

JRPP No.	2010SYE039
DA No.	LDA2010/0331
Proposed Development:	Demolition of existing buildings and construction of 2 x 6 storey mixed use residential and commercial buildings and strata subdivision – 2 Porter Street, Ryde
Applicant:	Brooks Projects Architects
Report By:	Sandra Bailey – RYDE CITY COUNCIL

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

The following report is an assessment of a development application for the demolition of all existing buildings and the construction of 2 x 6 storey mixed use residential and commercial buildings and strata subdivision at 2-4 Porter Street and 80 Belmore Street, Ryde. As the application has a capital investment value in excess of \$10 million, the development is of regional significance under the provisions of State Environmental Planning Policy (Major Developments 2005). The consent authority for the purposes of determining the subject application is the Sydney East Region Joint Regional Planning Panel.

The development fails to comply with the height control as specified in the Ryde Local Environmental Plan 2010. However the variation is supported as the development is consistent with the existing character of the locality as well as the desired future character of the area and results in minimal impacts to adjacent development. The development also fails to comply with the building separation and open space requirements as specified in the Residential Flat Design Code. These variations however are considered acceptable in the circumstances of the case.

In accordance with Section 93F of the Environmental Planning and Assessment Act, 1979, a Voluntary Planning Agreement (VPA) has also been submitted with this application. The VPA proposes public benefit via the provision of a public walkway between Porter Street and Belmore Street, upgrading the public domain including the undergrounding of power lines beyond the frontage of the site and a monetary contribution of \$600,000. Council has resolved to enter into this VPA with the Developer.

During the notification period, no submissions were received.

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

2. SITE DESCRIPTION

The subject site is known as 2-4 Porter Street and 80 Belmore Street, Ryde and the legal description of the land is Lot 12 in Deposited Plan 4481 and Lot 1 in Deposited Plan 776768. It has two street frontages, one to Porter Street

as well as one to Belmore Street. The frontage to Porter Street is 40.235 metres and the frontage to Belmore Street is 20.115 metres. The site area is approximately 2863 square metres. The location of the site is demonstrated in Figure 1.



Figure 1: The site is highlighted in red. This diagram demonstrates the variety of land uses such as high density residential, industrial, schools and dwelling houses currently in the immediate area.

The character of Meadowbank is evolving from an industrial area to a predominantly residential area. On the subject site and in the vicinity of the site there are a large number of post World War Two industrial buildings which are characterised by large footprint, low rise industrial buildings. The building on 2-4 Porter Street is a single storey brick and fibro factory unit complex which contains 7 factory units. A part single storey and part two building is located on 80 Belmore Street. These buildings are demonstrated in the following photos.

Medium density residential buildings which include retail and commercial components are now a significant land use and are mostly located near the foreshore. The built forms of these newer buildings vary in height from 4 to 7 storeys with a stepping down to the water.

The land to the immediate south of the site is known as 82-84 Belmore Street and contains a mixed residential / commercial complex containing 4 separate buildings which is currently nearing completion. The two buildings adjacent to the site are both 7 storeys in height.

The land to the immediate north accommodates The Crowle Foundation Limited, which provides services for people with an intellectual disability. There are numerous buildings on this site, one of which is a dwelling house that has been identified as a heritage item in Ryde Local Environmental Plan 2010. Immediately adjoining the site there are single storey buildings.



2-4 Porter Street – This photograph demonstrates the existing building at 2-4 Porter Street. The 7 storey mixed use development on the adjoining southern property at 82-84 Belmore Street is also visible.



80 Belmore Street – This photograph also demonstrates the existing building at 80 Belmore Street. The photograph also shows the 7 storey mixed use development on the adjoining southern property at 82-84 Belmore Street.

There is no significant vegetation on the site.

Along the Porter Street frontage the land falls by 1.45 metres from its northern boundary to its southern boundary. This represents a grade of 3.6%. The Belmore Street front is relatively level.

3. PROPOSAL

The development proposes the following works:

- Demolition of the existing buildings on the site.
- The construction of 2 x 6 storey mixed use residential / commercial buildings. Beneath these buildings will be 2 levels of basement car parking that will accommodate car parking for 111 vehicles. Ingress and egress to the basement car parking will be via Porter Street. A roller shutter is proposed along the Porter Street elevation.

Both buildings will be 6 storeys in height. The ground floor of the buildings will contain commercial tenancies as well as residential units. The commercial tenancies will be equivalent to 647m² and will provide active frontages to both Porter Street and Belmore Street. A total of four residential units will also be located on the ground floor. One of these will be in the building facing Belmore Street and the remaining three units in the building facing Porter Street.

The upper levels of both buildings will contain a total of 57 residential units.

A total of 61 residential apartments are proposed in the two buildings consisting of 21 x 1 bedroom apartments, 35 x 2 bedroom apartments and 5 x 3 bedroom apartments.

Pedestrian access to the residential apartments will be via both Porter and Belmore Street. A pedestrian pathway is proposed adjacent to the northern boundary of the site to facilitate access between Porter Street and Belmore Street.

For the purposes of this report, the building adjacent to Porter Street will be known as Building A and the building adjacent to Belmore Street will be referred to as Building B.

- The strata subdivision of the development upon its completion.

Voluntary Planning Agreement

A Voluntary Planning Agreement (VPA) has been submitted with the development application. The VPA provides the following elements:

- The provision of a Section 88B right of way for public thoroughfare for pedestrians over a stratum lot approximately 499m² in size to be constructed to Council's public domain pedestrian standards;
- The maintenance of the finishes and plantings in the area of the stratum lot by the owner of the approved development in perpetuity or until the right of way is extinguished through agreement by both parties;
- Upgrade of Council's nature strip opposite the subject site adjoining Hayes Reserve and on both corners of the intersection of Constitution Road and Belmore Street in accordance with Council's requirements;
- The undergrounding of existing overhead power lines and the removal of existing power poles to both the Belmore Street and Porter Street frontages of the subject site;
- The payment of a monetary contribution of \$600,000 to Council prior to the issue of any Subdivision Certificate or any Occupation Certificate.

4. BACKGROUND

a. Existing Development Consent

Deferred commencement development consent was granted on 8 August 2007 for the construction of a 4 storey mixed residential / commercial development comprising of 24 dwellings, 3 commercial suites and basement parking for 61 vehicles. This consent became operational on 12 December 2007 and is valid until 8 August 2012.

The major differences between this application and the current proposal are summarised in the following table.

	Approved Development	Proposed Development
Height	The approved development was for two 4 storey buildings. The maximum RL of the buildings was as follows: Belmore St Building – RL35 Porter St Building – RL34.4	The proposed development still consists of 2 buildings but the height of each building has been increased to 6 storeys. The maximum RL of the buildings is as follows: Belmore St Building – RL40 Porter St Building – RL39.65
Landuse	The approved development contained 1065m ² of commercial floor space on the ground floor of the buildings. A total of 24 residential apartments were approved consisting of: 4x1 bedroom apartments 9x2 bedroom apartments 11x3 bedroom apartments.	A total of 647m ² of commercial floor space is proposed on the ground floor. 4 residential units are also located on the ground floor. A total of 61 apartments are proposed consisting of: 21x1 bedroom apartments 35x2 bedroom apartments 5x3 bedroom apartments.
Car Parking	61 car parking spaces were approved within 1 level of basement car parking at RL17.85.	A total of 111 car parking spaces are proposed within two levels of basement car parking. The levels of the basement car park are RL17 and RL14.3. The length of the driveway has been reduced by increasing the gradient of the driveway.
Footprint		Both developments have a similar footprint, however the footprint of the proposed development is larger than the previous approved development. The depth of both buildings has increased as well as the waste storage area and fire stairs being located within the setback area along the southern boundary.
Pedestrian Walkway	The approved development proposed a through site walkway along the northern boundary. The width varied between 3 and 5 metres. A condition of consent required a right of way or easement to be registered on the title of the land.	As part of the VPA, it is proposed to prepare a Section 88B right of way for a public thoroughfare along the northern side boundary. The width of the walkway varies from 4 to 5 metres. The walkway would be constructed to Council's public domain requirements.

b. Relevant Background for the Current Development Application

The current development application was lodged on 12 July 2010.

Following an initial assessment of the development application, a letter was sent to the applicant on 16 August 2010. At this time the Voluntary Planning Agreement was still being considered by Council's Officers and the applicant was advised that this would be discussed under separate cover. The following matters were raised with the applicant:

- Greater setbacks were requested for the upper level of the building.
- Additional information was required in respect of overshadowing.
- The location of the loading dock and service area was requested to be relocated to the basement.
- Details of the type of material proposed for the awning was requested.
- Details were requested in respect of the landscaping plan.
- Details were requested to demonstrate how privacy would be maintained for the ground floor units.
- The applicant was requested to provide details of the proposed public art.
- The applicant was requested to provide an acoustic report to demonstrate compliance with DCP requirements.

On the 31 August 2010 an email was sent to the applicant in respect of the engineering plans. These plans proposed a diversion channel within the 1 metre wide planter box strip adjacent to the walkway which will connect Porter Street and Belmore Street. This diversion channel resulted in the width of the planter box being significantly reduced or eliminated. The applicant was requested to find an alternative engineering solution.

Amended plans were submitted on 15 September 2010. These plans proposed the following changes:

- The loading areas has been relocated to the basement. This resulted in a longer ramp to gain a greater clearance and a reduction in the size of one of the ground floor units in the Porter Street building. Access to the waste room is now via the front of the Porter Street building.
- The ground floor of the Porter Street building has been lowered by 200mm in order to achieve an acceptable floor to ceiling height.
- The basement plan has been amended to reflect the changes to the driveway and the provision of a deliveries and emergency vehicle space.
- Level 6 of the Porter Street building has been amended. The setback of this level to Porter Street has been increased from 8m to 8.5m. the setback to the SW boundary has been increased from 5.5m to 9.35m. A terrace has been deleted from the NE elevation. As a result of the greater setbacks, the layout of the 3 units on this level have been modified however the mix has remained the same.
- Level 6 of the Belmore Street building has been amended. Increased setbacks have been provided on the SW boundary. As a result of the greater setbacks, the layout of the 2 units on this level has been modified however the mix has remained the same.

Revised engineering plans were submitted on 29th September 2010. The Acoustic Report and revised landscaping plan were submitted on 3 November 2010.

Following negotiations with the applicant, the VPA was considered by Council on 1 March 2011. At this meeting Council resolved as follows:

- a) That Council support 'in principle' the Voluntary Planning Agreement Offer made by Brooks Projects Pty. Ltd. As part of the Development Application LDA2010/331 at 2-4 Porter Street and 80 Belmore Street, Ryde for the construction and subdivision of two six storey mixed use residential/commercial buildings.
- b) That the above be communicated to the Joint Regional Planning Panel at the time of determination of the application
- c) That the Group Manager, Environment and Planning be delegated to finalise the Voluntary Planning Agreement with Brooks Projects Pty Ltd in accordance with the Letter of Offer dated 26 October 2010 and the applicable legal requirements under the Environmental Planning and Assessment Act, 1979.

c. Planning Controls

The City of Cities: Sydney Metropolitan Strategy, 2005 and its supporting sub-regional strategies provide a blueprint for accommodating population growth in the Sydney Metropolitan Region up to 2031. The Inner North Subregional Strategy allocates targets of 21,000 new dwellings by 2031 for the City of Ryde.

In response to the Inner North Subregional Strategy growth targets Council has completed a Centres and Corridors Study. This is also one of a number of background studies undertaken for the City of Ryde Local; Planning Strategy which will inform the new comprehensive local environmental plan (DLEP 2011).

The Centres and Corridors Study includes Meadowbank. In respect of Meadowbank, it has recommended that the draft DCP which was publicly exhibited in early 2008 form the basis of amended LEP controls and permit development between 4 and 6 storeys generally and 8 storeys on specific sites as well as FSRs to vary between 1.8:1 and 2.7:1.

The Centres and Corridors Study was considered by Council at its meeting held on 3 August 2010. At this meeting Council resolved the following:

- (a) That Council endorse the Centres and Corridors Study to proceed to targeted consultation with:
 - Landowners affected by changes recommended to planning controls as identified in Tables 1, 3 and 4 of the report of the Team Leader Strategic Planning dated 14 July 2010.

- Relevant City of Ryde Advisory Committees and Working groups

Subject to the Meadowbank Employment Area being restricted to a maximum of 6 storeys.

- (b) That the recommendations contained in the Centres and Corridors Study be used to Draft Comprehensive Local Environmental Plan 2011.
- (c) Following targeted consultation a further report be submitted to Council prior to the Centres and Corridors Study being publicly exhibited together with a Draft Local Environmental Plan.

The Centres and Corridors Study has identified that the site have a height control of 6 storeys and a Floor Space Ratio of 2.3:1.

