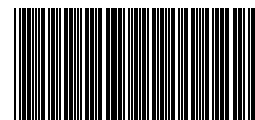




Filed: 31 January 2022 6:18 PM



D0001IR692

Form 20
UCPR 6.2

NOTICE OF MOTION

COURT DETAILS

Court	Land and Environment Court of NSW
Division	Class 1
Registry	Land and Environment Court Sydney
Case number	2021/00216311

TITLE OF PROCEEDINGS

First Applicant	SASCO DEVELOPMENTS PTY LIMITED ABN 75096524195
First Respondent	City of Ryde Council ABN 81621292610

FILING DETAILS

Filed for	SASCO DEVELOPMENTS PTY LIMITED, Applicant 1
Legal representative	Matt Sonter
Legal representative reference	
Telephone	02 8035 7851

NOTICE OF LISTING

If this Notice of Motion has been listed, a Notice of Listing must be attached and served with the Notice of Motion.

ATTACHMENT DETAILS

In accordance with Part 3 of the UCPR, this coversheet confirms that both the Notice of Motions (Chambers) (e-Services), along with any other documents listed below, were filed by the Court.

Notice of Motion (UCPR 20) (NOM dated 31 January 2022.pdf)
Affidavit (Affidavit of Shivangi Bhargava dated 31 January 2022.pdf)

[attach.]

Form 20 (version 3)
UCPR 18.1 and 18.3

NOTICE OF MOTION

COURT DETAILS

Court	Land and Environment Court of New South Wales
Class	1
Case number	2021/216311

TITLE OF PROCEEDINGS

Applicant	Sasco Developments Pty Ltd
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Respondent	City of Ryde Council
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FILING DETAILS

Filed for	Sasco Developments Pty Ltd , Applicant	
Legal representative	Matt Sonter Mills Oakley Level 7, 151 Clarence Street Sydney NSW 2000	
Legal representative reference	MDSS/SZBS/3527295	
Contact name and telephone	Shivi Bhargava	02 8289 5884
Contact email	sbhargava@millsoakley.com.au	

PERSON AFFECTED BY ORDERS SOUGHT

Sasco Developments Pty Ltd, Applicant and **City of Ryde Council**, Respondent

HEARING DETAILS

This motion is listed at **9:00am** on

ORDERS SOUGHT

The Court notes that:

1. The Respondent, City of Ryde Council, as the relevant consent authority, has agreed under clause 55(1) of the *Environmental Planning and Assessment Regulation 2000* to the Applicant amending the Development Application LDA2020/0199 filed with the Court on 31 January 2022 by Notice of Motion and Exhibit SB-1.

The Court directs that:

2. The Respondent, City of Ryde Council, as the relevant consent authority, is to lodge the amendment to the development application on the NSW planning portal within 7 days of the date of this order and notify the Applicant and the Court after it has been lodged.
3. The Applicant is to file a copy of the amended application within 7 days after the Respondent has notified the Applicant that the amendments has been lodged on the NSW planning portal.
4. In the event the Respondent is unable to lodge the amended application the NSW planning portal as directed in (3) above, the Respondent is to notify the Court via Online Court as soon as possible but no later than 14 days after the date of the order and request for the matter to be relisted for further directions.
5. The Applicant is to pay the Respondent's costs 'thrown away' in accordance with s8.15(3) of the *Environmental Planning and Assessment Act 1979* as a result of this amendment, as agreed or assessed.
6. The Notice of Motion filed 31 January 2022 is granted.
7. Any other order the Court sees fit.

SIGNATURE

Signature of legal representative

Capacity

Date of signature



Solicitor

31 January 2022

NOTICE TO PERSON AFFECTED BY ORDERS SOUGHT

If you do not attend, the court may hear the motion and make orders, including orders for costs, in your absence.

