of GFA.

9.5 Local Single Residential Sales

1. *Address:* 4 Samuel Street, Ryde
Sale Price: \$382,000
Sale Date: 13th December, 2000
Site Area: 753.7 square metres
Description: A modest 3 bedroom single bathroom cottage
Analysis: Shows \$347/m² of site area deduced land value allowing \$120,000 for the added value of the improvements.

2. *Address:* 6 Colston Street, Ryde
Sale Price: \$395,000
Sale Date: 29th September, 2000
Site Area: 575.4 square metres
Description: A 4 bedroom cottage in close proximity to the subject land.
Analysis: Shows \$382/m² of site area deduced land value allowing \$175,000 for the added value of the improvements.

10. VALUATION RATIONALE

Our approach to the valuation of the subject lands owned by Council at July, 2000 is to consider each parcel as future mixed use redevelopment sites at that date, having regard to the analysed sales evidence of such land, and to then adjust the applicable value rates to reflect the fact that the lands did not have the appropriate zoning at that time.

We consider this to be a logical approach given the history of the zoning of these lands which were subsequently rezoned to allow mixed use development and which had been considered by Council as potential redevelopment lands as far back as the mid 1990's.

With respect to the subject portion of Blaxland Road, we consider it appropriate to adopt a nominal value on the same as the land has always been used as public roadway and it is intended to be dedicated by Council and maintained for the same public use in the future.

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

A summary table of the site sales evidence used and our valuation calculations are set out to follow:

Table of Site Sales Evidence										
	Address	Suburb	Sale Date	Sale Price	Site Area m ²	Est GFA	Rate/m ² Site	Rate/m ² GFA	Comp. to Subject	
Commercial	1 924 Pacific Hwy	Gordon	13/12/2000	\$6,375,000	7,407	8,250	\$861	\$773	<	
	2 Lot 101 Delhi Rd	Nth Ryde	3/05/2002	\$4,596,000	13,133	13,133	\$350	\$350	>	
	3 Epping Rd	Nth Ryde	3/05/2002	\$9,760,000	27,950	27,950	\$349	\$349	>	
	4 8 Giffnock Ave	Nth Ryde	22/10/2002	\$2,900,000	7,935	9,825	\$365	\$295	>	
	5 301-303 Lane Cove Rd	Nth Ryde	20/12/2001	\$12,000,000	24,600	24,600	\$488	\$488	~	
	6 8 Waterloo Rd	Nth Ryde	3/05/2002	\$17,645,000	51,379	51,379	\$343	\$343	>	
Mixed Use & Res 1	7 1-3 Oxford St	Epping	30/06/2000	\$1,875,000	982	2,100	\$1,909	\$893	<	
	8 293 Kissing Pt Rd	Dundas	5/04/2000	\$1,062,000	2,856	1,260	\$372	\$843	<	
	9 12-16 Station St	Homebush	30/05/2000	\$8,100,000	7,664	18,900	\$1,057	\$429	>	
	10 947 Victoria Rd	West Ryde	14/08/2000	\$2,100,000	1,290	3,040	\$1,628	\$691	<	
	11 13 Hassall Street	Parramatta	1/12/2000	\$7,500,000	3,187	17,200	\$2,353	\$436	>	
	12 Hume Hwy	Ashfield	1/08/2000	\$8,750,000	8,872	17,800	\$986	\$492	>	
	13 16 Dorahy Street	Dundas	21/11/2001	\$7,400,000	19,100	19,100	\$387	\$387	>	
	14 100 Belmore St	Meadowbank	14/06/2001	\$7,100,000	7,232	11,500	\$982	\$617	~	
	15 84 Belmore St	Meadowbank	12/07/2000	\$5,000,000	14,200	14,200	\$352	\$352	>	

Valuation Calculations:

1. Civic Centre Site

Site Area 7,664 m²
Adopted FSR @ 5:1 38,320 m² GFA

Value per square metre of GFA per sales evidence \$550 /m²
i. Defer rate (PV) for 6 yrs at 8% = \$347 /m²
ii. Full rate discounted at 35% to 40% = \$344 /m²
Adopt \$345 /m² \$13,226,978 Adopt \$13,200,000

2. Carpark Land

Site Area 2,002 m²
Adopted FSR @ 2:1 4,004 m² GFA

Value per square metre of GFA per sales evidence \$700 /m²
i. Defer rate (PV) for 6 yrs at 8% = \$441 /m²
ii. Full rate discounted at 35% to 40% = \$438 /m²
Adopt \$439 /m² \$1,758,995 Adopt \$1,800,000

3. Blaxland Road

Site Area 5,625 m²

Adopt nominal value due to use as public roadway Adopt \$1

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

11. PECUNIARY INTEREST

We hereby certify that Ian Richard Blackall and BEM Property Consultants Pty Ltd does not have any direct, indirect or financial interest in the property or the Clients described herein, which would provide a biased opinion of value.

12. COMPANY QUALIFICATIONS

This valuation has been prepared on specific instructions from **City Of Ryde Council** and may only be relied upon for **GST Margin Scheme**

This valuation is current as at the date of valuation only. The value assessed herein may change significantly and unexpectedly over a relatively short period (including as a result of general market movements or factors specific to the particular property). We do not accept liability for losses arising from such subsequent changes in value. Without limiting the generality of the above comment, we do not assume any responsibility or accept any liability where this valuation is relied upon after the expiration of 3 months from the date of valuation, or such earlier date if you become aware of any factors that have any effect on the valuation.

The report is not to be relied upon by any other person or for any other purpose. We accept no liability to third parties nor do we contemplate that this report will be relied upon by third parties. We invite other parties who may come into possession of this report to seek our written consent to them relying on this report. We reserve the right to withhold consent or to review the contents of this report in the event that our consent is sought.

DATE OF INSPECTION

13th December 2011

DATE OF VALUATION

1 July 2000

ITEM 15 (continued)

ATTACHMENT 4

Property: GST Valuations – City of Ryde Land at Devlin Street, Parkes Street and Blaxland Road, Ryde
Valuation Date: 1 July 2000
Report Number: 11-2763

13. VALUATION

WE ESTIMATE THE CURRENT MARKET VALUE OF THE FOLLOWING SUBJECT PROPERTIES, AS AT 1st JULY 2000, WITH VACANT POSSESSION AND SUBJECT TO ALL THE DETAILS REFERRED TO HEREIN, AT:

A. RYDE COUNCIL LAND

i. CIVIC CENTRE SITE (Lots 10 & 12 in Deposited Plan 1110978)

THIRTEEN MILLION TWO HUNDRED THOUSAND DOLLARS\$13,200,000

ii. CARPARK SITE (Lots Q, R, S & T in Deposited Plan 443304)

ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS \$1,800,000

B. BLAXLAND ROAD LAND (Untitled)

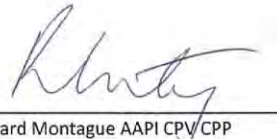
ONE DOLLAR\$1.00

Note 1: These valuation amounts are exclusive of GST

Per:



Ian Blackall FAPI CPV CPP
Registered Valuer No. VAL528
Director
BEM Property Consultants Pty Ltd



Richard Montague AAPI CPV CPP
Director
BEM Property Consultants

Note:

The person who appears as the second signatory on this report has not inspected the subject property, nor physically inspected the sales and/or rental evidence within this report. However, the report has been checked as part of our internal quality assurance requirements for risk management.

ITEM 15 (continued)

ATTACHMENT 4

**FOLIO IDENTIFIERS
TITLE DOCUMENTS**

ITEM 15 (continued)

ATTACHMENT 4



Order number: 8154849
Your Reference: lan - ryde
20/01/12 11:29

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 10/1110978

SEARCH DATE	TIME	EDITION NO	DATE
20/1/2012	11:29 AM	1	31/7/2007

LAND

LOT 10 IN DEPOSITED PLAN 1110978
AT RYDE
LOCAL GOVERNMENT AREA RYDE
PARISH OF HUNTERS HILL COUNTY OF CUMBERLAND
TITLE DIAGRAM DP1110978

FIRST SCHEDULE

THE COUNCIL OF THE MUNICIPALITY OF RYDE

SECOND SCHEDULE (12 NOTIFICATIONS)

- 1 LAND EXCLUDES MINERALS (S.536AA LOCAL GOVERNMENT ACT, 1919) WITHIN THE PART(S) SHOWN SO INDICATED IN THE TITLE DIAGRAM
- 2 RESERVATIONS AND CONDITIONS WITHIN THE PART(S) SHOWN SO INDICATED IN THE TITLE DIAGRAM - SEE CROWN GRANT(S)
- 3 Z973123 LEASE TO SYDNEY ELECTRICITY OF SUBSTATION PREMISES NO. 1355 AS SHOWN IN THE TITLE DIAGRAM & M6622 TOGETHER WITH RIGHT OF WAY AND EASEMENT FOR ELECTRICITY PURPOSES. EXPIRES: 31/12/2039.
- 4 9918511 LEASE TO STATE TRANSIT AUTHORITY OF NEW SOUTH WALES OF PART OF "RYDE CIVIC CENTRE" BEING AN AREA OF 43 SQUARE METRES SHOWN IN PLAN (PAGE 22) WITH 9918511. EXPIRES: 31/12/2005. OPTION OF RENEWAL: 5 YEARS WITH 1 FURTHER PERIOD OF 5 YEARS.
- 5 DP1110978 EASEMENT FOR WATER SUPPLY PURPOSES 6 METRE(S) WIDE AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 6 DP1110978 EASEMENT FOR SUPPORT 0.15 METRE(S) WIDE REFERRED TO AND NUMBERED (4) IN THE S.88B INSTRUMENT AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 7 DP1110978 EASEMENT FOR SUPPORT 0.15 METRE(S) WIDE REFERRED TO AND NUMBERED (5) IN THE S.88B INSTRUMENT APPURTENANT TO THE LAND ABOVE DESCRIBED
- 8 DP1110978 EASEMENT FOR EXISTING STRUCTURE VARIABLE WIDTH APPURTENANT TO THE LAND ABOVE DESCRIBED
- 9 DP1110978 EASEMENT FOR PARKING AND STORAGE VARIABLE WIDTH LIMITED IN HEIGHT AND DEPTH REFERRED TO AND NUMBERED (10) IN THE S.88B INSTRUMENT APPURTENANT TO THE LAND ABOVE DESCRIBED
- 10 DP1110978 EASEMENT FOR ACCESS VARIABLE WIDTH LIMITED IN HEIGHT