5. APPLICABLE PLANNING CONTROLS

The following planning policies and controls are of relevance to the development:

- State Environmental Planning Policy (Major Developments) 2005;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development;
- State Environmental Planning Policy (Building Sustainability Index: BASIX);
- Deemed SEPP – Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Ryde Local Environmental Plan 2010; and
- Ryde Development Control Plan 2010.

6. PLANNING ASSESSMENT

6.2 State Environmental Planning Policy (Major Developments) 2005

The provisions of State Environmental Planning Policy (Major Developments) 2005 apply to the proposed development as the capital investment value is in excess of \$10 million. In accordance with the requirements of Section 13B(1)(a) of the SEPP, the application is defined as ‘regional development’. In this case the determining authority is the Joint Regional Planning Panel (Region East).

6.2 State Environmental Planning Policy No 55 – Remediation of Land

The requirements of State Planning Policy No. 55 – Remediation of Land apply to the subject site. In accordance with Clause 7 of SEPP 55, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The applicant has submitted a Stage 2 Detailed Contamination Assessment prepared by Geotechnique Pty Ltd with the development application. This assessment has concluded as follows:

“Based on this Stage 2 DCA and the previous PCA, it is considered that the site poses a potential risk of harm to human health and certain plants, but can be made environmentally suitable for the proposed commercial and residential unit development, through the following:

1. *Upon complete removal of all site features including buildings, structures and hard stands (concrete slab), inspection of the soils beneath these features should be carried out. The purpose of this is to ascertain the presence or otherwise, of “suspect” materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash particles, etc) and fill, which was different to those encountered during the DCA.*

Sampling and testing might be required. The type of testing on samples recovered from beneath these site features will depend on the materials (topsoil, natural soil, suspect materials or fill) encountered. The purpose of testing is to assess the contamination status of the materials.

2. *Carry out further contamination assessment (by sampling and testing) in order to delineate the lateral and vertical extents of Cu, Ni, Zn, Benzo(a)pyrene and Total PAH contamination, as well as aesthetically unacceptable materials and to determine the quantities of soils requiring remediation.*
3. *A Remedial Action Plan (RAP) should be prepared, providing details for remediation and validation.*
4. *The remediation options would include but not be limited to, off-site landfill disposal. Classification of the contaminated soils should be undertaken. Approval should be sought from an EPA licensed landfill, prior to disposal of the contaminated/concerned soils. Geotechnique can assist with the application if required.*
5. *Following remediation in accordance with the RAP, validation by sampling and testing must be carried out to ensure the success of remediation.”*

The report has been reviewed by Council’s Environmental Health Officer and is considered to be satisfactory. Appropriate conditions of consent have been imposed in respect to remediation. These conditions include the applicant being required to provide a site validation report which demonstrates that the site is suitable for the intended use. (See condition numbers 32, 33, 66 and 67).

6.2 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

This policy aims to improve the design quality of residential flat development in NSW. It recognises 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 SEPP 65. The following table provides an assessment of the development proposed against the 10 design principles of the SEPP.

Planning Principle	Comment	Compliance
Context Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area. 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.	The redevelopment of this site will be consistent with the desired future character for the precinct as identified in Part 4.2 of DCP 2010 – Meadowbank Employment Area – Master Plan as well as the Centres and Corridors Study recently adopted by the City of Ryde. The desired future character for this precinct is to incorporate mixed higher density residential and commercial / retail development. It is also consistent in terms of the massing and scale with the adjoining development to the south. The proposal offers an improved presentation to both Porter Street and Belmore Street as well as providing an important pedestrian link between the two streets.	Yes
Scale Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. 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.	The scale in terms of height is consistent with the adjoining development to the south and the height controls identified in the Centres and Corridors Study. Council's Urban Design Review Panel has also supported the scale and massing of the development. The height of the development is unlikely to adversely impact on the streetscape and the applicant has been able to demonstrate that it will have an acceptable impact on the amenity of the surrounding buildings. The bulk of the development is also considered to be acceptable given that the development achieves compliance with the objectives constrained in the RDFC.	Yes
Built Form 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	The building design has been modulated and articulated to provide interest in the design and assist in providing a building with acceptable bulk as well as highlighting that it contains residential as well as	Yes

Planning Principle	Comment	Compliance
<p>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>commercial uses.</p> <p>The built form combined with the VPA will provide a vital pedestrian link that has been identified in the various planning documents between Belmore Street and Porter Street. This link will form part of the public domain improvements in the locality.</p>	
<p>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 control or density control for the site. However, the density conforms to the scale of the adjoining development. The sites density is also considered appropriate given its proximity to the train station and ferry.</p> <p>The Centres and Corridors Study has recommended the introduction of a floor space ratio control being 2.3:1. The development has proposed a floor space ratio of 1.93:1. The proposed development is consistent with Council's future planning controls for the site.</p>	Yes
<p>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 provided a BASIX Certificate (No. 341746M dated 18 October 2010) which indicates that the residential component of the building will meet the energy and water use targets set by the BASIX SEPP.</p> <p>A waste management plan for the demolition of existing buildings has been submitted and is considered acceptable by Council's Environmental Health Officer.</p> <p>The design has also ensured the development will comply with the passive solar design principles, soil depth, cross ventilation and reuse of water as provided in the Residential Flat Design Code.</p> <p>The residential units on the ground floor can potentially be reused for other uses should they prove unviable.</p>	Yes
<p>Landscape</p> <p>Good design recognises that together landscape and buildings</p>	<p>The landscaping will assist in improving the aesthetics of the building as well as improving the amenity of the future</p>	Yes

Planning Principle	Comment	Compliance
<p>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 useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.</p>	<p>residents.</p> <p>Given that commercial uses are located on the ground floor and the need for these spaces to be visible from the street as well as providing appropriate pedestrian access the planting at the two street frontages is considered appropriate. 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 area for the residents.</p> <p>Each unit is also provided with a private balcony area sufficient for recreational use and amenity benefit.</p>	
<p>Amenity 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>The design and orientation of the units allows for sufficient level of amenity for occupants of the flat buildings and residents of surrounding properties. Units are practically laid out to provide for solar access, private open space, storage space and to minimise overlooking and noise impacts.</p> <p>The development complies with the controls contained in the Residential Flat Design Code in respect to apartment sizes, access to sunlight, ventilation, visual and acoustic privacy, storage layout and access requirements.</p>	Yes
<p>Safety and Security Good design optimises safety and security, both internal to the development and for the public domain.</p> <p>This is achieved by maximising overlooking of public and</p>	<p>The development is consistent with the CPTED principles as follows:</p> <ul style="list-style-type: none"> ➤ Clearly located entries to the residential and commercial uses. ➤ Constant passive surveillance of Belmore and Porter Street as well as the public walkway. ➤ Clear, well lit access from entry to 	Yes

Planning Principle	Comment	Compliance
<p>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>private lobbies. Each lobby also provides limited entries which will encourage familiarity between neighbours.</p> <p>➤ Clear definition between public and private spaces, with residents only able to access the residential domain.</p>	
<p>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.</p> <p>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.</p> <p>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.</p>	<p>The development will include the following housing mix:</p> <ul style="list-style-type: none"> • 21 x 1 bedroom apartments; • 35 x 2 bedroom apartments; • 5 x 3 bedroom apartments. <p>Given the limited size of the site it would be difficult to accommodate a greater mix on the site. This mix will result in an affordable range of housing which should attract single, couples and family occupants alike 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.</p>	Yes
<p>Aesthetics</p> <p>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.</p>	<p>The development has incorporated a variety of materials and finishes to assist in the massing of the building as well as providing differentiation between the uses and various elements within the development. The aesthetics respond to the desired future character of the area.</p>	Yes

Residential Flat Design Code

The SEPP also requires the Council to take into consideration the requirements of the Residential Flat Design Code. These matters have been raised in the following table.

Primary Development Control and Guidelines	Comments	Compliance
Part 01 – Local Context		
Building Height Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	There is no applicable floor space ratio for the site under the current planning controls. As part of the Centres and Corridors Study, it is proposed to introduce a FSR for Meadowbank. This control is 2.3:1. The development has proposed a FSR of 1.93:1 which does not exceed the control.	Yes
Building Depth In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose wider than 18m must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	None of the apartments exceed 18 metres in depth and each apartment achieves adequate day light and natural ventilation.	Yes
Building Separation Building separation for buildings up to 4 storeys should be: -12m between habitable rooms / balconies -9m between habitable / balconies and non-habitable rooms -6m between non-habitable rooms. Developments that propose less distance must demonstrate that adequate daylight access, urban form and visual and acoustic privacy has been achieved.	<p>The development has proposed a 20m separation between the 2 buildings on the site and exceeds the building separation requirements.</p> <p>The development will not comply with the building separation distances for the building to the south known as 82-84 Belmore Street. The controls aim to provide greater separation for larger buildings. The lower 4 storeys may be setback 12 metres between habitable rooms/ balconies and the upper 2 storeys should be separated 18m between habitable rooms / balconies.</p> <p>Building A will be separated from the adjoining building between 10.5m and 12.75m. Although it does not fully achieve the required setbacks, the design has allowed for adequate visual privacy between the buildings. Bedrooms and bathroom windows have been proposed along the south western elevation of the proposed building. The upper floor has proposed two terraces. The bedroom windows are high sill windows so overlooking will be limited. A condition of consent will be imposed to require the bathroom windows to be provided with obscure glazing. (See</p>	No. Variation acceptable.

	<p>condition number 53) The terraces have proposed a 1.5m high screen along the south western elevation. These measures will ensure that adequate visual privacy will be maintained in the development.</p> <p>As demonstrated further in the report, Building A will provide adequate daylight, urban form and acoustic privacy.</p> <p>Building B is separated between 5.75m and 7.7m from the adjoining building. However the 6 floor has greater separation distances due to this level being further setback from the boundary. (This ranges from 7.2m to 9.8m). This separation distance is a factor of the narrow width of this part of the site and the need to provide the pedestrian walkway between Belmore Street and Porter Street. The design has accommodated adequate visual privacy by providing no windows on the south western elevation of levels 2 to 5 and screenings to the terraces that are located on the south western elevation. 2 bedroom and 2 bathroom windows are proposed on the upper level, however the amenity of these rooms is unlikely to adversely affected due to the greater separation between the buildings. As demonstrated further in the report, Building B will provide adequate daylight, urban form and acoustic privacy.</p> <p>Despite not complying with the building separation distances, the development achieves the required objectives.</p>	
<p>Street Setbacks Identify the desired streetscape character. In general, no part of the building should encroach into a setback area.</p>	<p>The Meadowbank DCP requires a 5m setback to Porter Street and Belmore Street. The development complies with this requirement.</p>	<p>Yes</p>
<p>Side and Rear Setbacks Relate side setbacks to existing streetscape patterns. These controls should be developed in conjunction with building separation, open space and deep soil zone controls. In general, no part of the building should encroach into a setback area.</p>	<p>The Meadowbank DCP does not provide any requirement in terms of setbacks to the side boundaries. The development has proposed similar side setbacks as the adjoining residential flat building and the design has ensured that visual privacy and other amenity aspects have been adequately addressed.</p>	<p>Yes</p>

Floor Space Ratio Test the desired built form outcome against the proposed floor space ratio to ensure consistency with building height, building footprint, the three dimensional building envelope and open space requirements.	There is no applicable floor space ratio for the site under the current planning controls. The development does however comply with the FSR identified in the Centres and Corridors Study.	Yes
Part 02 – Site Design		
Deep Soil Zones A minimum of 25% of the open space area of a site should be deep soil zone. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration.	At least 27% of the open space of the site is provided as deep soil zones. The development complies with this requirement.	Yes
Fences and Walls Fences and walls are to respond to the identified architectural character for the street and area. They are also to delineate the private and public domain without compromising safety and security.	No fences and walls are provided in the street setback areas. Given that the development aims to activate the street with the provision of commercial uses, fences or walls would be inappropriate.	Yes
Landscape Design Landscaping is to improve the amenity of open spaces as well as contribute to the streetscape character.	A detailed landscaping plan has been submitted which introduces a large variety of plants and grass areas. As part of the landscape plan it is proposed to include Tuckeroo plants within the front setback area. These plants have an estimate height and span of 5m x 4m. The size of these plants is considered excessive for this location. A condition of consent is proposed recommending that the height of the planting be reduced to a maximum of 1 metre. (See condition number 56).	Yes
Open Space The area of communal open space required should generally be at least between 25% and 30% of the site area. Where developments are unable to achieve the recommended communal open space, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space.	The communal open space is restricted to the rear of the two buildings. Due to the provision of commercial uses in the building, it is not possible to provide any communal open space at the front of the buildings. The development has provided approximately 16.4% of the site as communal open space. This figure is also constrained due to the walkway to be provided along the northern boundary of the site. Although the development does not comply with the required amount of open space, the development has also provided private open space in the form of balconies for each unit. These balconies exceed the minimum area requirements. The	No. Variation acceptable.