REGISTRY ADDRESS

Street address

The Land and Environment Court of NSW
Level 4, 225 Macquarie Street
Windeyer Chambers
Sydney NSW 2000

Postal address

GPO Box 3565
SYDNEY NSW 2001

Telephone

02 9113 8200

Sasco Developments Pty Ltd v City of Ryde Council
Land and Environment Court Proceedings 2021/216311
Index to Exhibit 'SB-1'

TAB	DOCUMENT	DATE
1.	Schedule of amendments prepared by Curzon and Partners	January 2022
2.	Amended Architectural Plans prepared by Curzon and Partners	11 January 2022
3.	Civil Engineering Plans prepared by Alpha Engineering and Development	January 2022
4.	Amended Landscape Plans prepared by Landscape Architecture Pty Ltd	28 January 2022
5.	Amended Transport Assessment and swept paths prepared by The Transport Planning Partnership	23 November 2021
6.	Traffic review of Faraday Lane connection prepared by Colston Rudd Rogers & Kafes Pty Ltd	1 December 2021
7.	Clause 4.6 variation request (Floor Space Ratio) prepared by Planning Ingenuity	30 November 2021
8.	Arborist report prepared by Tree and Landscape Consultants	1 November 2021

Form 40 (version 3)
UCPR 35.1

AFFIDAVIT OF SHIVANGI BHARGAVA **AFFIRMED 31 JANUARY 2022**

COURT DETAILS

Court	Land and Environment Court of New South Wales
Class	1
Case number	2021/216311

TITLE OF PROCEEDINGS

Applicant	Sasco Developments Pty Ltd
Respondent	City of Ryde Council

FILING DETAILS

Filed for	Sasco Developments Pty Ltd, Applicant	
Legal representative	Matt Sonter Mills Oakley Level 7, 151 Clarence Street Sydney NSW 2000	
Legal representative reference	MDSS/SZBS/3527295	
Contact name and telephone	Shivi Bhargava	02 8289 5884
Contact email	sbhargava@millsoakley.com.au	

AFFIDAVIT DETAILS

Name	Shivangi Bhargava
Address	Level 7, 151 Clarence St, Sydney
Occupation	Solicitor
Date	31 January 2022

I, Shivangi Bhargava, affirm:

1. I am the solicitor assisting the solicitor on the record for the Applicant in this matter and have day to day carriage.
2. In preparing this affidavit, I have had discussions with the Applicant and its consultants, and to the best of my knowledge, information and belief, the contents of this affidavit are true and correct.
3. Exhibited to me at the time of affirming this affidavit was a bundle of documents called 'Exhibit SB-1' which contains the amended documentation the subject of the Applicant's notice of motion (**Exhibit**).

Background

4. The proceedings are an appeal against the Respondent's refusal of Development Application LDA2020/0199 which seeks consent for:
 - (a) the demolition of existing structures;
 - (b) constructions of a mixed-use development comprising four 6 or 7 storey buildings containing 133 apartments, 162 boarding rooms and commercial floor space with basement parking;at 1-20 Railway Road and 50 Constitution Road, Meadowbank (**Development Application**).
5. On 29 July 2021, the Applicant filed these Class 1 proceedings appealing the Respondent's refusal of the Development Application.
6. On 8 September 2021, the Respondent filed its statement of facts and contentions in relation to the Development Application (**SOFC**).
7. On 8 November 2021, the parties attended a section 34 conference, which was subsequently terminated by Commissioner Bindon on the same day.
8. On 16 November 2021, the proceedings were listed for a hearing on 29 - 31 March 2022.

The circumstances giving rise to the need to amend the Development Application



9. The parties have been engaged in without prejudice discussions prior to and after the s34 conference for which the timeline is as follows:
- (a) On 8 October 2021, the Applicant sent without prejudice documents to the Respondent for the parties' discussion at the without prejudice meeting.
 - (b) On 14 October 2021, the parties held a without prejudice meeting.
 - (c) On 17 November 2021 and following the s34 conference, the Respondent provided feedback to the Applicant with regard to traffic and urban design.
 - (d) On 3 December 2021, Applicant gave the Respondent detailed amended documents including architectural plans, landscape plans, civil engineering plans, a clause 4.6 request and amended traffic advice in response to the Respondent's feedback.
 - (e) On 22 December 2021, the Respondent provided further feedback in relation to the latest architectural plans.
10. I am instructed by the Applicant's architect, Mr Mark Curzon, that the amendments have arisen in direct response to the feedback received from the Respondent during and after the s34 conference.