END OF PAGE 1 - CONTINUED OVER

PRINTED ON 20/1/2012

ITEM 15 (continued)

ATTACHMENT 4

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 10/1110978

PAGE 2

SECOND SCHEDULE (12 NOTIFICATIONS) (CONTINUED)

AND DEPTH REFERRED TO AND NUMBERED (11) IN THE S.88B
INSTRUMENT APPURTENANT TO THE LAND ABOVE DESCRIBED
11 DP1110978 EASEMENT TO DRAIN WATER OVER EXISTING LINE OF PIPES
APPURTENANT TO THE LAND ABOVE DESCRIBED
12 DP1110978 RIGHT OF WAY 4 METRE(S) WIDE AFFECTING THE PART(S)
SHOWN SO BURDENED IN THE TITLE DIAGRAM

NOTATIONS

UNREGISTERED DEALINGS: DP1157410.

*** END OF SEARCH ***

PRINTED ON 20/1/2012

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

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ITEM 15 (continued)

ATTACHMENT 4



Order number: 8154849
Your Reference: lan - ryde
20/01/12 11:29

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: 12/1110978

SEARCH DATE	TIME	EDITION NO	DATE
20/1/2012	11:29 AM	1	31/7/2007

LAND

LOT 12 IN DEPOSITED PLAN 1110978
AT RYDE
LOCAL GOVERNMENT AREA RYDE
PARISH OF HUNTERS HILL COUNTY OF CUMBERLAND
TITLE DIAGRAM DP1110978

FIRST SCHEDULE

THE COUNCIL OF THE MUNICIPALITY OF RYDE

SECOND SCHEDULE (8 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS WITHIN THE PART(S) SHOWN SO INDICATED IN THE TITLE DIAGRAM - SEE CROWN GRANT(S)
- 2 DP1110978 EASEMENT FOR CONSTRUCTION ACCESS LIMITED IN HEIGHT AND DEPTH AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 3 DP1110978 EASEMENT FOR OPERATIONS AND REPAIRS VARIABLE WIDTH LIMITED IN HEIGHT AND DEPTH AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 4 DP1110978 EASEMENT FOR SUPPORT 0.15 METRE(S) WIDE REFERRED TO AND NUMBERED (4) IN THE S.88B INSTRUMENT APPURTENANT TO THE LAND ABOVE DESCRIBED
- 5 DP1110978 EASEMENT FOR SUPPORT 0.15 METRE(S) WIDE REFERRED TO AND NUMBERED (5) IN THE S.88B INSTRUMENT AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 6 DP1110978 EASEMENT FOR ACCESS VARIABLE WIDTH LIMITED IN HEIGHT AND DEPTH REFERRED TO AND NUMBERED (7) IN THE S.88B INSTRUMENT AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 7 DP1110978 EASEMENT FOR PARKING AND STORAGE VARIABLE WIDTH LIMITED IN DEPTH REFERRED TO AND NUMBERED (8) IN THE S.88B INSTRUMENT APPURTENANT TO THE LAND ABOVE DESCRIBED
- 8 DP1110978 EASEMENT FOR PARKING AND STORAGE VARIABLE WIDTH LIMITED IN DEPTH REFERRED TO AND NUMBERED (9) IN THE S.88B INSTRUMENT APPURTENANT TO THE LAND ABOVE DESCRIBED

NOTATIONS

UNREGISTERED DEALINGS: DP1157410.

*** END OF SEARCH ***

PRINTED ON 20/1/2012

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

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ITEM 15 (continued)

ATTACHMENT 4



Order number: 8154849
Your Reference: ian - ryde
20/01/12 11:29

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: Q/443304

SEARCH DATE	TIME	EDITION NO	DATE
20/1/2012	11:29 AM	-	-

VOL 12312 FOL 42 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT Q IN DEPOSITED PLAN 443304
LOCAL GOVERNMENT AREA RYDE
PARISH OF HUNTERS HILL COUNTY OF CUMBERLAND
TITLE DIAGRAM DP443304

FIRST SCHEDULE

THE COUNCIL OF THE MUNICIPALITY OF RYDE

SECOND SCHEDULE (3 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 G960751 COVENANT
- 3 G960751 CROSS EASEMENTS (S181 B CONVEYANCING ACT, 1919)
AFFECTING THE PARTY WALL(S) SHOWN ON THE COMMON
BOUNDARY OF LOTS Q AND R IN DP443304

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PRINTED ON 20/1/2012

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register.

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ITEM 15 (continued)

ATTACHMENT 4



Order number: 8154849
Your Reference: lan - ryde
20/01/12 11:29

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: R/443304

SEARCH DATE	TIME	EDITION NO	DATE
-----	----	-----	----
20/1/2012	11:29 AM	-	-

VOL 12513 FOL 16 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT R IN DEPOSITED PLAN 443304
LOCAL GOVERNMENT AREA RYDE
PARISH OF HUNTERS HILL COUNTY OF CUMBERLAND
TITLE DIAGRAM DP443304

FIRST SCHEDULE

THE COUNCIL OF THE MUNICIPALITY OF RYDE

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 G960751 CROSS EASEMENTS (S181 B CONVEYANCING ACT, 1919)
AFFECTING THE PARTY WALL(S) SHOWN ON THE COMMON
BOUNDARY OF LOTS Q AND R IN DP443304

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PRINTED ON 20/1/2012

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ITEM 15 (continued)

ATTACHMENT 4



Order number: 8154849
Your Reference: lan - ryde
20/01/12 11:29

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: S/443304

SEARCH DATE	TIME	EDITION NO	DATE
20/1/2012	11:29 AM	1	8/6/1990

LAND

LOT S IN DEPOSITED PLAN 443304
LOCAL GOVERNMENT AREA RYDE
PARISH OF HUNTERS HILL COUNTY OF CUMBERLAND
TITLE DIAGRAM DP443304

FIRST SCHEDULE

THE COUNCIL OF THE MUNICIPALITY OF RYDE (T Z53794)

SECOND SCHEDULE (3 NOTIFICATIONS)

- RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- N892152 CROSS EASEMENTS (S181 B CONVEYANCING ACT, 1919)
AFFECTING THE PARTY WALL(S) SHOWN ON THE COMMON
BOUNDARY OF LOTS S AND T IN DP443304
- P311737 EASEMENT FOR DRAINAGE AFFECTING THAT PART OF THE
LAND DESCRIBED SHOWN 2.5 METRES WIDE AND 1.2 METRES
WIDE ON WITH ANNEXED TO TRANSFER NO P311737

NOTATIONS

NOTE: THE CERTIFICATE OF TITLE FOR THIS FOLIO OF THE REGISTER DOES NOT INCLUDE SECURITY FEATURES INCLUDED ON COMPUTERISED CERTIFICATES OF TITLE ISSUED FROM 4TH JANUARY, 2004. IT IS RECOMMENDED THAT STRINGENT PROCESSES ARE ADOPTED IN VERIFYING THE IDENTITY OF THE PERSON(S) CLAIMING A RIGHT TO DEAL WITH THE LAND COMPRISED IN THIS FOLIO.

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PRINTED ON 20/1/2012

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ITEM 15 (continued)

ATTACHMENT 4



Order number: 8154849
Your Reference: ian - ryde
20/01/12 11:29

LAND AND PROPERTY INFORMATION NEW SOUTH WALES - TITLE SEARCH

FOLIO: T/443304

SEARCH DATE	TIME	EDITION NO	DATE
20/1/2012	11:29 AM	-	-

VOL 12513 FOL 17 IS THE CURRENT CERTIFICATE OF TITLE

LAND

LOT T IN DEPOSITED PLAN 443304
LOCAL GOVERNMENT AREA RYDE
PARISH OF HUNTERS HILL COUNTY OF CUMBERLAND
TITLE DIAGRAM DP443304

FIRST SCHEDULE

THE COUNCIL OF THE MUNICIPALITY OF RYDE

SECOND SCHEDULE (2 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 N892152 CROSS EASEMENTS (S181 B CONVEYANCING ACT, 1919)
AFFECTING THE PARTY WALL(S) SHOWN ON THE COMMON
BOUNDARY OF LOTS S AND T IN DP443304