	communal open space has also proposed features to encourage its use. Overall the development will provide adequate open space areas.	
Orientation Optimise solar access to living areas and associated private open spaces by orientating them to the north and contribute positively to the streetscape character.	Where possible the development has incorporated the living areas to the north.	Yes
Planting on Structures In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes: • Shrubs - minimum soil depths 500 - 600mm	The landscaping plan does not provide enough detail to confirm that the development complies with the recommended standards contained in the RFDC. It is proposed to include a condition on the consent to require compliance with the relevant soil depth. (See condition number 57).	Yes
Stormwater Management Reduce the volume impact of stormwater on infrastructure by retaining it on site.	The development has been assessed by Council's Development Engineer and is considered to be satisfactory.	Yes
Safety Optimise the visibility, functionality and safety of building entrances. Improve the opportunities for casual surveillance and minimise opportunities for concealment.	During the assessment of the development application concern was raised in respect of the width of the awning over the pedestrian access to the north of the site. This awning is glass which will allow for passive surveillance of the walkway by the apartments above. The residential entries to the development are visible and functional.	Yes
Visual Privacy The building separation requirements should be adopted.	As discussed earlier in the report, the development does not comply with the building separation requirements. However adequate visual privacy will be maintained due to window placement and screening.	Yes
Building Entry Ensure equal access to all. Developments are required to provide safe and secure access. The development should achieve clear lines of transition between the public street and shared private, circulation space and the apartment unit.	The development will provide equitable as well as safe and secure access to both the residential and commercial components of the development. As part of the VPA, a Section 88B right of way will be created to enable pedestrian access between Belmore Street and Porter Street along the northern boundary. To ensure that the space is identified as public space rather than private, the walkway will be constructed in accordance with the requirements of the Town Centres	Yes

	Public Domain Technical Manual for Meadowbank. This will assist in identifying this space as being available to the public.	
Parking Determine the appropriate car parking numbers. Where possible underground car parking should be provided.	The development provides adequate on site car parking.	Yes
Pedestrian Access Provide high quality accessible routes to public and semi-public areas of the building and the site. Maximise the number of accessible, visitable and adaptable apartments in the building.	The development will incorporate accessible routes in respect of the public areas. In addition, accessible access has been provided through out the development. The development has provided 6 adaptable apartments. This number complies with Council's DCP requirements.	Yes
Vehicle Access To ensure that the potential for pedestrian / vehicle conflicts is minimised. The width of driveways should be limited to 6 metres. Vehicular entries should be located away from main pedestrian entries and on secondary streets.	The original plans proposed the loading dock adjacent to the driveway near Porter Street. Concerns were raised with the applicant in respect to the impact this had on the streetscape as well as potential conflicts with pedestrians. The applicant has relocated the loading dock into the basement. This will not only reduce conflicts between vehicles and pedestrians, but it will also improve the streetscape. The vehicular entry to the basement is located on Porter Street which is considered a secondary street and the driveway crossing will not exceed 6 metres.	Yes
Part 03 – Building Design		
Apartment Layout Single aspect apartments should be limited in depth to 8m from a window. The minimum sizes of the apartments should achieve the following; 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom – 95m ²	Building A has proposed 8 apartments which have a single aspect. Of these 8 apartments, 7 exceed the 8m depth from a window for all or part of the apartment. The maximum depth is 11.2 metres. Despite the numeric non-compliance, the development complies with the objective of the RFDC, that is to ensure the spatial arrangements of the apartment is functional and well organised and ensuring the apartments provide an acceptable environmental performance. There is only 1 single aspect apartment in Building B and this apartment has a depth less than 8 metres from the window. The size of the apartments range as	Yes

	<p>follows:</p> <p>1 bed – 57m² to 72.7m²</p> <p>2 bed – 82.5m² to 106.8m²</p> <p>3 bed – 109.7m² to 117.4m²</p> <p>All apartment sizes exceed the minimum sizes.</p>	
<p>Apartment Mix</p> <p>The development should provide a variety of types.</p>	The development has proposed 21x1 bedroom units, 35x2 bedroom units and 5x3 bedroom units. This mix will provide a variety of unit sizes within the development.	Yes
<p>Balconies</p> <p>Where private open space is not provided, primary balconies with a minimum depth of 2 metres should be provided.</p>	All balconies will provide a minimum depth of 2 metres.	Yes
<p>Ceiling Heights</p> <p>The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level FCL).</p> <ul style="list-style-type: none"> • in general, 2.7m minimum for all habitable rooms on all floors, 2.4m is the preferred minimum for all non habitable rooms, however 2.25m is permitted. 	The ground floor of each building is proposed to be used for commercial and residential uses. The Belmore Street building will have a floor to ceiling height of 3.5 metres and the floor to ceiling height of Building A has been increased from 3.2m to 3.3m. The RFDC recommends a ceiling height of 3.3 metres for the ground floor. The development complies with this requirement. The upper residential levels have a floor to ceiling height of 2.7 metres which also complies with the requirement.	Yes
<p>Ground Floor Apartments</p> <p>Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site.</p>	The development has proposed 4 ground floor apartments. None of these apartments have a separate entry and they are all accessed from the residential foyer. Given that these apartments are located central to the site, it would not be possible to provide separate accesses. The desired streetscape is maintained with the provision of commercial floor space adjacent to Porter Street, Belmore Street and the pedestrian walkway.	Yes
<p>Internal Circulation</p> <p>In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight.</p>	The development achieves this for both buildings. Building A will allow for a maximum of 8 apartments and Building B will allow for a maximum of 5 apartments to be accessed of the corridor.	Yes
<p>Mixed Use</p> <p>The development is to choose a mix of uses that complement and reinforce the character, economics and function of the local area. The</p>	The development proposes commercial and residential uses. At this stage the commercial uses are not known. However subject to the use meeting the definition of an office premises and	Yes

development must also have legible circulation systems.	complying with the hours of operation, it will be compatible with the residential uses within the building.	
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 - 6.0m³ • one-bedroom apartments - 6.0m³ • two-bedroom apartments - 8.0m³ 50% of the above areas may allocated within each respective apartment while the remaining 50% is to be located within the car parking area.	All units have been provided with a minimum 50% of the storage requirement within the unit and 50% storage requirement within a separate lockable storage area in the basement.	Yes
Acoustic Privacy Apartments within a development are to be arranged to minimise noise transitions.	<p>The development will be required to comply with the acoustic provisions of the BCA. 2 of the apartments are located adjacent to the communal open space which could be affected by noise during the day and night. This however is a matter for the Body Corporate to enforce hours on when the communal space can be used.</p> <p>Building A has proposed several of the units with balconies immediately adjacent to each other. These balconies will be separated with a slatted screen, however this screen is open and does not extend to the ceiling. Concerns are raised that this will not provide adequate visual or acoustic privacy. It is proposed to include a condition on the consent to require the balcony dividers to protect acoustic as well as visual privacy. (See condition number 65).</p>	Yes
Daylight Access Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.	The development has been designed so that approximately 73.8% of the apartments will achieve 3 hours of sunlight. None of the apartments have a single southerly aspect. The development complies with the requirement.	Yes
Natural Ventilation Building depths which support natural ventilation typically range from 10 to 18 metres. 60% of residential units should be naturally cross ventilated.	The development has provided natural cross ventilation to 68.9% of the apartments and 31.1% of the kitchens have access to natural ventilation. The development complies with the	Yes

25% of kitchens should have access to natural ventilation.	requirements of the clause.	
Awning Awnings are to encourage pedestrian activity on streets by providing awnings to retail strips.	An awning has been provided along Porter Street, Belmore Street and part of the walkway to be dedicated to Council. The awning along the two street frontages will be setback 2.3m. The awning is an architectural feature of the building that will provide amenity within the property boundary only. This is acceptable as the site is not located on a pedestrian priority street.	Yes
Facades Facades are to be of appropriate scale, rhythm and proportion which responds to the building's use and the desired contextual character.	One of the issues raised by the Urban Design Review Panel was the use of the proportion of contrasting materials on the street elevation. The design was amended address the Panel's concern. The development satisfies this requirement.	Yes
Roof Design Roof design is to relate to the desired built form as well as the size and scale of the building.	The previous approved development included a skillion roof form. At the time that the Urban Design Review Panel considered the proposed development, both buildings had a flat roof. The Panel encouraged the applicant to review the roof form even if it increased the overall height of the development. The current proposal incorporates a skillion roof on both buildings. This adds additional visual interest to the building as well as being appropriate in terms of the scale of the building.	Yes
Maintenance The design of the development is to ensure long life and ease of maintenance.	The development complies with this requirement.	Yes
Waste Management A waste management plan is to be submitted with the development application.	A waste management plan has been submitted with the development application and is considered satisfactory by Council's Environmental Health Officer.	Yes

Urban Design Panel

Council's Urban Design Panel considered the proposed development on 25 November 2009. This was prior to the lodgement of the development application and the current development plans have addressed some of the issues raised by the Urban Design Review Panel. Comments made by the Panel have been included in italics and where appropriate a response in respect of this comment has been given.

“We understand this proposal is a new DA seeking an additional two storeys of residential apartments in recognition of the scale of approved neighbouring development and the potential community benefit of a through site link. The Panel’s comments relate to achieving the maximum community benefit from the through site link as well as some improvement to the configuration, form and design quality of the development.

Through site link

The design of the through site link, its materials, lighting and planting should be considered holistically with potential improvements to Hayes Reserve and with reference to Council’s public domain materials and planting palette. The link should be legible as a public thoroughfare and clearly configured as public space. We encourage a uniform width through the site and an uninterrupted visual link through. The Porter Street building side setback establishes an appropriate width for the through site link.

Comment: Issues raised in terms of the materials, lighting and planting in the through site link have been addressed in the VPA. The public thoroughfare proposed as part of this development application represents a better design outcome than the current DA consent. As part of the current consent, the public thoroughfare was proposed to be in part 3 metres and 5 metres wide and was required as a right of way or easement over the space with no conditions in respect of the materials that the pathway would be constructed from. The development still proposes a right of way over the walkway but the walkway will be constructed to Council’s criteria. This will assist in providing a legible thoroughfare. Also, where as the previous width was 3 metres, this has been increased to 4 metres. The VPA Panel felt that the width of this space combined with appropriate treatments would be sufficient in achieving the objectives of the space as a public thoroughfare.

Commercial Uses

The Panel is concerned with the ability of future commercial tenancies to activate the through site link and promote safety. If they remain untenanted or if the tenancies do not provide a truly active frontage along the link, it will compromise the success and safety of the link. The Panel recommends the applicant consider safeguarding the long term commercial use of the ground floor (ceiling heights and open plan) but including some residential use in the short term, particularly adjacent to the communal open space. This will require successful resolution of residential adjacency with communal and public open space.

Comment: The applicant has taken on board the comments from the Urban Design Review Panel and has amended their proposal to provide a total of 4 residential apartments on the ground floor. The residential apartments on the ground floor will be provided with a ceiling height of either 3.3m or 3.5m to allow for future flexibility in terms of the use. The design has also provided satisfactory amenity between the communal open space and the residential units.

Carpark, Access Ramp and Service Vehicles

It would be preferable to reduce the impact of the proposed driveway. The service vehicle loading requirements result in a longer and wider driveway with a greater impact on the layout and streetscape. If the applicant can establish a case that the commercial tenancies are intended to be professional suites, the loading requirements may be reduced or limited. Low level streetside deliveries and couriers may be acceptable.

Comment: As a response to this issue, the applicant relocated the loading area from the basement to an area adjacent to Porter Street and next to the driveway. This allowed for the driveway grades to be steeper and the width of the driveway to be reduced. Concerns were raised that the new location for the loading bay would result in an unacceptable streetscape appearance as well as there being potential conflicts with pedestrians and would not allow for appropriate vehicle movements. In Council's letter dated August 2010, the applicant was advised that the loading dock and service area should be relocated in the basement and that it would be necessary to provide a longitudinal section through the driveway to demonstrate that an appropriately sized vehicle could access the loading dock. The use of the commercial tenancies within the development is likely to be professional suites that would not require the use of large servicing vehicles. As such, the access to the basement as currently proposed would be adequate.

Communal Open Space

The panel is concerned with the quality and use of communal open space for residents. The configuration of communal open space and the residential lobbies means that it is possible for residents to never come into contact with the space. Greater definition of the purpose, activities and access anticipated in this space is needed. It is preferable that the central space is for residential use.

Comment: The amended development has ensured that the central space is for residential use. The landscape design has incorporated planting as well as seating areas and a BBQ area. These features will increase the functioning of this space.

Apartment Design

The Panel is concerned with the depth of the Porter Street building and the quality of common spaces without natural light or ventilation. Similarly the Belmore Street building could provide natural light and ventilation to lobbies with some reconfiguration. The natural ventilation of apartments should be reviewed to ensure cross flow is facilitated, wherever possible. This may include additional windows in some rooms. Bathrooms on external wall should have windows.