Respondent's contentions

11. In summary, the Respondent has raised the following contentions in relation to the Development Application currently before the Court:

Contentions that the development should be refused

- (a) adverse traffic impacts;
- (b) excessive floor space ratio;
- (c) excessive building height;
- (d) non-compliance with the design quality principles under the *State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development*;
- (e) inadequate landscaping; and
- (f) unsatisfactory private open space – boarding house manager's residence;

Contentions involving insufficient information

- (g) landscaping; and



(h) arboricultural impacts.

The proposed amendments

12. I am instructed by Mr Curzon that the main amendments made to the proposed development include the following (**Amended Application**):

- (a) addition of entry steps to allow street access to ground floor units A1, 108, C1 107 and B1 106;
- (b) provision of additional landscaping along the frontage of B1 106;
- (c) street activation to Faraday Lane through additional planting and ground floor entries;
- (d) reduction of privacy screens to units located on levels 2 – 6 on the north western corner of Building A;
- (e) provision of angled louvres to units in Buildings A and B on levels 5 and 6; and
- (f) conversion of balconies on the upper levels to non-trafficable roofs.

13. A full list of the amendments is set out in the Schedule of Amendments prepared by Curzon Partners dated January 2022 at **Tab 1** of the Exhibit.

14. In support of the Amended Application, the Applicant seeks leave to rely on the following documents contained in the Exhibit:

- (a) amended architectural plans prepared by Curzon and Partners dated January 2022;
- (b) civil engineering plans prepared by Alpha Engineering and Development dated January 2022;
- (c) amended landscape plans prepared by Landscape Architecture Pty Ltd dated 28 January 2022;
- (d) amended transport assessment and swept paths prepared by The Transport Planning Partnership dated 23 November 2021;
- (e) traffic review of Faraday Lane connection prepared by Colston Rudd Rogers & Kafes Pty Ltd dated 1 December 2021;
- (f) clause 4.6 variation request (Floor Space Ratio) prepared by Planning Ingenuity dated 30 November 2021; and
- (g) arborist report prepared by Tree and Landscape Consultants dated 1 November 2021



15. The documents listed at paragraph 14 are at **Tabs 2 – 8** of the Exhibit.

Reduction in environmental impact and improved community outcome

16. I have reviewed the amended documentation that comprise the Amended Application and consider that the proposed amendments outlined in paragraph 12 above will result in a reduced environmental impact and an improved community outcome for the proposed development in the following respects:

- (a) improved public domain interface through the provision of direct street access from Faraday Lane;
- (b) increased visual privacy and screening due to the additional landscaping along Underdale Lane and Faraday Lane;
- (c) improved amenity for future occupants as a result of the removal of balconies on the upper levels and addition of angled privacy louvres; and
- (d) certainty with regard to the arboricultural impacts and traffic generation.

Hearing dates

17. The matter is listed for a hearing on **29, 30 and 31 March 2022**.

18. The proposed amendments have arisen in response to the Respondent's contentions and discussions between the parties prior to, during and after, the section 34 conference.

19. I have reviewed the hearing timetable and consider there to be sufficient time prior to the hearing for any renotification and preparation of amended contentions. Accordingly, I do not consider that the hearing dates will be affected should leave be granted to rely on the amended documentation.

Just, quick and cheap resolution of the proceedings

20. The amendments have been prepared directly in response to the Respondent's SOFC and assessment of the Development Application.

21. Granting leave to the Applicant to rely on the Amended Application will likely result in the reduction of the number and scope of issues in dispute between the parties and ought to promote the just, quick and cheap resolution of the proceedings.



Costs

22. I have reviewed the amended documents and consider that the amendments to the Development Application are more than minor.

23. I am instructed that the Applicant will accept a direction to pay the Respondent's costs 'thrown away' as a result of this amendment in accordance with section 8.15(3) of the *Environmental Planning and Assessment Act 1979* as agreed or assessed.

AFFIRMED at

SYDNEY

Signature of deponent



Name of witness

Catharine Maghara

Address of witness

Level 7
151 Clarence Street,
Sydney NSW 2000

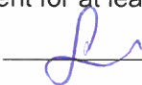
Capacity of witness

Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

1. I saw the face of the deponent.
2. I have known the deponent for at least 12 months.

Signature of witness



Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.