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

PRINTED ON 20/1/2012

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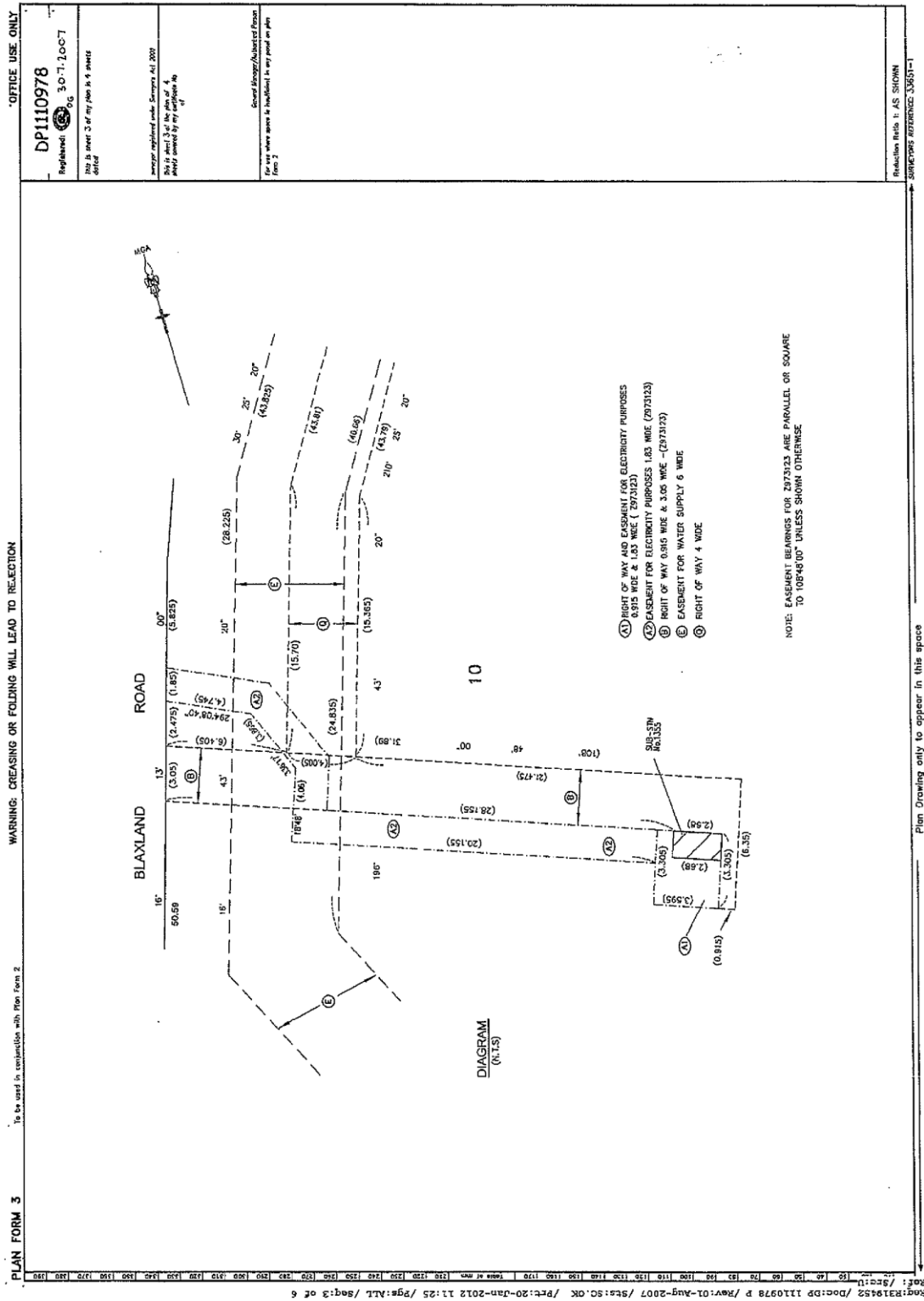
ITEM 15 (continued)

ATTACHMENT 4

DEPOSITED PLANS

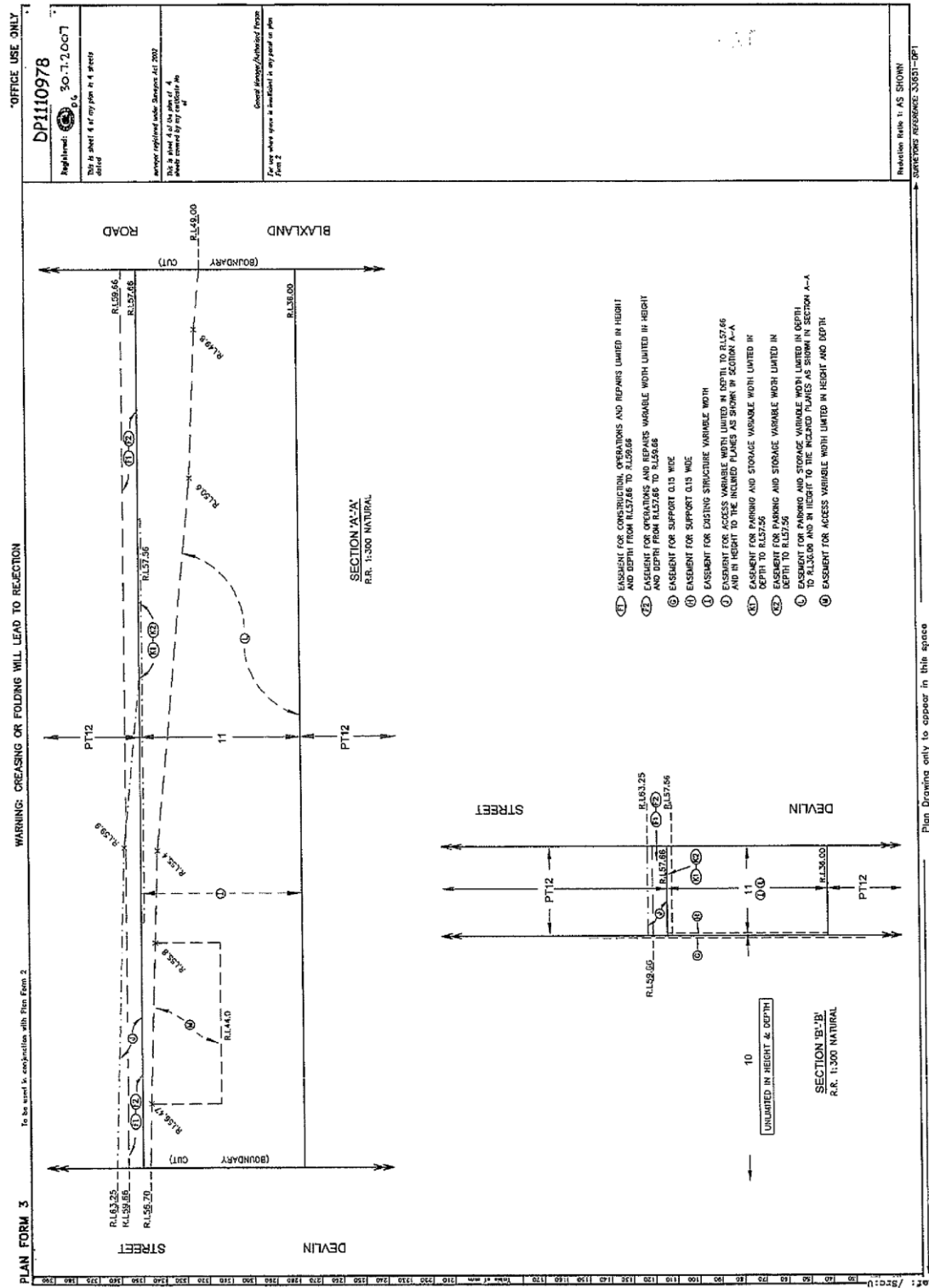
ITEM 15 (continued)

ATTACHMENT 4



ITEM 15 (continued)

ATTACHMENT 4



ITEM 15 (continued)

ATTACHMENT 4

Req:R319452 /Doc:DP 1110978 P /Rev:01-Aug-2007 /Sts:SC.OK /Prt:20-Jan-201
Ref:2857pg5/ALL /Seq:5 of 6


CERTIFICATES, SIGNATURES AND SEALS Sheet 1 of 2 sheet(s)	
<p>PLAN OF SUBDIVISION OF LOT 1 D.P121099, LOT 1 D.P124534, LOT 1 D.P187329 & LOT 1 D.P234520</p>	<p style="text-align: center; font-size: 24pt;">DP1110978</p> <p>Registered: 30.7.2007</p>
<p>Surveying Regulation, 2001 I, CHRISTOPHER THOMAS NORTON of ...NORTON SURVEY PARTNERS P/L P.O. BOX 289 ROZELLE 2039 a surveyor registered under the Surveying Act, 2002, certify that the survey represented in this plan is accurate, has been made in accordance with the Surveying Regulation, 2001 and was completed on: MAY 2006 The survey relates to LOTS 10-12 (specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)</p> <p>Signature: Dated: 22.05.07 <small>Surveyor registered under the Surveying Act, 2002</small> Datum Line: A-B Type: Urban/Rural</p>	<p>SIGNATURES, SEALS and STATEMENTS of intention to dedicate public roads or to create public reserves and drainage reserves.</p> <p><i>THE COMMON SEAL OF THE COUNCIL OF THE CITY OF RYDE WAS HERETO AFFIXED THIS 25th DAY OF MAY 2007 IN PURSUANCE OF A RESOLUTION PASSED BY COUNCIL ON THE 15th DAY OF MAY 2007</i></p> <p style="text-align: center;"> MAYOR GENERAL MANAGER</p>
<p>Crown Lands NSW/Western Lands Office Approval I, in approving this plan certify (Authorised Officer) that all necessary approvals in regard to the allocation of the land shown herein have been given</p> <p>Signature: Date: File Number: Office:</p>	<p>Signed for SYDNEY WATER CORPORATION by its Attorneys JEFFREY FRANCIS COLENSO <i>ROSS ROLAND WYNN</i> who hereby state at the time of executing this instrument have no notice of the revocation of the Power of Attorney Registered No. 323 Book 446 under Authority of which this instrument has been executed.</p>
<p>Subdivision Certificate I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to: the proposed <u>SUBDIVISION</u> set out herein (insert 'subdivision' or 'new road')</p> <p style="text-align: center;"> * Authorised Person/General Manager/Accredited Certifier City of Ryde Consent Authority: Date of Endorsement: <u>24.5.07</u> Accreditation no: Subdivision Certificate no: <u>5846</u> File no: <u>LDH05/599</u></p> <p><small>* Delete whichever is inapplicable.</small></p>	<p>SIGNED SEALED AND DELIVERED for and on behalf of EnergyAustralia by GRANT KENNETH GREENE-SMITH Attorney Its duly constituted Attorney pursuant to Power of Attorney registered Book 4476 No. 983 Witness</p> <p style="text-align: center;"> BEVILLESON P-4 17 Use PLAN FORM 6A for additional certificates, signatures and seals</p>
SURVEYOR'S REFERENCE: 33651-DP1	