Comment: The development has proposed natural ventilation to 68.9% of the apartments which exceeds the requirements of the RFDC. All bathrooms on external walls now have windows. The foyer areas in both buildings is able to provide natural light.

Façade Composition and Roof Form

The Panel recommends reviewing the proportion of contrasting materials on the street elevations now that the building has 6 storeys. The proportion of the dark rendered base could be lifted by a storey to improve the relationship between base and top of the building. The proportion of major elements of the façade should be reviewed at the same time, including the face brickwork central element. Integrating the carpark entry with the base will be important.

The silhouette of the roof line could be further accentuated. The previous scheme included skillion roof forms whereas the current roof has been flattened. The Panel would encourage the applicant to review the roof form even if this may marginally increase the overall metre height of the building.

Comment: The current development has taken on board the comments raised by the panel and increased the height of the rendered material on the building as well as incorporating a skillion roof rather than a flat roof.

6.3 State Environmental Planning Policy (Building Sustainability Index: BASIX)

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. As such, a BASIX Certificate has been prepared (No. 341746M dated 18 October 2010) which provides the development with a satisfactory target rating.

Appropriate conditions will be imposed requiring compliance with the BASIX commitments detailed within the Certificate. (See condition number 5).

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

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

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

Local Environmental Plan 2010

The following is an assessment of the proposed development against the applicable provisions from the Ryde Local Environmental Plan 2010.

- Clause 2.2 - Zoning

The site is zoned B4 Mixed Use under the provisions of the LEP 2010. The development is permitted in this zoning.

- Clause 2.3 – Zone Objectives

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives for the B4 Mixed Use are as follows:

- To provide a mixture of compatible uses.
- To integrate suitable business, office, residential, retail and other development in accessible location so as to maximise public transport patronage and encourage walking and cycling.
- To create vibrant, active and safe communities and economically sound employment centres.
- To create safe and attractive environments for pedestrians.
- To recognise topography, landscape setting and unique location in design and land use.

The development complies with the above objectives. It will be consistent with the desired future character for the precinct by introducing a mixed use building consisting of residential and commercial uses. The massing and scale of the development is appropriate in terms of the existing built environment and the built form contributes to the character and public domain of the area. The development also proposes a pedestrian link between Belmore Street and Porter Street. This link has been identified in various planning instruments as an important connection between the two streets. The VPA will ensure that this link will provide a safe and attractive environment for pedestrians.

- Clause 4.3 Height of Buildings

The height of a building on any land is not to exceed the maximum height of 15.5 metres.

Building height is defined in this planning instrument as meaning the vertical distance between ground level (existing) at any point to 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.

Both buildings exceed the 15.5 metre height control. In respect of Building A, the maximum height will be 19.2m and the maximum height for Building B will be 18.2m. This results in a breach of the height control by 3.7m for Building A and 2.7m for Building B. The non-compliance for both buildings is generally a consequence of the upper floor and the skillion roof.

Clause 4.6 of LEP 2010 allows exceptions to development standards. Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and 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 as it is consistent with the zone objectives as well as the objectives of the particular development standard. 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 Ludvick and Associates. A Copy of this submission has been attached.

2. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.

One of the major reasons provided by the applicant for the variation is that the development is consistent with the desired future character of the area as established by the adjoining contemporary mixed use development on 82-84 Belmore Street. As demonstrated in the following diagram, the development at 82-84 Belmore Street occupies a large area and is important in establishing the character of the area. This development consists of 4 separate buildings on the site with the two buildings adjacent to the subject site being 7storeys in height. To ensure greater articulation of these buildings, the upper floor of each building has been setback. The RL of the parapet on the adjacent building along the Belmore Street frontage is RL40.015 and the RL for the Porter Street building is RL39.10.



The proposed development is consistent in terms of the overall RLs with the adjoining building. The Belmore Street building has a maximum RL of 40 and the Porter Street building has a maximum RL of 39.65. Although the Porter Street building is slightly higher (0.55m) than the adjoining building this is due to the pitched roof on the building. The original design for the development did not have a pitched roof but this was requested by Council's Urban Design Review Panel. Both of the proposed buildings have articulation at the upper level consistent with the adjoining building.

The proposed development is consistent in terms of its height and scale with the adjoining buildings. The overall height of the development is also supported by Council's Urban Design Review Panel. As demonstrated further in the report, the development will also maintain satisfactory amenity with the adjoining buildings.

The height of the buildings is also consistent with the future planning controls proposed for Meadowbank and recently adopted by Council.

In the above circumstances, compliance with the height control would be unreasonable and unnecessary.

3. Environmental grounds to justifying contravening the development standard.

As demonstrated above, the development is consistent with the existing character as well as the desired future character of the area. The built form ensures acceptable setbacks, streetscapes, scale and visual interest in the buildings.

The applicant has provided shadow diagrams for 9.00am, 10.30am, 12noon, 1.30pm and 3.00pm mid winter. These diagrams demonstrate the existing development will receive adequate solar access.

The diagrams also demonstrate the impact of this development on the adjoining residential flat building at 82 to 84 Belmore Street which is almost completed. All of the NE elevation of the building adjacent to the Porter Street development will receive solar access from 1.30pm mid winter onwards.

Due to the reduced separation distances, the Belmore Street building will result in greater overshadowing onto the NE elevation of the adjacent building. The adjacent building has 6 levels of residential accommodation and a gymnasium located on the lowest level. As the day progresses, the extent of shadow on the adjoining building is reduced however the lowest residential floor and half of the residential floor above will not receive more than 2 hours of solar access during midwinter.

The applicant has also provided shadow diagrams at 1.30pm and 3.00pm midwinter of the development already approved on the subject site. These diagrams demonstrate a similar extent of overshadowing as what would occur with this development. In this instance, the extent of overshadowing is acceptable.

The proposed development will not adversely affect any views from surrounding properties. As the development is a similar height to the adjoining residential flat building, views towards Parramatta River and from Parramatta River will not be impacted upon.

Despite the breach of the control, the development does not result in unacceptable impacts on the environment.

4. Consistent with the zone objectives and objectives of the development standard.

The zone objectives have already been identified in an earlier section of the report. As previously concluded, the development complies with the objectives of the zone.

The objectives of the height clause are as follows:

- (a) to maintain desired character and proportions of a street within areas,
- (b) to minimise overshadowing and ensure a desired level of solar access to all properties,
- (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.

As demonstrated earlier in the report, the development is compatible with the character of the area. The bulk and scale of the building are viewed from the street is consistent with the adjoining development as well as the future

planning controls for the Meadowbank Employment Area. Articulation has been provided to the upper level of the building which assists in reducing the bulk of the building as well as adding visual interest. The development satisfies objective (a).

Objective (b) refers to the extent of overshadowing caused by the proposed development. At mid winter the impact in terms of overshadowing is similar to the previously approved development on the site. The development is unlikely to result in a material loss of amenity due to overshadowing to the adjoining residential flat building. The development is considered to be acceptable.

The residential flat building currently under construction on the adjoining site has been designed to step up the site to reflect the topography of Belmore Street and Porter Street. The subject site is flat and the built form reflects the height, bulk and scale that occurs on the adjoining southern site. The development relates to human scale by providing commercial uses on the ground floor which will assist in activation of the two streets. Also, the upper floor of both buildings has been setback from the street and the side elevations of the building. This not only adds articulation to the development, but it also reduces the visual impact on the buildings. The development complies with objective (c).

The site is not in the vicinity of any infrastructure such as a train station or large vehicle intersection. Accordingly, objective (d) is not applicable to the development.

The final objective is to reinforce important road frontages in specific centres. The development complies with this objective. The commercial floor space not only contributes to the activation of both street frontages but it will also contribute to the activation of the pedestrian walkway between Belmore and Porter Street. The use of finishes in the public domain and the pedestrian walkway that are consistent with other areas of the public domain in Meadowbank also contribute to this objective being achieved.

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

Despite the non-compliance with the height control, the development satisfies the criteria outlined in clause 4.6 and the variation is acceptable.

- Clause 5.10 Heritage Conservation

The site is in the vicinity of a Heritage Item known as “Crowle Home” at 8 Junction Street. There is no visual relationship between the item and the proposed development. Accordingly, the proposed development will not affect the heritage significance of this heritage item.

- Clause 6.1 Acid Sulfate Soils

The site is identified on the Acid Sulfate Soils Map as being within Class 5. As the works proposed are not below 5 metres AHD, it is not necessary to prepare an Acid Sulfate Soils Manual.

Development Control Plan 2010

Part 4.2 Meadowbank Employment Area – Master Plan

The following clauses are applicable for this part of the DCP.

Urban Design Principles

The following urban design principles are to be applied to new development in the Meadowbank Employment Area. The principles has been provided in italics and a comment provided in normal font.

- *Protect the existing treed ridgeline from being obscured by development.* The intent of this design principle is to protect the treed ridgeline as viewed from Parramatta River. The proposed development is consistent with the height of the adjoining development at 82-84 Belmore Street. Accordingly, there will be no impacts on the views of the treed ridgeline.
- *Protect the existing scale of the built environment.* The development is consistent with the scale of the adjoining development and complies with this design principle.
- *Respect the existing street pattern.* The development does not propose any changes to the street pattern. It does however propose street activation by the introduction of commercial uses on the ground floor. This will contribute the street network.
- *Respect the bulk, height, rhythm and scale of the existing neighbourhood and topography.* This design principle is satisfied as the development is compatible with the bulk, height and scale of the adjacent development that is currently under construction.
- *Maintain and create views to significant points of interest, especially water vistas.* The site does not enjoy water views, nor will water views be available to the development. This urban design principle is not considered applicable in this instance.
- *Provide open space and pedestrian links to the foreshore.* As the site is not adjacent to the foreshore it is not possible to provide open space and pedestrian links to the foreshore. The development does however propose a pedestrian link between Belmore Street and Porter Street.
- *Create a significant park along the foreshore.* This design principle is not applicable to the development as the site is not located adjacent to the foreshore.

- *Ensure ecologically sustainable development principles are applied to the built environment, using materials that are robust and energy efficient.* The development will be compatible with this urban design principle as it complies with the BASIX requirements.
- *Ensure safe, user friendly pedestrian and cycle ways are provided throughout the area.* As part of the development, the public domain is proposed to be upgraded to reflect the requirements of the Town Centres Public Domain Technical Manual for Meadowbank. The right of way between Belmore Street and Porter Street which will form an important pedestrian link will also be treated in a manner that is consistent with the Town Centres Public Domain Technical Manual for Meadowbank.
- *Provide an attractive streetscape enhanced with street trees and without the intrusion of overhead power and telecommunication lines.* This design principle can be satisfied by the imposition of various conditions on the consent. Firstly, street trees would be required to be provided in accordance with the Town Centres Public Domain Technical Manual. Secondly, any approval would also be conditioned to require the undergrounding of the overhead power lines and telecommunication lines.
- *Provide attractive commercial, retail and light industrial buildings that are compatible with residential buildings.* For this part of Meadowbank the controls are encouraging a mixed use development which will protect residential amenity while protecting the economic viability of Meadowbank. The development complies with this requirement as residential and commercial land uses have been incorporated into the development.
- *Re-use and adapt existing buildings wherever possible.* The existing buildings are both post World War Two industrial buildings. Neither of these buildings contribute positively to the character of Meadowbank in terms of their architectural quality, industrial character, defining form and environmentally sustainable design. These buildings are not considered suitable for adaptive re-use.

Variations to the Master Plan and Planning Agreements

Section 3 of the DCP provides for variations to the Master Plan. Despite any other provisions of this Plan, development consent may be granted to a development application where the:

- (a) Number of storeys proposed is one more than the maximum set out for that site on figures 11 and 16. This is subject to the maximum height of any proposed building not exceeding the recommended maximum Relative Level (RL) specified within the Plan.
- (b) The developers enters into a planning agreement to provide a planning benefit; and
- (c) The proposed development meets all other requirements of this Plan, including the design principles of section 2.3.

The number of storeys referred to in figure 11 is 4 storeys. The site is not identified in figure 16 and there is no applicable RL. Under this control the development may be 5 storeys subject to points (b) and (c) being satisfied. The development has proposed an increase of two storeys rather than one. As this is a DCP requirement, it is possible for the control to be varied.

In respect of point (b), as part of this development application the applicant has prepared a VPA. Council on 1 March 2011 resolved to support 'in principle' the Voluntary Planning Offer made by Brooks Projects Pty Ltd. Delegation was also granted to the Group Manager, Environment and Planning to finalise the Voluntary Planning Agreement in accordance with the Letter of Offer dated 26 October 2010 and the applicable legal requirements under the Environmental Planning and Assessment Act, 1979. It is recommended that a deferred commencement condition be imposed to ensure that the VPA is finalised in accordance with the above resolution of Council.

To ensure that the VPA is registered on the title of the land, it is proposed to include a condition on the consent for this to occur prior to the issue of any Construction Certificate. (See condition number 2).

The final requirement of the clause is that the development meets all other requirements of this Plan including the design principles of Section 2.3. the design principles and other requirements of the Plan have been assessed as satisfactory.

The development meets these requirements with the exception that the development proposes two additional; storeys rather than one. As already demonstrated, the height, bulk and scale of this development is consistent with the existing character as well as the future character of the area. For this reason, this variation is considered acceptable.

General Development Controls

The general development controls are applicable to all development within the Meadowbank Employment Area and include the public domain interface, architectural characteristics, noise and vibration attenuation and car parking. The applicable controls to this development are discussed in the following table.

Control	Comments	Compliant
3.1 – The Public Domain Interface		
<i>Mixed Use Development</i>		
Mixed-use development will comprise either: <ul style="list-style-type: none"> a combination of medium and high density residential 	The proposal includes high density with commercial uses. The commercial uses have the potential to be utilised for a compatible employment related activity.	Yes

Control	Comments	Compliant
development with compatible employment related activity; or a combination of commercial and light industrial activity.		
Compatible employment related activities include: <ul style="list-style-type: none"> ▪ restaurants and cafés ▪ small scale retail establishments such as convenience stores ▪ small commercial offices ▪ professional suites ▪ home offices ▪ if designed as commercial premises, including features such as shop fronts to ensure a clear presentation to the street / public area 	All commercial areas located at ground floor level, with residential areas located above and 4 residential apartments located at the rear of the commercial spaces. The development does not identify the proposed future uses of these commercial spaces however they have the ability to be utilised for a range of purposes, given their presentation to both Belmore and Porter Street. Conditions of consent will be included on this consent to limit the hours of operation of the commercial uses to ensure that the residential amenity is not adversely affected. (See condition number 141).	Yes
Retail developments, restaurants and cafés are to be generally located at or around street level.	The proposal provides commercial floor space areas instead of retail. The commercial floor space could be converted in the future to another use such as retail or café.	N/A
Commercial uses are encouraged at the level immediately above street level, including but not confined to, professional and commercial offices, leisure uses such as a gym, places of worship or meeting rooms.	Commercial uses are located on the ground floor in accordance with control b) of this section. This is not a mandatory control and flexibility in terms of the uses can be considered. The uses within this development is consistent with the other mixed use development in the immediate area and no objection is raised to there being no commercial uses on the first floor of the development.	No. Variation acceptable.
Ground floor apartments are to be of flexible design to facilitate change of use and ensure privacy for occupants.	The development has incorporated 4 residential apartments on the ground floor. This is a direct consequence of the concern raised by the Urban Design Review Panel about the viability of the commercial floor on the ground floor which was previously to rely on the through site link for access and visibility. These residential units have maintained adequate ceiling heights to allow them to be converted to commercial floor space at some stage in the future.	Yes
Where upper levels of development are used for either commercial or	Given the design, layout and scope of the proposal it is considered that the amenity of residential or commercial areas will be	Yes

Control	Comments	Compliant
residential activity, the amenity of both uses must not conflict or be compromised.	maintained without causing conflict for the other use.	
Private living spaces and communal or public spaces should be clearly identified and defined.	The communal areas on the ground floor are readily identified as such. The applicant has provided adequate details to demonstrate that the communal space is clearly identified as well as being defined as being useable. Private living areas on the ground floor are delineated by the use of plantings and fencing.	Yes
Pedestrian entry to the residential component of mixed-use developments should be separated from entry to other land uses in the building/s.	The pedestrian entry is separated from the commercial floor space. The development has incorporated a residential foyer through the building that faces Porter Street. From this foyer it will be possible to access the street, communal open space and lift to the car park and upper levels of the building. A similar foyer is proposed in the building that faces Belmore Street. It will not be possible to directly access the commercial spaces from these foyers. However, in each foyer of the buildings, the development has proposed a disabled toilet which will be used by the occupants of the commercial spaces. The foyer is also likely to be accessed by occupiers of the commercial uses as the spaces are connected via the lift to the car park. Given the limited size of the commercial floor space and that the residential amenity of the units is unlikely to be adversely affected, this is considered acceptable.	No. Variation acceptable.
<i>Pedestrian & Cyclist Amenity, Access & Linkages</i>		
Design of new buildings and adaptive reuse must comply with all relevant statutory requirements including the Building Code of Australia, Australian Standards and the Disability Discrimination Act.	The development will be conditioned to ensure that it complies with the BCA. The applicant has provided an Access Report that confirms that the site can comply with the appropriate AS in respect to disabled access. The development will not breach any of the requirements of the Disability Discrimination Act.	Yes
New developments must be provided with a minimum of one barrier free access point to the main entry.	All entry points are barrier free.	Yes
New pedestrian and cycleway access points, gradients and linkages are to be designed to be fully	Each proposed building includes elevators to 100% of apartments from the basement car park. In addition the ground floor is also accessible.	Yes

Control	Comments	Compliant
accessible by all.	It must be noted that the proposed pedestrian way along the north eastern boundary of the site results in a staircase area at the south eastern end. However disabled access to this area is provided via the forecourt building area of Building A. This access is considered acceptable by Council's Access Consultant.	
Shared pedestrian/cycle access ways are to be located: <ul style="list-style-type: none"> between Belmore Street and Porter Street; 	Given that the site extends from Belmore Street to Porter Street, pedestrian access is provided along the North Eastern portion of the site in the form of a pedestrian linkage via a right of way. The proposal has been accompanied by the VPA which includes the provision for the right of way as well as construction materials.	Yes,
Shared pedestrian links, cycleways, public roads and lanes are to be of a high standard and treated in a way which indicates their shared status. The selection of paving, street furniture, lighting, bollards, signage and paving should knit with the existing upgrade works to Shepherds Bay and Meadowbank Employment Area Public Domain Manual.	The applicant has provided documentation that accompanies the VPA to demonstrate that the pedestrian walkway will be treated in accordance with the Town Centres Public Domain Technical Manual. A condition of consent will be imposed to require that the streetscapes of Porter Street and Belmore Street be treated in accordance with the requirements of this plan. (See condition number 63 and 64).	Yes
The design and location of vehicle access to developments should minimise conflicts between pedestrian and vehicles on footpaths, particularly along high volume pedestrian streets.	It is noted that the proposal includes a separate vehicular access point and pedestrian access point along Porter Street, reducing the potential for conflict. The service area has been relocated from the front setback area to within the basement of the building. This eliminates the risk of conflicts with pedestrians and service vehicles.	Yes
Service vehicle access is to be combined with parking access and limited to a maximum of one access point per building.	One access point provides access to the shared basement levels and the service areas.	Yes
Wherever practicable, vehicle access is to be a single crossing, perpendicular to the kerb alignment.	The driveway includes one crossing that will allow for two way movements that is perpendicular to the kerb line in Porter Street.	Yes
Vehicle access ramps	The vehicle access ramp to the basement car	Yes

Control	Comments	Compliant
parallel to the street frontage will not be permitted.	park from Porter Street is perpendicular to the street frontage.	
Vehicle entries are to have high quality finishes to walls and ceiling as well as high standard detailing. No service ducts or pipes are to be visible from the street.	From the finishes proposed the development will comply with this requirement. A condition of consent is proposed to ensure that no service ducts or pipes are visible from the street. (See condition number 55).	Yes
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.	The ground floor of both Building A and Building B is generally flush with Porter Street and Belmore Street respectively.	Yes
Views & Vistas		
Provide a five (5) to ten (10) metre setback along Bowden Street and Belmore Street from the north at Constitution Road towards the south at the junction of the Parramatta River.	The development is setback 5m from Belmore Street.	Yes
Ensure new buildings take into account in their design and orientation the existing views on the subject site and adjoining sites. New developments should be orientated to take advantage of water views and vistas.	<p>The DCP requires that existing view lines down Belmore Street are to be retained. The development will not impact on these view lines.</p> <p>Due to the bulk and scale of the adjoining development, the proposed development will not have water views. Vistas will be available from some of the apartments over Meadowbank and parts of Ryde.</p> <p>In addition, no submissions were received in respect to view lost.</p>	Yes
Ensure that new development does not compromise views of the northern ridgeline of Meadowbank.	It is unlikely that the proposal will substantially compromise views of the northern ridgeline. This is due to the development being compatible with the height of the adjoining development at 82-84 Belmore Street.	Yes
Landscaping & Open Space		
All development proposals are to be accompanied by a Landscape Plan prepared by a qualified and suitably experienced	The application includes a detailed landscape plan by a qualified and experienced landscape architect (Jocelyn Ramsay and Associates Pty Ltd).	Yes

Control	Comments	Compliant
landscape architect.		
Any development located adjacent to, or immediately across the road from open space is required to address the open space by way of design and orientation.	The subject site is directly opposite Hayes Reserve. Hayes Reserve is a narrow park so it is difficult for the design and orientation of the development to address this park. The proposal does however provide a pedestrian pathway immediately opposite Hayes Reserve. This will provide linkages through the site to the adjoining public open space.	Yes
Provide adequate deep planting zones above car parking and other concrete and similar structures to allow sustainable planting.	A condition of consent has been imposed to ensure planting depths comply with the requirements of the RFDC. (See condition number 57).	Yes
Provide at ground floor level, where possible, open space for dwelling units and contiguous open garden areas to create common large landscaped space.	The development has incorporated communal open space at the rear of the buildings. To encourage the use of this area, a BBQ and seating has been provided within the communal open space.	Yes
Construction of roof areas of multi unit developments is to make provision for useable roof gardens.	The development does not include a rooftop garden area. Given that each unit has its own private balcony plus the provision of at grade communal open space, it is not considered that rooftop gardens are necessary in this instance.	No. Variation acceptable.
Where appropriate, developments should incorporate landscaping like planter boxes integrated into the upper levels of building to soften building	No landscaping is proposed at the upper levels of the building. The building form has been softened through the use of articulation as well as the various materials and finishes. As no objection has been raised to the built form of the development, planter boxes are not considered applicable.	Yes
Buildings are to be set back from the street/footpath boundary by 3 metres or 5 etc metres to allow for landscaping/planting.	Figure 9 in the MEA DCP requires the development to achieve a 5m setback along both Porter Street and Belmore Street. Whilst this has been achieved by the proposal, minimal landscaped areas are provided within the setback areas. As the development is incorporating commercial uses along both street frontages, greater landscaping would be inappropriate.	No. Variation acceptable.
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 telecommunications	The Porter Street frontage of the site is 40.235m in length. As such, pursuant to this section of the DCP, the proponent is required to make provision for the under-grounding of the identified service utilities. The applicant has proposed the undergrounding as part of the VPA. For this reason, it is not	Yes

Control	Comments	Compliant
<p>utilities to be under-grounded along the entire length of all street frontages.</p> <p>Such utility modifications will be carried out to the satisfaction of the responsible authority (eg. Energy Australia). This is to improve the visual amenity of the area and allow street trees to grow unimpeded.</p>	necessary to impose a condition of consent.	
Where utility installations are under-grounded 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.	A VPA has been submitted as part of the development application. This requirement has been incorporated into the VPA.	Yes
Permeable landscape surface materials should be maximised, to allow maximum penetration of stormwater and urban runoff.	The development complies with this requirement.	Yes
Street Furniture & Public Art		
All development proposals are to be accompanied by a landscape plan, prepared by a qualified and suitably experienced landscape architect, indicating how street furniture will be incorporated into the development.	The application has not been accompanied by a landscape plan that addresses street furniture. A condition of consent has been imposed requiring the applicant to prepare such a plan which is to be submitted to Council for approval prior to the issue of a Construction Certificate. This plan is to be in accordance with the Town Centres Public Domain Technical Manual and will include street furniture. (See condition number 64). A copy of the Town Centres Public Domain Technical Manual as it applies to Meadowbank has been attached to the report for information.	Yes
The style, colour and installation methods of street furniture shall be in accordance with Council's specifications.	As detailed above, this matter will be addressed by a suitable condition of consent. (See condition number 64).	Yes
Developers must examine	The applicant has not incorporated public art into	Yes