* OFFICE USE ONLY

ITEM 15 (continued)

ATTACHMENT 4

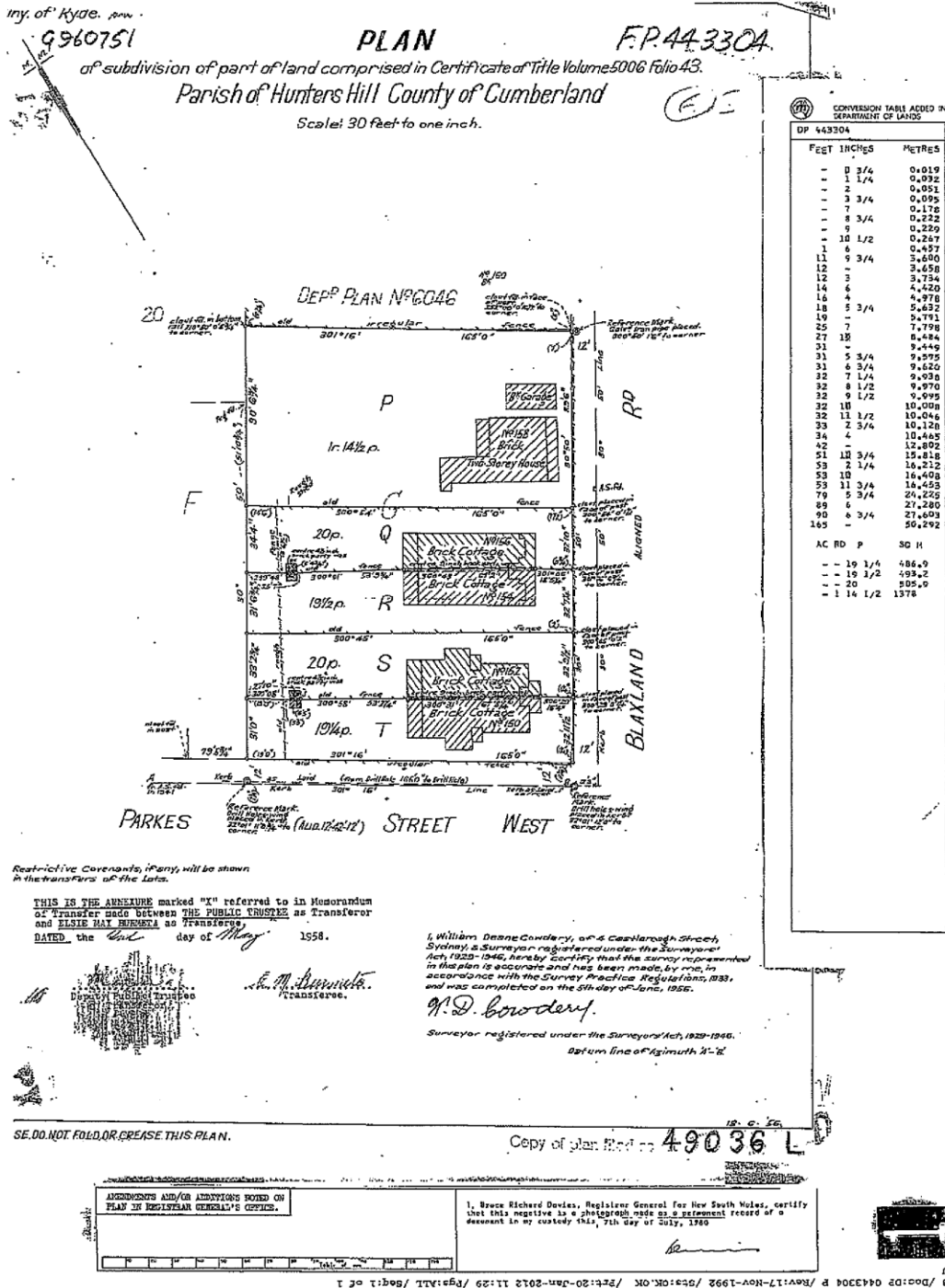
Req:R319452 /Doc:DP 1110978 P /Rev:01-Aug-2007 /Sts:SC.OK /Prt:20-Jan-201
Ref:2887PgW:ALL /Seq:6 of 6

CERTIFICATES, SIGNATURES AND SEALS		Sheet 2 of 2 Sheet(s)
PLAN OF SUBDIVISION OF LOT 1 D.P121099, LOT 1 D.P124534, LOT 1 D.P187329 & LOT 1 D.P234520	DP1110978	*
	Registered:  30.7.2007	*
Subdivision Certificate No: 5646	Date of Endorsement: 29-5-07	
SURVEYOR'S REFERENCE: 33651-DP1		

* OFFICE USE ONLY

ITEM 15 (continued)

ATTACHMENT 4



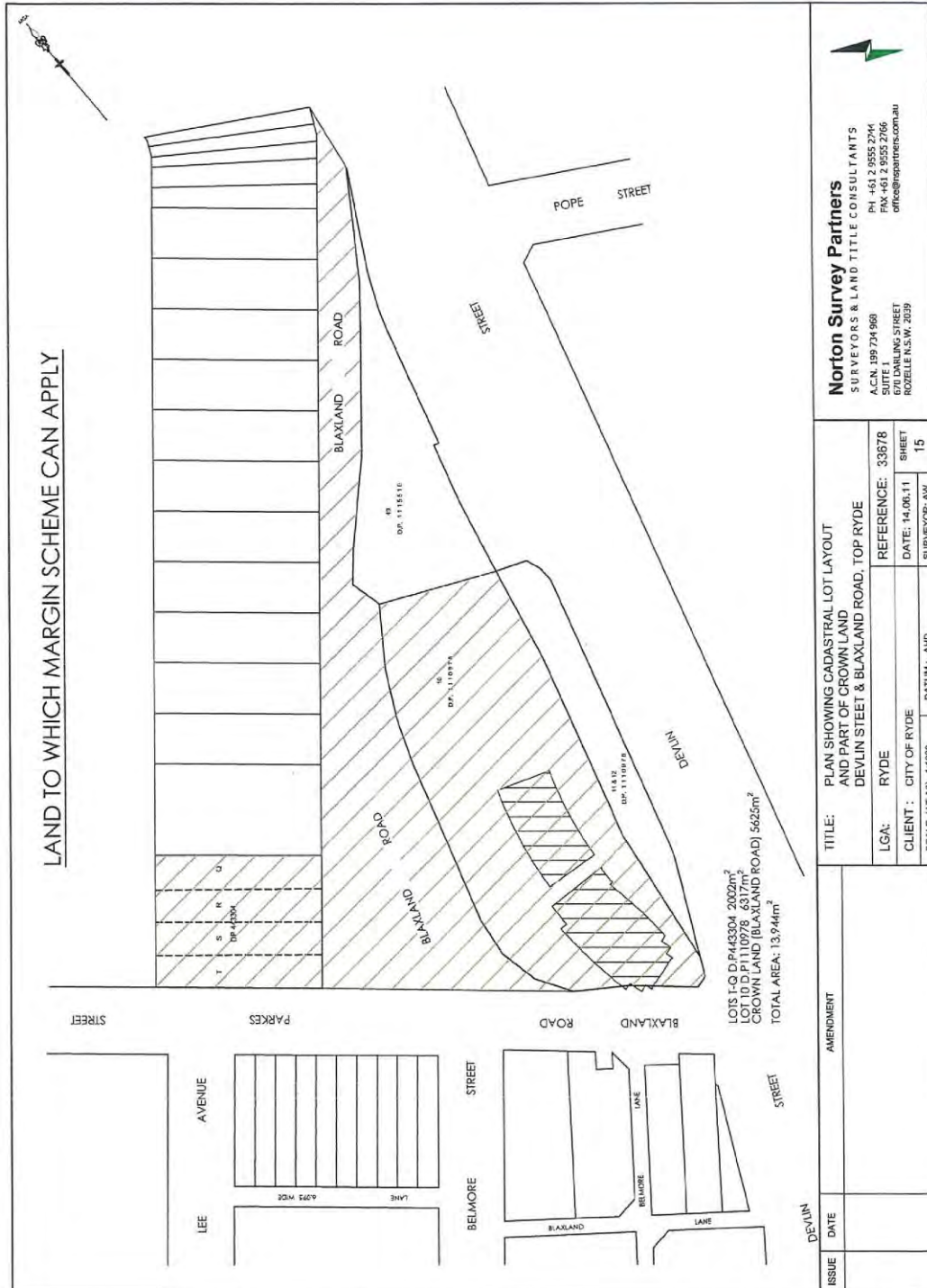
ITEM 15 (continued)

ATTACHMENT 4

SURVEY SITE PLAN

ITEM 15 (continued)

ATTACHMENT 4



16 STAFF CULTURE SURVEY - RESULTS

Report prepared by: Manager - Strategy and Organisational Development
File No.: GRP/09/7/2/2 - BP12/1152

REPORT SUMMARY

Following a Councillor workshop on 13 November, this report provides Council with the results of the Staff Culture Survey that was conducted in August 2012 by the Voice Project of Macquarie University. It was the second time that the survey has been conducted at the City of Ryde, the first being in August 2010. The 2010 survey created a baseline against which progress can be measured. Improvements in the staff culture survey were an expectation of the General Managers Performance Assessment for 2010/11.