Control	Comments	Compliant
opportunities to incorporate public art in both internal and external public spaces and indicate how public art will be incorporated into major developments.	the development. In an earlier version of the VPA, the applicant included references to the provision of fish motif artwork in the paving. This was excluded from the final version of the VPA as the provision of the public art is a requirement of the development rather than begin public benefit that is incorporated into a VPA. A condition of consent has been imposed requiring a public art plan to be submitted for Council's approval prior to the issue of a Construction Certificate. (See condition number 54).	
Embellishment will be at developers' cost and the type and amount of embellishment will be negotiated with Council.	The embellishment to the public domain will be in accordance with the Town Centres Public Domain Technical Manual. As previously advised a condition of consent has been imposed in respect of this issue. (See condition number 64).	Yes
Safety		
Entrances to buildings must be oriented to the street. Adapted existing buildings may be an exception, depending on the merit of the design solution.	Both Building A and Building B have their entrances orientated towards Porter Street and Belmore Street respectively.	Yes
Buildings should be designed to overlook streets and other public/communal areas to provide casual surveillance. Living areas, windows, accessways and balconies should be arranged to overlook recreation areas and other public areas, particularly building entrances and car parks.	The proposed buildings overlook both Porter Street and Belmore Street. To ensure that passive surveillance of the pedestrian pathway alongside Buildings A and B, the awning will be constructed of clear glazing. The communal recreation area that is located in the middle of the site will be overlooked by apartments within the Porter Street building. The design has provided adequate casual surveillance.	Yes
The use of screening which would prevent casual surveillance of public spaces from windows and entrances, such as vegetation and frosted glass, is discouraged.	The development complies with the requirements of this clause.	Yes
Sufficient lighting is to be provided to all pedestrian ways, building entries, corridors, laundries, lifts,	The development will be required to provide adequate lighting within the development. As part of the VPA, the applicant has proposed details of the lighting of the proposed pedestrian	Yes

Control	Comments	Compliant
stairwells, driveways and car parks to ensure a high level of safety and security for residents and visitors at night.	pathway. The development satisfies the requirements of this clause.	
Recesses for roller doors, used in shopfront security, are to be wide and shallow to provide for personal security. Narrow, deep recesses are to be avoided.	The development does not propose any recesses for roller doors. A condition of consent will be imposed requiring that such doors or security grilles are to be located within the shop front. (See condition number 11).	Yes
Internal energy-efficient lighting of shopfronts during the night is required.	A condition of consent will be imposed to require the development to incorporate energy-efficient lighting, motion detectors and dimmer within the commercial areas of the development. (See condition number 52). This will satisfy the requirements of this clause.	Yes
The use of landscaping which hides paths or building entrances will not be permitted. Shrubs in these areas should grow no higher than 1.0m, and trees should be taller with trunks that do not block sight lines.	The development has proposed landscaping within the two street frontages. The species proposed include Tuckeroo trees as well as Gynea Lilies and Crinum Lilies. Concerns are raised in respect to the first two species. The Tuckeroo is an ornamental small tree with decorative orange berries. This tree can grow to a height of 8 metres and have a width of 5 to 8 metres. The Gynea Lilies can also achieve a height of 2 metres and spread of 2 metres. These species are proposed within the vicinity of the residential entrances to the building. It is proposed to include a condition on the consent which restricts any plantings within the front setback area of the two streets to be no greater than 1 metre in height. (See condition number 56).	Yes
Addresses of all buildings and names of tenants should be clearly displayed, well lit and visible from the street. Building entrances should be clearly identified.	At this stage the name of tenants of the commercial spaces is not known. Any advertising associated with the new tenants will be subject to a separate development application. At this stage, the requirements of this clause will be taken into consideration.	Yes
Security grilles are to be transparent and fitted only within the shopfront.	No security grilles are identified. A condition of consent will be imposed requiring any security grilles to be either see through or translucent and to be fitted within the shopfront. (See condition number 11).	Yes
3.2 – Architectural Characteristics		
<i>Height</i>		

Control	Comments	Compliant
Building height is limited to that specified in LEP 2010.	The maximum height specified in LEP 2010 is 15.5 metres. The maximum height of the Porter Street building is 19.3 metres and the maximum height of the Belmore Street building is 18.2 metres. The non-compliance with the height control has been discussed in greater detail earlier in the report. The variation to height is supported as the buildings proposed will reflect the height and scale of the adjacent developments on the adjoining southern site at 82-84 Belmore Street as well as having an acceptable impact in terms of solar access. Also the development will not affect views to and from Parramatta River or views of the ridgeline to the north of the site.	No. Variation acceptable.
Buildings must comply with the maximum number of storeys shown on figure 11.	<p>The maximum height permissible under the DCP is 4 storeys. In this regard, it is noted that the proposal allows for a total of 6 storeys.</p> <p>As discussed earlier in this report, the DCP does allow for variations to the height control by 1 storey where the developer enters into a VPA and the development satisfies all of the other requirements of the Plan including the design principles. This requirement of the DCP would permit the development to be a maximum of 5 storeys rather than 6.</p> <p>The buildings proposed will reflect the height and scale of the adjacent developments on the adjoining southern site at 82-84 Belmore Street as well as having an acceptable impact in terms of solar access. Also the development will not affect views to and from Parramatta River or views of the ridgeline to the north of the site.</p> <p>As demonstrated in the report, the variation to height is considered acceptable.</p>	No. Variation acceptable.
Storey is defined as no greater than 3.6 metres floor to floor height. Any storey over 3.6 metres will be counted as two storeys.	The development does not propose any floor to ceiling height that is greater than 3.6 metres.	Yes
Floor to ceiling heights, except ground floor, for residential use (habitable rooms) are to be a minimum of 2.7 metres (floor to underside ceiling) to ensure quality living environments.	All floor to ceiling heights with the exception of the ground floor will achieve a floor to ceiling height of 2.7 metres.	Yes
Floor to ceiling height of ground floors of	The RFDC recommends that the ground floor of mixed use buildings be a minimum of 3.3 metres.	Yes

Control	Comments	Compliant
commercial, retail spaces and of residential uses are to be a minimum of 3.0 metres (floor to underside of ceiling space).	Building A will have a floor to ceiling height of 3.3m and Building B, 3.5m.	
Retail and commercial uses at ground floor are to have floor levels contiguous with finished footpath levels. On sloping sites the levels must be contiguous at entries.	Ground floor areas are generally street level.	Yes
Roof Form		
Buildings that will be overlooked must have articulated roofs. Articulated roofs refer to well-designed roof zones with landscaping, useable areas and/or richly detailed roofs made of high quality materials.	The building will not be overlooked.	Yes
The use of solar panels on roofs is permitted where possible.	The application does not include provision for the installation of solar panel roofs. This may be considered at a future date and, if considered feasible and desirable this work would be permissible under the Infrastructure SEPP.	N/A
Roof forms should recognise and respond to the industrial history of the area – such as saw-tooth, flat and minimally pitched (15°) roofs, with parapets where appropriate.	The development includes a skillion roof form, recognising and responding to the industrial history of the area.	Yes
Attic roofs are to be avoided– as they are not in character with the locale.	The development does not include any attic roofs.	N/A
Building Articulation		
Building facades should be articulated within a 3-metre zone to provide entries, external balconies, porches, glazed balcony enclosures, terraces, verandahs, sun shading elements etc.	The proposal generally allows for a 3m articulation zone along all elevations. This is primarily achieved through the use of terraces and modulation of the built form. In addition the upper floor of the building has been setback which increases the articulation of the building.	Yes
Penthouses should be set a minimum of 4 metres	The development has not proposed any penthouses. The development has however	N/A

Control	Comments	Compliant
from any building façade.	introduced articulation to the upper levels of the building by providing varied setbacks of the upper level that adds to the articulation of the building.	
Articulate buildings to respond to orientation, views, breezes, privacy, views, acoustic requirements, street widths and the relationship of the building to external garden spaces.	The development complies with this requirement.	Yes
Articulate buildings vertically and horizontally: materials and building setbacks on the upper storeys are to be used to reduce the perceived bulk of buildings.	The applicant has proposed finishes and materials in accordance with the recommendations of Council's Urban Design Review Panel. The finishes and materials will add to vertical and horizontal articulation in the building.	Yes
Provide and denote entries along street frontages and public domain spaces where appropriate.	Entries will be clearly identifiable from the public domain.	Yes
Orient buildings to address streets, open spaces and the river foreshore. Street frontages are to be parallel with or aligned to the street alignment.	Street frontages are parallel with street alignment and orientated towards open spaces and streets.	Yes
Provide balconies and terraces, particularly where buildings overlook public spaces.	Each apartment has been allocated a balcony or terrace. These terraces and balconies are provided along both street frontages of the proposed development.	Yes
External Finishes		
Building materials, surfaces and finishes are to be environmentally sustainable, add to the texture of Meadowbank and fit within its industrial history and aesthetic. Consider treatments such as homogenous face brick and rendered wall surfaces.	The development incorporates the use of rendered wall surfaces as well as face brick. The building materials and finishes have been considered by Council's Urban Design Review Panel as being acceptable.	Yes
Avoid extensive expanses of blank glass or solid wall.	The development does not propose extensive expanses of blank glass or solid wall.	Yes
Whilst large glazed areas	As the development has provided an acceptable	Yes

Control	Comments	Compliant
will be appropriate to south-west facing orientations to take advantage of water views, large areas of glazing are to be protected from solar gain and suitably screened.	BASIX Certificate, the development complies with this requirement.	
New buildings will require solar protection to openings in the form of screening, window hoods and overhangs is required for all new buildings.	As the development has provided an acceptable BASIX Certificate, the development complies with this requirement.	Yes
Noise and Vibration Attenuation		
New residential developments, including those within a mixed-use building, are required to consider noise attenuation and acoustic treatment in their design.	The applicant has submitted an Acoustic Report in respect of the proposed development prepared by Day Design Pty Ltd. The acoustic report has considered that the main source of noise that will affect this development will be noise from the mechanical plant as well as noise emission from the car park. The report has concluded that it will be necessary to provide a silencer on the car park exhaust fan. Subject to this occurring the level of noise emitted by the development will meet Council's requirements. A condition of consent has been imposed requiring that the development comply with the recommendations of this report. (See condition number 17).	Yes
New residential developments must be designed so that the repeatable maximum L Aeq (one hour) level does not exceed 45dBA inside living or bedroom areas, with windows closed.	Subject to the development satisfying condition 17 in respect to noise levels, the development should comply with these requirements.	Yes
Balconies and other external building elements are to be located, designed and treated to minimise infiltration of noise into the building and reflection of noise from the façade.	The development complies with this requirement.	Yes
New units are to be constructed in accordance with: - AS 3671-1989 and	A condition of consent will be imposed to ensure that the development complies with this requirement. (See condition number 17).	Yes

Control	Comments	Compliant
-AS 3671-1987.		
3.4 – Car Parking		
As a rule all car parking associated with new development is to be provided underground, within the fall of the land or within the foot print of the building. Where parking is provided at grade for existing development, it is to be screened from roads and public areas by landscaping to Council's satisfaction. Large areas of car park are required to have landscaping dispersed throughout. A landscape plan, prepared by a qualified landscape architect, is to be submitted with Development Application.	All carparking areas are located in the basement areas. The original plans proposed a loading zone adjacent to Porter Street. As part of the amended plans, this has been converted to landscaped area and the loading area has been relocated to the basement.	Yes
All major retail and commercial development shall be required to provide parking facilities for disabled persons. Facilities should be in accordance with the standards laid down in Australian Standard 2890.1.	The proposal includes commercial development and provides a total of 4 disabled car parking spaces. A condition of consent will be imposed to ensure that these spaces are provided in accordance with AS2890.1. (See condition number 62).	Yes.
<p>Council will take the following factors into account in determining car parking provision for a particular development:</p> <ul style="list-style-type: none"> – the size and type of the development and its traffic generation; – traffic volumes on the street network, including expected future traffic volumes; – hours of operation and any other specific characteristics of the development proposal; – the location of the 	The proposal provides car parking in accordance with the requirements of the DCP. As such, the proposed number of Car parking spaces are considered acceptable.	Yes.

Control	Comments	Compliant
development and access to public transport.		
<p>Where the calculation of the parking required results in a fraction, the requirement will be rounded up to the nearest whole number. Off street parking is to comply with the following:</p> <p>Residential:</p> <p>1 bedroom unit – 1 space</p> <p>2 bedroom unit – 1.4 spaces</p> <p>3 bedroom unit – 1.6 spaces</p> <p>Visitors – 1 space per 4 units</p> <p>Offices:</p> <p>1 space per 46m² of NUFS.</p>	<p>The total required amount of carparking has been rounded up to the highest number.</p> <p>The residential component will require 78 resident car parking spaces and 16 visitor car parking spaces. The development complies with these requirements.</p> <p>The office component will require 13 car parking spaces. The development has proposed 17 spaces to be allocated to the commercial uses. Although this exceeds the control by 4 spaces, this is considered to be appropriate as it will allow for greater flexibility in terms of the end use.</p>	Yes

Precinct Specific Development Controls

The Meadowbank Employment Area consists of 8 precincts that are differentiated by land-use, urban form and district character. Each precinct has additional and specific planning principles and planning and urban design controls that are to be applied to the precinct. The site is located within Precinct 4: Foreshore Activity . The planning principles and controls are contained in the following table.

Control	Comments	Compliant
Principles		
Located on the foreshore, the precinct is to consist of mixed higher density residential and commercial/retail development.	<p>Council's DCP adopted 17 April 2007 states that the proposal is to contain commercial/residential, without identifying a set mix.</p> <p>Given that the proposal includes commercial and residential uses, compliance is achieved.</p>	Yes
Height is to comply with RLEP 2010 and generally be 4 storeys at the foreshore.	The subject site located well away from the foreshore area. Accordingly, this planning principle is not applicable.	N/A
The precinct will have a lively urban character with some retail and other active uses at ground level; community	Commercial premises are proposed on the ground floor, ensuring that that an active street frontage is achieved.	Yes

Control	Comments	Compliant
service uses could be appropriate.		
Adaptive reuse of existing buildings should be considered and recognition given to former industrial uses.	The site is not identified as being a reuse building. Both of the buildings are post World War Two industrial buildings and neither contribute positively to the character of Meadowbank.	N/A
Development of the site bounded by Belmore, Well and Porter Streets should be in keeping with its location and island nature.	Does not include the subject site.	N/A
The presence of large mature trees shall continue to be a characteristic of the locale.	The proposal includes planting of trees that are capable of achieving a height of 15m at maturity.	Yes
Views down Belmore Street to the river are to be protected.	Views down Belmore Street will generally be maintained by the proposal.	Yes
Height		
Height of built form is to comply with Ryde LEP 2010.	The height control in LEP 2010 is 15.5m and the development exceeds to control by 3.7m in respect to Building A and 2.7m in respect of Building B. The breach in height however is acceptable for the reasons detailed earlier in the report.	Yes
Views & Vistas		
New development in this precinct – a highly visible location, one of the lowest in Meadowbank and near the waterfront – is to respond to and consider views from the Parramatta River.	The development has been found to maintain the views for pedestrians and cyclists along Bowden Street and along the foreshore reserve.	Yes
Building Footprint		
New commercial buildings are to have a maximum depth from window to core of 12 metres to ensure adequate natural light and ventilation.	The commercial spaces on the ground floor of each building complies with this requirement.	Yes
For retail ground floor areas larger footprints are allowable and will be considered on merit.	No retail ground floor areas proposed.	N/A
Minimum permeable (or planted or soft) landscaped area for both commercial/light industrial land use and the 50% commercial, 50% residential	As the development does not propose 100% commercial / industrial or 50% residential and 50% commercial, this requirement is not considered to be applicable to the	NA

Control	Comments	Compliant
land use is to be 25% of the site area.	development. The development does however provide adequate areas of open space as well as deep soli zones.	
Adaptive Re-Use and Heritage		
Existing buildings in this precinct should be considered for adaptive reuse.	Not applicable as subject site does not contain a heritage item nor is identified for adaptive reuse.	N/A
Amenity and Environmental Considerations		
Built form should have a maximum depth of 12-15m to ensure adequate cross ventilation and daylight.	The development complies with the requirements of building depth, cross ventilation and daylight as identified in the Residential Design Flat Code. Compliance with these requirements is considered adequate.	Yes
Distances between buildings should take into account acoustic and privacy issues to protect the amenity for all residential units.	As demonstrated earlier in the report, the design has taken into consideration acoustic and privacy issues to protect the amenity of the residents of this development and the adjoining development.	Yes
Facilitate solar access into apartments by utilising double storey apartments at lower floors if suitable.	The apartments will provide adequate solar access without the need to provide double storey apartments.	Yes
Minimum permeable landscaped area is to be 40% of site area.	The development will not comply with this requirement. The development has proposed a communal open space area that is equivalent to 16.4% of the site area. The amount of landscaping on this site is reduced due to the need to provide access to the commercial units as well as the pedestrian walkway along the northern boundary. The landscaped area is considered adequate for the development.	Yes
Development Mix		
Apartment mix in this precinct should ensure that new developments contain a range of dwelling sizes from 55m ² studios to 3 bedroom apartments.	The development has introduced a range of apartments but it does not include any studios. The range of units proposed will attract a variety of occupants.	Yes

Part 7.1 Energy Smart, Water Wise

The DA has been reviewed in relation to the relevant standards and policies in Part 7.1 Energy Smart, Water Wise of the Ryde DCP 2006. This DCP provides a strategic framework for achieving sustainable development and new developments are required to comply with the minimum energy performance standard.

Due to the introduction of the BASIX legislation, any provisions of the Council's DCP that intends to reduce the consumption of mains supplied potable water, or reduce emissions of greenhouse gases or improve the thermal performance of a building have no effect. This is only applicable to the residential component of the building. For this reason, there is no additional requirements that impact on the residential component.

The following table demonstrates the requirements for the commercial uses.

Control	Comment	Compliance
New Shops, Industrial and Commercial Premises		
The total anticipated energy consumption for the base building is no greater than 450MJ/am ² for commercial uses and 900MJ/am ² for retail uses.	No information was submitted with the development application to demonstrate compliance. A condition of consent will be imposed. (See condition 52).	Yes
Hot water systems must consider the most efficient option available to minimise greenhouse gas emissions.	A condition of consent will be imposed. (See condition 52).	Yes
Water efficient fixtures are to be installed to all showerheads and toilet cisterns. These are to achieve AAA rating.	A condition of consent will be imposed. (See condition 52).	Yes
The use of electrical appliances such as dishwashers, refrigerators, freezers and washing machines are to have a minimum Energy Star Rating of 4.5 Stars.	A condition of consent will be imposed. (See condition 52).	Yes
The installation of energy efficient lighting, motion detectors and dimmers is encouraged.	A condition of consent will be imposed. (See condition 52).	Yes

Part 7.2 Waste Minimisation and Management

As the development involves the demolition and construction of buildings the applicant submitted a Waste Management Plan (WMP) which has been reviewed by Council's Environment Health Officer and is considered satisfactory.

Appropriate conditions of consent will be imposed to ensure that the waste materials will be disposed off satisfactorily.

This DCP also requires that development provide an appropriate space for the storage of wastes. This space is to be separated for the commercial and residential uses. The development complies with these requirements and no objections have been raised by Council's Waste Management Co-ordinator.

Part 9.2 Access for People with Disabilities

This DCP requires that for residential development it is necessary to provide an accessible path of travel from the street to and through the front door to all units on each level of the building. Also 10% of the units are to be adaptable units in terms of AS4299. The commercial component of the development is required to comply with all of the applicable provisions of the DCP.

Council's Access Consultant has reviewed the development application and has provided the following comments by way of a conclusion:

"This application seeks consent to construct a mixed use commercial and residential complex that will contain two buildings, with commercial tenancies on the ground floor and a total of 61 residential apartments.

The proposal complies with the requirements of Council's DCP 2010 Part 9.2 Access for People with Disabilities with regard to providing a continuous accessible path of travel into each of the buildings and to all the commercial tenancies and residential apartments, and providing appropriate adaptable units and wide bay parking spaces. In addition, a public walkway joining Porter Street and Belmore Street will provide access for people with a disability, using the terrace in front of the Porter Street building to by-pass the steps at the Porter Street end of the walkway.

While generally appearing to comply with access requirements, three issues of potential concern have been identified:

- 1. Door widths: DCP 2010 Part 9.2 requires buildings to have clear door openings of at least 960mm width. The drawings note that doors will have only minimum 850mm clear door openings. For compliance with the requirements of the DCP Part 9.2 (Cl 5.10), at least the main entry doors into the building, the outdoor areas and the adaptable units should allow clear door openings of at least 960mm. This could be required as a condition of consent.*
- 2. The accessibility of the grassed communal open space. The DCP Part 9.2 states that it is expected that all parts of buildings will be accessible to people with disabilities and continuous accessible pathways of travel are to be provided from all entrances to all of the facilities in the area, including outdoor areas. The applicant should be asked to confirm that the grassed area will be accessible from the adjoining paved terrace of the Porter Street building, as the completed level of the grassed area, relative to the paving, is not clear. In addition, it would appear that the grassed communal open space will only be possible for a person with a disability coming from the Belmore Street building by going down to the basement car park and using the Porter Street lift to come back up, by virtue of level changes and steps between the two terrace levels. In this way, theoretical compliance with access requirements is achieved. However this inconvenient arrangement will be dependent upon security arrangements*

at the basement roller shutter and the Porter Street lift. The applicant should be required to clarify that the communal open space area will be accessible for all residents.

3. *In addition, many of the requirements of the DCP 2010 Part 9.2 involve detailed measurements of ramps, thresholds, door widths, lifts, circulation spaces and internal fitout of sanitary facilities and adaptable units. While some of these details have been noted on the drawings, it has not been possible for us to accurately scale and measure them from drawings scaled at 1:100 at A1 and reduced to A3. Thus while we can conclude that the proposal appears to be capable of compliance, we are unable to verify compliance of all matters. Relevant design details will need to be required as a condition of consent, with compliance demonstrated in Construction Certificate documentation."*

Point 1 above is in respect to the door widths. It should be noted that Council's DCP requirement exceeds the requirements of AS1428.1 as the DCP has been based upon the requirements of AS1428.2. A condition of consent has been imposed to require compliance to be demonstrated on the Construction Certificate drawings. (See condition number 59).

In respect of point 2, the applicant has provided an amended plan which demonstrates that access to the communal open space area would be possible for a person in the Belmore Street building without having to go to the basement. An access ramp has been provided between the two buildings that can be used to access the communal open space. Council's Access Consultant also requested that the applicant clarify that the grassed area would be accessible from the adjoining paved area as the levels were not clear in this area. The adjoining path is at RL 19.8 and from the landscaping plan the grassed area will have an RL of 19.6. A condition of consent will be imposed to ensure that appropriate treatment will be provided to the edge of the pathway to ensure disabled access to the grassed area. (See condition number 60).

To address the issues raised in point 3, it is proposed to include a condition on the consent requiring a report to be provided by a suitable qualified access consultant to verify that the construction drawings fully comply with DCP 2010 Part 9.2. (See condition number 58).

6 LIKELY IMPACTS OF THE DEVELOPMENT

Built Form

The proposed development will not have any significant adverse impacts on the existing built environment or the amenity of the surrounding area.

Although the development exceeds the maximum height and storeys control applicable for the site, it is however consistent with the height and scale of the adjoining development as well as being consistent with the numeric controls proposed in the future planning instruments for the site.

The proposed built form and character of the development will contribute to an attractive public domain as well as producing a desirable setting for the intended uses.

Access and Traffic

The development has proposed one entry / exit driveway located off Porter Street and will provide car parking for a total of 111 cars.

Based on the RTA, requirements, the projected traffic generation for the development is approximately 31 vehicle trips per hour during commuter peak periods. This figure does not include any offset or discount that could reasonably be expected to be generated by the existing use on the site. Based on this increase in traffic movements, the development will not result in any unacceptable traffic implications to the road network.

Overshadowing and Solar Access

The extent of overshadowing is an important consideration in terms of amenity to the proposed development as well as adjoining developments.

At least 73.8% of units within the development will achieve a minimum of 3 hours of sunlight during mid winter. This complies with the SEPP 65 requirements. The communal open space will achieve at more than 2 hours of sunlight in mid winter. The development will comply with the requirements of Council's codes and the SEPP 65 requirements in terms of providing acceptable amenity within the development.

Council does not have a control in respect of the overshadowing impact on the adjoining properties. This development will affect the extent of shadow that the adjoining residential flat building on 82 to 84 Belmore Street receives. The extent of shadowing however is similar to what would occur as a result of the previously approved development and is unlikely to significantly affect the amenity of the adjoining building. In this instances the extent of overshadowing is considered to be acceptable.

Visual Privacy

Visual privacy is another important consideration in respect of amenity.

Although the development does not achieve the required building separation distances as specified in the Residential Flat Design Code, it does provide adequate privacy between the proposed development and the adjoining development. This has been achieved by designing building layouts which will minimise direct overlooking of the adjacent building.

Safety by Design

In assessing this development application Council must have regard for the "*Crime Prevention Guidelines to Section 79C of the Environmental Planning and Assessment Act, 1979*" issued by the Department of Planning in April 2001. These guidelines include 4 key areas for assessment:

1. Surveillance

2. Access Control
3. Territorial Reinforcement
4. Space Management

Generally, the proposed development is capable of addressing each of the above criteria in an acceptable manner.

Construction Impacts

Construction impacts are controlled by Part 8.1 of the Ryde DCP 2010. Council's standard conditions of consent have been imposed to control the impact of the construction activities.

Hours of Operation

The applicant has not proposed any hours of operation for the commercial uses. At this stage, although the intended uses of the commercial spaces is not known, it is considered appropriate to impose a condition of consent to restrict the hours of operation of the commercial component of the development. This will ensure that the future uses within this building will need to operate within the times specified as well as ensuring the amenity of the future and surrounding residential uses is maintained. Given the number of residential uses in the vicinity, appropriate hours of operation would be 8.00am to 8.00pm seven days a week. This has been imposed as a condition of consent (see condition number 141).