The report provides a view of the health of our workforce culture and workplace as well as our organisational strengths and areas for further development. The methodology compares our data with other Councils and the private sector.

The comparison between results, identifies where change management improvements can bring the greatest increase in productivity/performance and commitment to the workplace, which will ultimately enhance customer service as we move forward.

The largest improvement identified by staff was their opinions of leadership which showed a significant improvement of 32% over two years. Whilst many improvements have already been made as a result of our management of change program, further improvements are required in some areas to take us to the forefront of benchmarks in the local government and the private sector.

RECOMMENDATION:

That Council notes the significant improvements in the past two years in the Staff Culture Survey as independently assessed by the Voice Project and receives the report.

ATTACHMENTS

There are no attachments for this report.

Report Prepared By:

Beki Boulet
Manager - Strategy and Organisational Development

Report Approved By:

John Neish
General Manager

ITEM 16 (continued)**Discussion**

Leading organisations are able to maximise customer service productivity, performance and commitment, when they address the culture of their organisations. Outstanding Customer service levels are a result of a range of complex issues of which a constructive staff culture is one. Areas that impact on our organisational culture are defined as Cultural Management Practices as described in our City of Ryde Business Model. At the City of Ryde we have 570 full time, part time and casual staff who work across a wide range of service areas and in doing so, create a workplace culture that can be defined, measured and compared to others.

In 2010 we undertook an independently conducted culture survey using a methodology developed by the Voice Project to help us understand how our staff feel about their workplace and their level of commitment to working here. The Voice Project, is a division of Macquarie University. They were selected to conduct the survey due to their extensive experience and available research in both private enterprise and across a growing number of metropolitan councils. This meant that in addition to their expertise, knowledge and research they were positioned to provide us with appropriate benchmarking and also provided us with an analysis of the areas on which we should focus our improvement efforts.

All staff were surveyed in August 2010 using hand held technology and this resulted in high participation rates across all sectors of our workforce. The results of the survey were widely circulated and acted upon during the course of the next two years. The results formed a basis of discussion at team meetings, communication from the executive team and a plethora of localised and corporate wide initiatives focussed on improving workplace issues both big and small.

In August 2012, the same survey was conducted and comparisons between the results have been made. The General Managers Performance Objective 9 for 2011/12 sought to further enhance the leadership style of the organisation and improve the overall Council wide results of the Voice Project survey against the 2010 baseline. As can be seen this was achieved.

ITEM 16 (continued)

High Level Results

The predominant overarching indicators produced by Voice Project are the Passion and Progress categories:

		Changes over the past two years	Councils	Private Sector
Progress	<ul style="list-style-type: none"> • Customer satisfaction • Change and Innovation • Organisation objectives 	66% ↑ 4%	52%	68%
Passion	<ul style="list-style-type: none"> • Job Satisfaction • Intention to stay • Organisational Commitment 	67% ↑ 4%	70%	64%
Overall Happiness	Happy to be working at City of Ryde	75% ↑ 5%		

Under the Progress and Passion categories there are 29 categories, all of which contribute to an organisation's culture. As can be seen the City of Ryde's Progress indicators which measures delivery are 14% ahead of other local government benchmarks but are 2% behind the private sector. The Passion indicator which measures commitment to the organisation is 3% higher than the private sector comparators and 3% lower than local government benchmarks.

Overall the results showed an increase in 26 of the 29 categories measured by the survey with the greatest improvement being in Leadership showing a 32% increase on the 2010 results.

Both the highest and lowest scoring results are summarised below.

Highest Scoring Results

The highest scoring categories were:

	2012 Results	Changes over the past two years	Other Councils	Private Sector
Role Clarity	86%	(↑ 1%)	85%	79%
Team work	85%	(↑ 1%)	83%	81%
Mission and Values	82%	(↑ 5%)	74%	73%
Organisation Direction	79%	(↑ 21%)	54%	63%
Customer Satisfaction	77%	(↑ 1%)	61%	74%
Work/Life balance	77%	(↑ 3%)	81%	76%
Results Focus	77%	(↑ 8%)	67%	76%
Ethics	77%	(↑ 10%)	70%	70%

ITEM 16 (continued)

As can be seen the City of Ryde is highest in these categories against other Councils and the private sector comparators. The development of the new Community

Strategic Plan, Four year delivery plan and one year operational plan, greater clarity of accountability and significant efforts to improve leadership styles and internal communications contributed to the increase of 21% in the Organisation Direction result.

Lowest Scoring Results

At the other end of the scale the lowest scoring categories are:

	2012 Results	Changes over the past two years	Other Councils	Private sector
Facilities	26%	(↓ 1%)	42%	61%
Cross Unit Cooperation	35%	(↑ 10%)	30%	50%
Career Opportunities	35%	(↑ 7%)	34%	44%
Technology	38%	(↓ 7%)	51%	60%
Involvement	43%	(↑ 13%)	46%	49%

Satisfaction with facilities is the overall lowest scoring category and is 16% lower than other Council benchmarks and 35% lower than private sector comparators. It refers specifically to staff satisfaction with their workplace conditions and was the lowest scoring category in 2010. It continues to be a low scoring category sliding down a further 1%. Council has recently conducted a workshop to discuss the best way to address the staff facilities at the Civic Precinct site. Overcrowding also exists in the Constitution Road workplace and this will also need to be addressed over time. The recent relocation of Community Life staff from the condemned Argyle building to new premises above the library in Top Ryde should also help to address this issue over time.

Although cross unit cooperation is the second lowest scoring category it has improved by 10% from 2010 and is now higher than local government benchmarks but lower than the private sector comparators. This improvement is as a result of the effort put into internal communications, defining asset management roles between Business Managers and Delivery Managers and a focus on our value of teamwork. The introduction of cross unit project disciplines including staff training, the development of team based process manuals etc has further improved cross unit cooperation. Overtime it is hoped to see this area improve further to be better than private sector benchmarks.

Career Opportunities has improved by 10% from 2010 reflecting the improvements in internal promotions. Gender equity in managerial positions has also contributed to the improvement of this indicator. Further work is required to provide staff with career opportunities if we are to attract and keep good talent and maintain low attrition which is now under 10%.

ITEM 16 (continued)

Availability and relevance of technology continues to be a problem. This indicator refers to currency of software and its efficiency. It was scored low in 2010 and it has dropped a further 7%, more than any other indicator. Our score is 23% lower than comparative Council's and 32% lower than private sector comparators indicating an underinvestment and focus on this area over time.

To address the technology backlog at the City of Ryde will take several years. To begin we have upgraded the Technology One platform on which many of our core modules are built. This will now enable upgraded modules to be implemented. We have also recently completed a forward development plan for our technological needs for both hardware and software and this will be subject of future bids in our budget process. This also includes the transition to off site hosting and an improved telecommunications contract which will deliver better mobile technologies.

Getting our technology to a point where we can match private sector provision will be critical in driving service improvement and efficiency in our business. The workforce of today demand the latest in communication technology, hand held devices and web enabled software. These areas are all covered in our technology development plan.

Involvement includes the empowerment of our workforce in decision making. Whilst one of our lowest scoring areas, our results have improved by 13%, we are still 3% lower than other Council benchmarks and 6% behind private sector benchmarks.

Whilst work has been carried out to create a workplace culture where people feel more involvement further work in this area is required.

Least Improved results

It is important to note that of the 29 categories only three categories actually scored lower than in the 2010 results, these are Facilities, Technology and Resources.

	2012 Results	Changes over the past two years	Other Councils	Private sector
Technology	38%	(↓ 7%)	51%	60%
Facilities	26%	(↓ 1%)	42%	61%
Resources	44%	(↓ 0.9%)	61%	67%

Technology and Facilities are mentioned in the paragraph above.

Resources refers to equipment and access to resources. It is the third indicator that declined 1% although the overall score was 43% but is still well below local government and private sector benchmarks.

ITEM 16 (continued)

Most Improved Results

Of the 28 categories the three most improved results which showed significant movement were as follows:-

	2012 Results	Changes over the past two years	Other Councils	Private sector
Leadership	63%	(↑ 32%)	44%	61%
Organisation Direction	79%	(↑ 21%)	54%	63%
Supervision	72%	(↑ 20%)	69%	74%

Leadership has the most effective impact on the organisation and the change of 32% in the past two years places the City of Ryde at the forefront of both the local government and private sectors (19% and 2% respectively). This improvement follows a deliberate campaign to address one of the lowest ranked results in the 2010 survey. The Leadership category is specifically referring to Senior Management: - the General Manager and Group Managers. The Business Model for the City of Ryde Council identifies an approach to leadership which has formed the basis of executive coaching, mentoring and the use of 360% feedback. It is pleasing to see that these efforts have demonstrated significant improvements.

Organisational direction has also significantly improved exceeding Council and private sector comparators by significant levels (24% and 16% respectively). This was as a direct result of the development of our strategic plan, four year delivery plan and their alignment to business plans and personal performance plans. It also relates to a large effort to reinforce our values of Safety, Teamwork, Ethics and Professionalism.

Supervision was also most improved and refers to the way that all other management levels are perceived. With an improvement of 20% the City of Ryde is 3% higher than local government comparators and 5% lower than private sector comparators. These improvements are also as a result of targeted training, mentoring and coaching.

In conclusion, it is pleasing to see that as a result of our management of change process, the workforce culture is improving across a range of fronts. Utilising the Voice Project survey methodology we are able to better understand our workplace culture strengths and weaknesses.

Research demonstrates that organisations which develop constructive workplace cultures maximise customer service productivity, performance and commitment. The results of this survey provide us with the knowledge to help us further improve all areas of Councils operations. We can analyse the results at a Group, Service Unit or Section level to focus on areas of weakness. Like the General Managers performance indicators, all Group, Service and Section Managers are appraised using the results of their particular teams results every two years.

ITEM 16 (continued)

To be productive, staff have many needs not the least of which are clarity of direction, strong leadership, the right equipment, appropriate resources and a healthy well designed work environment. This report provides us with the ability to identify the areas that will *most* positively impact on our workplace culture and therefore improve our business.

The focus on improved work place culture, coupled with other areas of strategy development, process and systems improvements will further create an organisation focussed on continuous improvement in customer service, innovation and efficiency.

Financial Implications

Adoption of the recommendation will have no financial impact.

17 GENERAL MANAGER'S PERFORMANCE OBJECTIVES 2012/13

Report prepared by: General Manager**Report dated:** 12/11/2012**File No.:** GMG/10/1/2 - BP12/1346

Report Summary

In accordance with the General Manager's contract and following the resolution of last year's performance review on 16 October 2012, a new performance agreement is to be agreed between the Council and the General Manager for the 2012/13 year.

The aim of this report is to:

- recommend a range of objectives which will form the basis of the General Manager's Performance Agreement
- refer the objectives for a degree of difficulty rating as a basis for next years assessment
- establish the timeframe for the review of the General Manager's performance review in 2013

RECOMMENDATION:

- (a) That the **ATTACHED** objectives (see Attachment 1) be adopted as the basis for the General Manager's performance agreement for 2012/13.
- (b) That the General Manager develop a performance agreement action plan with milestones to be achieved for each objective and that this action plan accompanied by an independently assessed degree of difficulty rating, be reported to Council within 2 months of this report being adopted.
- (c) That the General Manager's 2012/13 performance review be conducted in August 2013 in accordance with the methodology previously adopted by Council.

ATTACHMENTS

- 1 General Manager's Objectives 2012-13

Report Prepared By:

John Neish
General Manager

ITEM 17 (continued)

Background

The General Manager commenced employment with the City of Ryde on the 4 January 2010 on a five year contract in accordance with the standard conditions of contract as stipulated by (clause 338) of the Local Government Act 1993.

On the 12 April 2011 Council resolved:-

- 1. That the Mayor with assistance from the Manager of Strategy and Organisational Development call for Expressions of Interest and select a suitably qualified consultant to assist in the establishment of the General Manager's Performance Process in accordance with the Performance Criteria outlined in this Mayoral Minute.*
- 2. That fund for this consultant be utilised from the General Manager's budget.*
- 3. That on appointment, the consultant establish a process by which a review committee is established and a process for the assessment of the performance of the General Manager. Such an assessment to utilise the performance criteria and the performance delivery approach outlined in this Mayoral Minute and in accordance with the draft guidelines established by the Department of Premier and Cabinet (Division of Local Government).*

Following a selection process undertaken in accordance with this resolution, Chadwick and Associates was chosen to facilitate the General Manager's performance review for the term of his contract.

The performance assessment is conducted by an appraisal committee consisting of the Mayor, the Deputy Mayor and two other Councillors. The appraisal committee rates the General Manager's performance utilising the methodology previously adopted by Council and in accordance with the objectives agreed to by Council each year. The objectives for 2012/13 have not yet been determined by Council. This was due to delays in finalising the General Managers 2011/12 performance review which was reported to Council on 14th August 2012 and resolved by Council on the 16th October 2012.

Performance objectives (which form the performance criteria requirements under clause 7.1 of the contract) are now required for the 2012/13 year and the draft proposed objectives are **ATTACHED** to this report (see Attachment 1).

In accordance with the Council's adopted methodology, the assessment of the 2012/13 objectives requires a degree of difficulty rating for each objective to be established. According to the established methodology this is recommended to Council by Chadwick and Associates for its consideration. The degree of difficulty rating applies to each objective and assists with the overall rating of the General Manager's performance.

ITEM 17 (continued)

Clause 7.4 of the General Manager's Contract stipulates:-

Within 2 months after signing or varying the performance agreement, the employee will prepare and submit to Council an action plan which sets out how the performance criteria are to be met.

Accordingly, an action plan with specific milestones will be developed for each objective and reported to Council quarterly (as part of the quarterly review) to enable the monitoring of progress. All known and potential exceptions or variations to the milestones will be advised. These project milestones will be reported to Council in due course. It is proposed that the degree of difficulty rating will be reported to Council at the same time as the detailed milestones used to satisfy the requirements of clause 7.4.

Report**1. Context for Establishing 2012/13 Objectives**

The General Manager's Performance objectives for 2012/13 will continue to focus on developing an organisation with the ability to deliver our Mission:

***Working with our community and partners
to provide strategic leadership, effective projects
and quality customer services***

As previously reported to Council, a management of change process was introduced to further build our capability over five years. We are now in the second year of this journey and the 2012/13 objectives will see continued focus on its delivery.

In particular during 2012/13, we will continue our focus on the management of change with a focus on the:-

- ongoing alignment of a strategic plan to our 4 Year Delivery Plan and our Resourcing Plan (Workforce Plan, Asset Plan, Long Term Financial Plan)
- realignment of the way that community engagement and consultation shapes recommendations to Council
- redesign of our processes to further improve customer access to our services as well as risk management
- redesign of our recruitment and employment practices including a revamped performance appraisal approach for all staff
- optimum use of technology to enable:-
 - additional on line transactions for members of the public
 - improved reporting capacity
 - more efficient workflows
- development of a workforce culture focused on :-
 - customer service
 - cross unit collaboration

ITEM 17 (continued)

- effective and efficient project delivery
- upholding the highest of ethics and the management of risk
- strengthen the City of Ryde's brand and reputation
- identify a strategy for our long term financial sustainability
- improve our asset management and develop our asset portfolio

We will continue to focus on our business planning model and this year will further strengthen accountability at the section manager's level of the organisation. This will be supported with enhanced training focus on people management and business disciplines.

We will continue to place an emphasis on leadership capability (whilst continuing to address gender inequity in managerial roles) and to build a constructive response to the latest organisations workplace culture survey.

Our greatest liability and risk still remains the backlog of asset maintenance and renewal. We will continue to focus on providing role accountability for each of our 38 asset types and training staff on how these processes work. We will also seek the guidance of Council as to how to prioritise the management of our asset categories and to establish a sustainable financial model to support its delivery.

Our continued focus on accountability and project management is heavily dependent on cross unit collaboration and skill development. This will require several years of bedding down as new skills are learnt across our organisation and technology is used to streamline processes and better track and report on progress.

In addition to the management of change process, we remain focused on delivering a wide range of customer services and capital and non capital projects for our customers whilst maintaining tight fiscal control.

3. Timing of the 2012 General Managers Performance Review

Clause 7.4 of the General managers Performance Agreement stipulates that:-

'Within two months after signing or varying the performance agreement, the employee will prepare and submit to Council an action plan which sets out how the performance criteria are to be met.'

As occurred last year, once the objectives have been agreed between the General Manager and the Council, a further report providing measurable milestones will be provided as the basis against which achievement of the objectives will be assessed. At this time a degree of difficulty rating for each objective will be established.

ITEM 17 (continued)

Given that this years appraisal was completed in August 2012, the 2012/13 appraisal is proposed to be completed in August 2013. This enables progress against milestones to be independently assessed and end of year financial results for 2012/13 to be known prior to the appraisal. It is therefore proposed that the General Manager's performance is assessed in August 2012.

Consultation

Internal Council business units have been consulted including:-

- All Group Managers and relevant Service Unit Managers

Financial Impact

Most of these objectives have been allowed for in the Councils 2012/13 Operational Plan. Those relating to recent Council resolutions (objective 8 and 10) will be reported to Council seperately once the scope and costs of these projects have been estimated. These reports will seek the appropriate funding for their implementation.

The delivery of all objectives will be subject to resources being available and the responsibility for their implementation remaining in the General Managers control.

Conclusion

The setting of the General Manager's objectives establishes organisational priorities for 2012/13. These objectives have been developed to further build the capacity of the organisation to deliver the City of Ryde's Vision and Mission.

ITEM 17 (continued)

ATTACHMENT 1

Page 1 of 8

Proposed Performance Objectives for 2012/13 for Review in August 2013

The following objectives are proposed (subject to Council agreement) to be appropriately resourced in keeping with our Four Year Delivery Plan, Annual Operating Plan and quarterly adjustments as required.

I will be considered effective, subject to the responsibility remaining within my control when the following objectives are achieved.

Performance Objective No 1

Community Information and Engagement

1. To establish a Community Engagement Framework in collaboration with the Citizen Engagement Advisory Committee which will address the following by June 2013:
 - Provide options for greater engagement by all residents in civic affairs across the City of Ryde.
 - Improve the information flow between Council, ratepayers and residents.
 - Increase the level of quality advice to Council staff and Councillors. Shift the advisory committee focus from highly segmented, special interests to an integrated source of advice and feedback which considers the complexity of Council's service delivery functions.
 - Improve community perception that they feel well informed, heard, valued and involved in the future of their city.
 - Address the Advisory Committee structural framework to include Climate Change and Sustainability, Bushcare and any other gaps.
2. To review and upgrade the City of Ryde website by July 2013 including:
 - the implementation of a new Content Management System (CMS)
 - transfer of existing CMS functionality
 - transfer of content, images, documents from the existing CMS into the new CMS.
3. To review the operation of the Ryde City View Newsletter and implement a new more effective approach by December 2013.

Project Breakdown

Project 1.1: Community Engagement Framework

Project 1.2: City of Ryde Website

Project 1.3: City of Ryde Newsletter

ITEM 17 (continued)

ATTACHMENT 1

Performance Objective No 2

Corporate Capability Plan

To implement the Corporate Capability Plan projects to further enhance the Corporate Capacity of the organisation, including the following projects:

1. Council's Land Register development
 - To complete an audit of Council's Land Register to ensure that all Certificates of Title for Council land are held within the Records section with copies in TRIM by September 2013.
2. To deliver Information Technology Renewals in accordance with the IS Plan so that:
 - a Standard Operating Environment is established across Council for implementation by June 2013
 - PCs are replaced in the following six (6) areas by August 2013:
 - Community Life (excluding Library)
 - Customer Services
 - LIS/IT
 - Environment and Planning
 - Finance
 - Public Works
 - To complete the retendering of Council's Telecommunications Contract by February 2013.
3. Implement Stage 2 of the Geospatial Programme Integration Management System (GPIMS) project, including field trials and mobile applications for our parks and gardens and sports fields staff to improve efficiencies in work deployment by July 2013.
4. To select the best possible, quality assured Customer Request Management (CRM) Process and System for defined external service accountabilities by July 2013.
5. To develop a standard format for Service Level Agreements between internal purchasers and providers by April 2013.
6. To develop and utilize a redesigned, comprehensive performance appraisal system for all staff. The performance appraisal system will measure performance against delivery of agreed job plans and annually and will appraise staff accordingly by September 2013.

Project Breakdown

Project 2.1:	Council's Land Register development
Project 2.2:	Information Technology Renewals
Project 2.3:	Completion of Stage Two of Geospatial Program Integration Management System (GPIMS)
Project 2.4:	Customer Request Management (CRM) Process and System
Project 2.5:	Agreed Service Level Agreement (SLA) template
Project 2.6:	Improving Performance Appraisal Process for all staff

ITEM 17 (continued)

ATTACHMENT 1

Performance Objective No 3

Improve our Planning Instruments

To improve the planning instruments for the City of Ryde including:

- Submission of the Draft Comprehensive LEP for City of Ryde to the Department of Planning and Infrastructure by June 2013.
- Development and implementation of a new Section 94 Contributions Plan by December 2013.

Project Breakdown

Project 3.1: Comprehensive LEP for City of Ryde

Project 3.2: Section 94 Contributions Plan

Performance Objective No 4

Improving Open Space and Sportfields capacity

To improve the open space and sportsfields capacity through the following projects by August 2013:

- Sportsfield Floodlighting Expansion
- Sportsfield Renewal and Upgrade
- Playground Construction and Renewal
- Livvi's Place at Yamble Reserve

Project Breakdown

Project 4.1: Sportsfield Floodlighting Expansion program to install flood lighting in sportsgrounds managed by the City of Ryde

Project 4.2: Sportsfield Renewal and Upgrade of our turf fields to provide safe and sustainable playing surfaces

Project 4.3: Playground Construction and Renewal, providing and maintaining playgrounds in our City

Project 4.4: Completion of Livvi's Place at Yamble Reserve

ITEM 17 (continued)

ATTACHMENT 1

Page 4 of 8

Performance Objective No 5

Best Value Review of Recruitment and Selection processes

To conduct a best value review of our current recruitment and selection practices with a view to streamline this process and strengthen our brand in the employment market. This will include a review of recruitment policies, advertising, job applications selection processes and candidate selection by August 2013.

Project Breakdown

Project 5.1: Best Value Review of Recruitment and Selection

Performance Objective No 6

Improving Workplace Culture

To conduct workshops and establish priority areas and action plans across the organisation for inclusion in each service unit's Business Plans in response to results of the 2012 climate survey by August 2013.

Project Breakdown

Project 6.1: Improving Workplace Culture

ITEM 17 (continued)

ATTACHMENT 1



Performance Objective No 7

Financial Management

The 2012/13 budget for base expenditure and delivery of affordable capital and non capital works is developed with input from staff and Councillors and approved by the due date.

Once established, tight fiscal control will ensure that by June 2013 the budgets will be delivered in accordance with each quarterly variation. The budget will be developed in consideration of the likely revenue sources for Council, whilst keeping the pressures for expenditure growth to within acceptable limits over the next four years.

The budget will be presented to Council by program and will ensure that Council's:

- adopted Four Year Delivery Plan aligns to its Strategic Plan by Outcome and Program area
- staff establishment (EFT) remains within Council's previously adopted limits
- controllable costs are kept within CPI limits
- non controllable costs are fairly estimated
- appropriate sources of revenue will be conservatively estimated according to the likely level of achievement.

Project Breakdown

Project 7.1: Financial Management



ITEM 17 (continued)

ATTACHMENT 1

Performance Objective No 8

Refurbishment of the Civic Precinct Administration Building and Civic Hall

To implement Council's resolution of 13 November 2012 regarding the Civic Precinct Works program by May 2013.

"That:

- a. Council staff immediately develop a project plan to expedite the rezoning of the Civic Centre site back to RL91 with a density of 60,000sq metres and to be zoned SP2 community use through a planning proposal.*
- b. Council staff prepare a list of priority maintenance required at the Civic Centre – using the existing building condition reports. This priority list is to be based on Workplace Health and Safety issues. This list is to be considered in the context of the 4 year delivery plan.*
- c. Council staff prepare an outline of the communications program which will be associated with items (a) and (b).*
- d. Items (a) and (b) be developed using in-house expertise. Any involvement of consultants is to be subject to appropriate tendering processes for those services and only undertaken after consideration and direction from Council on the priority action areas.*
- e. That a further report be provided back to Council to update Council on all actions detailed in parts (a) to (d) by May 2013".*

Project Breakdown

Project 8.1: Refurbishment of the Civic Precinct Administration Building and Civic Hall

ITEM 17 (continued)

ATTACHMENT 1

Performance Objective No 9

Governance: - Complying with Legislative Requirements

To ensure that Council meets its legislative requirements pertaining to the first year of Council's term by September 2013. This will include:

1. Delivery of a Councillor Induction Program – to complete a detailed induction process for Councillors which equips them to fulfil their duties.
2. Review of the General Manager's delegations
3. Review of the Organisation Structure
4. Review of the Community Strategic Plan with the new Council to ensure it continues to capture the communities' aspirations as indicated by the Perception Survey results.
5. Review of the Resourcing Plan, including the Asset Management Plan, Workforce Plan and Long-term Financial Plan
6. Code of Conduct Review.

Project Breakdown

Project 9.1: Delivery of Councillor Induction Program

Project 9.2: Review of General Manager's Delegations

Project 9.3: Review of Organisation Structure

Project 9.4: Review of Community Strategic Plan with new Council

Project 9.5: Review of Resourcing Plan

Project 9.6: Code of Conduct Review

ITEM 17 (continued)

ATTACHMENT 1

Page 8 of 8

Performance Objective No 10

Audit of the Procurement System

To implement Council's resolution of 13 November to review the procurement system by July 2013.

"That the General Manager be delegated to conduct an independent review of City of Ryde procurement processes, in general covering all areas".

Project Breakdown

Project 10.1: Audit of the Procurement System

PRECIS OF CORRESPONDENCE

1 HOUSING ACCELERATION FUND TO ASSIST IN FUNDING LOCAL INFRASTRUCTURE

Report prepared by: Manager - Urban Planning

File No.: UPS2008/20/009 - BP12/1328

CORRESPONDENCE:

Submitting correspondence from Department of Planning and Infrastructure, dated 30 October 2012, regarding the Housing Acceleration Fund.

Under the current provisions of the City of Ryde Development Contributions Plan, Council is not eligible to apply to this Fund as the City's contribution rates for residential development does not exceed \$20,000 and the current Contributions Plan adopted by Council in 2007 has not been required to be submitted and reviewed by the Independent Pricing and Regulatory Tribunal.

Future funding under this Fund may be available for areas within Macquarie Park such as the Herring Road Precinct, as this area is being considered for inclusion under the Urban Activation Precinct Program nominated by Council and to be managed jointly with the Department of Planning and Infrastructure.

RECOMMENDATION:

That the correspondence be received and noted.

ATTACHMENTS

- 1 Housing acceleration fund to assist in funding local infrastructure, Advice, Andrew Jackson

Report Prepared By:

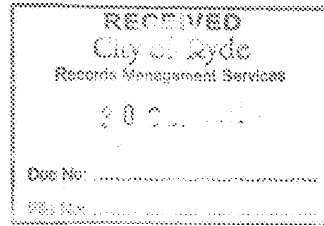
Meryl Bishop
Manager - Urban Planning

Report Approved By:

Dominic Johnson
Group Manager - Environment & Planning

Precis of Correspondence 1 (continued)

ATTACHMENT 1



12/16710

Mr John Neish
Ryde City Council
Locked Bag 2069
NORTH RYDE NSW 1670

Dear Mr Neish

HOUSING ACCELERATION FUND TO ASSIST IN FUNDING LOCAL INFRASTRUCTURE

As part of the 2012/2013 NSW State Budget, the \$481 million Housing Acceleration Fund (HAF) was established to invest in the infrastructure needed to support housing across NSW.

Amongst other things, the HAF will be used to assist councils where the cost of delivering essential local infrastructure is greater than the amount that they can collect through Section 94 contributions. This funding will replace the Priority Infrastructure Fund (PIF).

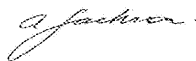
NSW Councils will need to apply to access the funding, which will be available on the basis of development consents granted. The specific details of the application requirements and process are still to be determined, however Councils eligible to apply for funding through the HAF are to have:

- local contributions plans with a development contribution level per residential lot or per dwelling that exceeds the \$30,000 cap for greenfield areas or the \$20,000 cap for all other areas;
- submitted relevant contributions plans to the Independent Pricing and Regulatory Tribunal (IPART) for review in accordance with the Environmental Planning and Assessment Regulation 2000 and the Department of Planning's Practice Note for Assessment of Local Contributions Plans by IPART; and
- received IPART's advice on the appropriate development contribution level for that plan.

The HAF is an interim funding measure which will operate until the current review of the EP&A Act identifies the long-term system for infrastructure funding.

For further information please email haf@planning.nsw.gov.au.

Yours sincerely



Andrew Jackson
A/ Deputy Director General

Bridge St Office 23-33 Bridge St Sydney NSW 2000 GPO Box 39 Sydney NSW 2001 DX 22 Sydney
Telephone: (02) 9228 6111 Facsimile: (02) 9228 6191 Website planning.nsw.gov.au

2 MEADOWBANK FINE ARTS COLLEGE

Report prepared by: Meeting Support Coordinator

File No.: CLM/12/1/4/11 - BP12/1377

CORRESPONDENCE:

Submitting the following correspondence:

1. Letter from The Honourable Victor Dominello MP dated 9 November 2012 which attaches a letter to the Minister for Education, The Honourable Adrian Piccoli MP regarding the Meadowbank Fine Arts College.
2. Acknowledgement letter from Jeremy Hutton from the Office of the Minister for Education dated 14 November 2012 regarding the Meadowbank Fine Arts College.

RECOMMENDATION:

That the correspondence be received and noted.

ATTACHMENTS

- 1 Letter from the Honourable Victor Dominello MP dated 9 November 2012 attaching a letter to the Minister for Education
- 2 Acknowledgement letter from Jeremy Hutton from the Office of the Minister for Education dated 14 November 2012

Precis of Correspondence 2 (continued)

ATTACHMENT 1

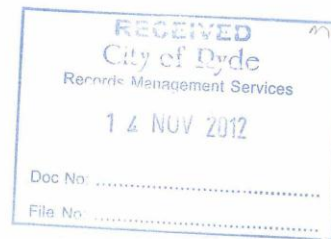


Victor Dominello MP
State Member for Ryde



Friday, 9 November 2012

Mr John Neish
General Manager
Ryde City Council
Locked Bag 2069
NORTH RYDE NSW 1670



Dear Mr Neish,

Thank you for taking the time to contact me in relation to the resolution from Ryde City Council dated 23 October 2012.

I have written to the Minister for Education asking that he responds to your concerns. Attached is a copy of this correspondence for your records.

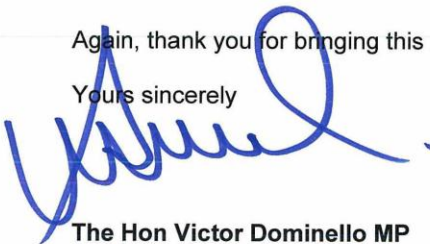
I have asked the Minister to liaise directly with you in relation to your concerns.

As you may appreciate, ministerial offices often have large volumes of correspondence to process, so it may take some time to obtain a written response. If you do not hear back from the Minister within eight weeks please do not hesitate to contact my office again, preferably by email or letter, and we will follow up on our initial correspondence.

In the meantime, please do not hesitate to call on me if I can help with this or any other matter.

Again, thank you for bringing this matter to my attention.

Yours sincerely



The Hon Victor Dominello MP
Member for Ryde

ATTACHMENT

Precis of Correspondence 2 (continued)

ATTACHMENT 1



Victor Dominello MP
State Member for Ryde



Friday, 9 November 2012

The Hon Adrian Piccoli MP
Minister for Education
Level 34 Governor Macquarie Tower
1 Farrer Place
SYDNEY NSW 2000

By Email: office@piccoli.minister.nsw.gov.au

Dear Minister



Re: Ryde City Council Resolution 23 October 2012 Meadowbank Fine Arts College

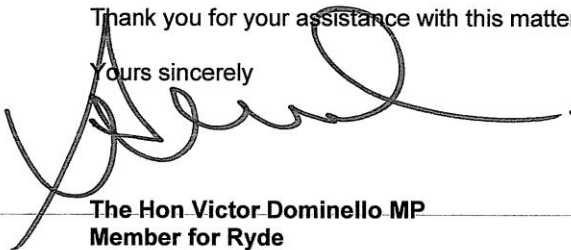
I write on behalf of my stakeholder, Ryde City Council, 1 Devlin Street, Ryde SNW 2112 in relation to the Council's resolution of 23 October 2012 regarding Meadowbank Fine Arts College.

I attach a copy of the General Manager, Mr John Neish's correspondence which sets out his/her situation in further detail.

I ask that your Department please respond to their concerns. I would appreciate it if you would please liaise directly with Mr Neish in relation to this matter and provide copies of any correspondence to my office for our records.

Thank you for your assistance with this matter. I look forward to your response.

Yours sincerely



The Hon Victor Dominello MP
Member for Ryde

cc. Mr John Neish, General Manager Ryde City Council 1 Devlin Street, Ryde NSW 2112

ATTACHMENT

Precis of Correspondence 2 (continued)

ATTACHMENT 2



The Hon. Adrian Piccoli MP
Minister for Education

Ms Danielle Dickson
Group Manager, Community Life
City of Ryde
Locked Bag 2069
NORTH RYDE NSW 1670

RML12/5641

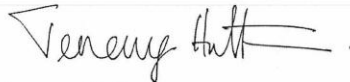
14 November 2012

Dear Ms Dickson

I write in response to your letter of 31 October 2012, to the Minister for Education.

The matters raised by you have been noted and are presently receiving attention.

Yours sincerely



Jeremy Hutton
Office of the Minister for Education



NOTICES OF MOTION

1 EFFECTIVENESS OF THE RYDE CITY VIEW - Councillor Roy Maggio

File Number: CLM/12/1/4/6 - BP12/1217

MOTION:

That the General Manager review the effectiveness of the Ryde City View as a means of communicating with ratepayers and presents a report to Council which examines options for wider and more effective communication with the Ryde community.

2 LGA CONFERENCE IN DUBBO - Councillor Bill Pickering

File Number: CLM/12/1/4/6 - BP12/1332

MOTION:

That the City of Ryde write to the Mayor of Dubbo and the LGA to congratulate them on the excellent conduct of the conference held in Dubbo. Specific mention needs to be made of the professional manner in which the conference was chaired to get through the business of the conference, the line-up of external speakers and the conduct of social activities.

3 COMMUNICATING APPOINTMENTS WITH COUNCILLORS - Councillor Roy Maggio

File Number: CLM/12/1/4/6 - BP12/1348

MOTION:

That Council review its method of communicating proposed appointments with Councillors. It is proposed that Council books meeting appointments and the programming of interviews through Councillors electronic calendars, so that Councillors can choose to accept, decline or amend proposed appointments to fit in with their existing schedules. This will provide Councillors with the opportunity to operate more efficiently by being able to access these appointments via mobile devices such as smart phones, electronic tables and laptop computers.

**4 ESTABLISHING A SISTER CITY RELATIONSHIP WITH THE RUSSIAN
FEDERATION REPUBLIC OF BASHKORDASTAN - Councillor Jeff
Salvestro-Martin**

File Number: CLM/12/1/4/6 - BP12/1386

MOTION:

That the General Manager investigate and report on the feasibility of establishing a Sister City relationship with the Russian Federation Republic of Bashkortostan specifically the City of UFA which is one of the leading technological, biotechnology, pharmaceutical and educational precincts within Russia and which has significant synergy with Ryde's Macquarie Park.

CONFIDENTIAL ITEMS

18 ALLENGROVE MAJOR PROJECT - LEGAL ADVICE RECEIVED ON OPTIONS TO APPEAL THE APPROVAL GRANTED

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (g) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

Report prepared by: Client Manager
File No.: MIN2010/10 - BP12/1265
Page: 604

19 ADVICE ON COURT ACTIONS

Confidential

This item is classified CONFIDENTIAL under Section 10A(2) of the Local Government Act, 1993, which permits the meeting to be closed to the public for business relating to the following: (g) advice concerning litigation, or advice as comprises a discussion of this matter, that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

This matter is classified confidential because it contains advice concerning legal matters that are:-

- (a) substantial issues relating to a matter to which the Council is involved.
- (b) clearly identified in the advice, and
- (c) fully discussed in that advice.

It is not in the public interest to reveal all details of this matter as it would prejudice Council's position in any court proceedings.

Report prepared by: General Counsel, Public Officer
File No.: GRP/12/5/5/5 - BP12/1308
Page: 625