Public Domain

Council has a draft Town Centre Public Domain Technical Manual that applies to Meadowbank. This document specifies the landscaping, paving and street furniture required to be provided as part of an upgrade of the existing public domain. A condition of consent has been recommended to ensure that the public domain is upgraded as part of this development consent for the land immediately adjacent to the site. (See condition number 63 and 64). The VPA proposes additional upgrading works of the public domain in the vicinity of the site. All of this work will contribute positively to the streetscape.

6 COMMENTS FROM COUNCIL DEPARTMENTS

Engineering

No objections were raised to the development application subject to appropriate conditions of consent.

Traffic Engineer

The following comments were provided by Council's Traffic Engineer:

"The traffic generated from the site is considered minor and would have insignificant operational impacts on the local network. The development can be accessed from Junction Street or Well Street."

Heritage Officer

The following comments were provided by Council's Heritage Officer:

“The heritage item at number 8 Junction Street is a single storey Federation style dwelling. It has additional recently constructed buildings to the south, rear, and a landscape setting to the north. It is considered that there is no visual relationship between the item and the proposed apartment development, and no heritage concerns.”

Environmental Health Officer

No objections were raised to the development application subject to appropriate conditions of consent.

7 PUBLIC NOTIFICATION AND SUBMISSIONS

The development application and the original VPA was advertised between 20 July 2010 and 19 August 2010. During this period, no submissions were received.

As a result of the changes to the VPA, it was necessary to readvertise the VPA. This was advertised during the period of 26 November 2010 till 23 December 2010. During this period, Council received no submissions.

8 CONCLUSION

9 APPLICATION DETAILS

The applicant is Brooks Projects Architects.

The owner is Hayes Holdings Pty Ltd.

The estimated value of works is \$19,740,367.

No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made.

10 RECOMMENDATION

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979:

- (a) That the Sydney East Region Joint Regional Planning Panel grant deferred commencement consent to development application LDA2010/331 for the demolition of all existing buildings and the construction of 2 x 6 storey mixed use residential and commercial buildings and strata subdivision at 2-4 Porter Street and 80 Belmore Street, Ryde for a period of five years from the date on the Notice of Determination subject to the conditions of consent in Attachment 1 of this report.

ATTACHMENT 1 PROPOSED CONDITIONS OF CONSENT

Part 1 – Conditions relating to a Deferred Commencement Consent pursuant to Section 80(3) of the Environmental Planning and Assessment Act 1979

This consent shall not operate until the proposal demonstrates satisfactory compliance with the following, to the satisfaction of the Group Manager Environment & Planning.

1. Submission of an amended Voluntary Planning Agreement which reflects the Letter of Offer dated 26 October 2010 and the applicable legal requirements under the Environmental Planning and Assessment Act.

The information required in Part 1 shall be submitted to Council within six months from the date of this notice or the Consent will have lapsed, in accordance with the requirements of Section 95(6) of the Environmental Planning & Assessment Act.

Part 2 – General Conditions of Consent

The following requirements shall apply upon satisfactory completion of the requirements outlined in Part 1 of this consent (above).

1. **Approved Plans** - Development is to be carried out in accordance with the following plans and supporting documentation as submitted to Council, except where amended by these conditions of consent:

Document	Author	Date and Revision
Site Plan	Brooks Projects Architects	Sk1f dated 27/5/10
Basement Plans	Brooks Projects Architects	Sk2g dated 19/9/10
Building A Porter Street Level 1	Brooks Projects Architects	Sk3h dated 22/9/10
Building A Porter Street levels 2 and 3	Brooks Projects Architects	Sk4f dated 6/5/10
Building A porter Street Levels 4 and 5	Brooks Projects Architects	Sk5f dated 13/5/10
Building A Porter Street Level 6	Brooks Projects Architects	Sk6g dated 17/9/10
Building B Belmore Street Level 1	Brooks Projects Architects	Sk7g dated 22/9/10
Building B Belmore Street Levels 2-5	Brooks Projects Architects	Sk8f dated 5/5/10
Building B Belmore Street Level 6	Brooks Projects Architects	Sk9g dated 8/9/10
Elevations	Brooks Projects Architects	Sk10f dated 13/5/10
Sections	Brooks Projects Architects	Sk11f dated 15/3/10
Belmore Street	Brooks Projects Architects	Sk12f dated 28/6/10

elevations		
Section through unit terraces	Brooks Projects Architects	Sk14 dated 21/10/10
Section through walkway	Brooks Projects Architects	Sk13 dated 21/10/10
Landscape plan	Jocelyn Ramsay and Associates Pty Ltd	10-008/R May 05

2. **Voluntary Planning Agreement** - Pursuant to Section 80A(1) of the Environmental Planning and Assessment Act 1979, the Voluntary Planning Agreement between the City of Ryde and Hayes (Holdings) Pty Limited that relates to the development application the subject of this consent, must be registered on the title of the property prior to the lodgement of any application for a certificate under section 109C of the Environmental Planning and Assessment Act 1979.
3. **Building Code of Australia** - All building works are required to be carried out in accordance with the provisions of the Building Code of Australia.
4. **Construction Certificate Required** - Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Amendment Act, 1997 are to be complied with:
 - a) A **Construction Certificate** is to be obtained in accordance with Section 81A (2)(a) of the Act.
 - b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A (2)(b) of the Act and Form 7 of Schedule 1 to the Regulations.
 - c) Council is to be notified at least two (2) days prior to the intention to commence building works, in accordance with Section 81A (2)(c) of the Act and Form 7 of Schedule 1 to the Regulations.
5. **Compliance with BASIX** - The development is to be carried out in compliance with BASIX Certificate No. 341746M dated 18 October 2010.
6. **Changes That Require a New BASIX Certificate** Any architectural and/or fixture changes to the development will require the submission of a new BASIX certificate. Please note that modifications may require the submission of a Section 96 application in accordance with the Environmental Planning & Assessment Act.
7. **Excavations and Backfilling** -
 - a) All excavations and backfill associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.
 - b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.
8. **Retaining Walls and Drainage** - If the soil conditions require it:

- a) retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided.
- b) adequate provision must be made for drainage.

9. Support for Neighbouring Buildings - If the soil conditions require it:

- a) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - i) must preserve and protect the building from damage, and
 - ii) if necessary, must underpin and support the building in an approved manner, and
 - iii) must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.
- b) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.
- c) In this clause, "allotment of land" includes a public road and any other public place.

10. Protection of Public Places -

- a) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.
- b) If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- c) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- d) Any such hoarding, fence or awning is to be removed when the work has been completed.

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

12. **Telephone Installations** - Advice should be obtained from your local telecommunications office regarding any telephone lines required to be installed in concrete floors.
13. **Australia Post** - Approval for the site and size of proposed household mailboxes must be obtained from Australia Post.
14. **Waste Management Plan** - Should you wish to vary the information provided in the Waste Management Plan you submitted to Council with your Development Application involving demolition and construction works, you are required to give written advice to Council of any changes.

Council's DCP 2006, Part 7.2 – Waste Minimisation and Management, sets out your obligations for waste management.

15. **Signage** - No approval has been granted for any signage or signage zones on the external elevations of the building. Any signage will require the submission of a new development application and must demonstrate how the signs are of a size and proportion which will complement the scale of the existing façade.
16. **Materials, Colours and Finishes Schedule** - The development materials, colours and finishes must be in accordance with the sample board prepared by Brooks Project Architects and stamped as approved by City of Ryde.
17. **Acoustical Assessment Report** - The development is to incorporate all of the recommendations in the Acoustic Report prepared by Day Design Pty Ltd and dated 1 November 2010. To ensure acceptable acoustic amenity within the development, the development is to be constructed in accordance with AS3674-1989 and AS3671-1987.
18. **Provision of Garbage Room** - A garbage room must be provided in a convenient location on the premises for the storage of garbage and recyclable materials.
19. **Construction of Garbage Rooms** - All garbage rooms must be constructed in accordance with the following requirements:
 - (a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
 - (b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
 - (c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;

- (d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
- (e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
- (f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
- (g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;
- (h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
- (i) The room must be provided with adequate artificial lighting; and
- (j) A hose cock must be provided in or adjacent to the room to facilitate cleaning.

20. Paving to Collection Point - The paving from the garbage room or waste storage area must be moderately graded so that the waste containers can be safely and easily manoeuvred to the collection point.

21. Access for Waste Collection Vehicles - Safe easy access must be provided for waste collection vehicles to service the waste containers. The driveways and manoeuvring areas must be designed for maximum legal dimensions and weights and allow collection vehicles to enter and leave the premises in a forward direction.

Additional clearances must be provided for overhead and side loading where appropriate.

22. Ventilation of Rooms - Every habitable room, sanitary compartment or other room occupied by a person for any purpose must be provided with adequate natural ventilation or an approved system of mechanical ventilation.

23. Ventilation of Carpark - The basement carpark must be provided with an adequate system of permanent natural ventilation or an approved system of mechanical ventilation.

24. Provision for Installation of Kitchen Exhaust Systems - Adequate provision must be made for the installation of kitchen exhaust systems to the commercial premises.

25. Fresh Air Intake Vents - All fresh air intake vents must be located in a position that is free from contamination and at least 6 metres from any exhaust air discharge vent or cooling tower discharge.

26. **Exhaust Air Discharge Vents** - All exhaust air discharge vents must be designed and located so that no nuisance or danger to health will be created.
27. **Carpark Exhaust Vent** - The carpark exhaust vent must be located at least 3 metres above ground level or any pedestrian thoroughfare and at least 6 metres from any fresh air intake vent, natural ventilation opening or neighbouring property boundary.
28. **Plumbing and Drainage Work** - All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation.
29. **Installation of Grease Trap** - A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building or in a specially constructed grease trap room and be readily accessible for servicing. Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.
30. **Noise and Vibration From Plant and Equipment** - Unless otherwise provided in this consent, the operation of any plant or equipment installed on the premises must not cause:
- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).
 - (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
 - (c) The transmission of vibration to any place of different occupancy.
31. **Drainage of Carwash Bay** - The floor of the carwash bay must be graded and drained to a grated drain or collection sump located within the wash bay and connected to a wastewater treatment and disposal system approved by Sydney Water Corporation.
32. **Notice of Remediation Work** - Before commencing remediation work written notice must be submitted to Council in accordance with clause 16 of *State Environmental Planning Policy No. 55 - Remediation of Land*.
33. **Remediation Work** - All remediation work must be carried out in accordance with the requirements of:
- (a) *State Environmental Planning Policy No. 55 - Remediation of Land*;

- (b) any relevant guidelines published by the NSW Environment Protection Authority; and
- (c) any council policy or development control plan relating to the remediation of land.

34. **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.

35. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.

36. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.

37. **Engineering Compliance Certificates.** Engineering Compliance Certificates must be obtained for the following works at the specified stage (If Council is appointed the PCA then the appropriate inspection fee is to be paid to Council) and **submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate:**

- Prior to backfilling of pipelines in which Council has an interest.
- Prior to backfilling of drainage connections to pipelines or channels in which Council has an interest.
- Prior to casting of pits and other concrete structures in which Council has an interest including kerb & gutter, access ways, aprons, pathways, vehicular crossings, dish crossings and pathway steps.

NOTE: Council has an interest in all pipelines which drain public reserves and public road reserves, and in all structures located within public road reserves.

All Engineering Compliance certificates are to contain the following declarations:

- a) *This certificate is supplied in relation to <<address of property>>.*
- b) *<<name of engineer and company >> have been responsible for the supervision of all the work nominated in (a) above.*
- c) *I have carried out all tests and inspections necessary to declare that the work nominated in (a) above has been carried out in accordance with*

the approved plans, specifications, and the conditions of the development consent.

- d) *I have kept a signed record of all inspections and tests undertaken during the works, and can supply the Principal Certifying Authority [PCA] with a copy of such records and test results if and when required.*

38. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No drainage work shall be carried out on the footpath without this permit being paid and a copy kept on the site.
39. **Drainage Security Deposit.** The applicant shall lodge with Council a security deposit of \$1,000 prior to the issue of the Construction Certificate to ensure the Positive Covenant has been prepared, lodged and registered and that the onsite stormwater detention system is constructed in accordance with the approval plans; this includes the correct sediment sump construction and fitting of the orifice plate and debris screen in the outlet control pit. Refund of this security deposit will be made on satisfactory completion of the works and notification to Council of lodgement of the Positive Covenant with the Department of Lands.
40. **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, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.

PRIOR TO CONSTRUCTION CERTIFICATE

41. **Security Deposit** - A security deposit (category: other buildings with delivery of bricks or concrete or machine excavation) is to be paid to Council (Public Works and Services Group) as well as the Infrastructure Restoration and Administration Fee. Please refer to Council's Management Plan for the current fee amounts.
42. **Security Deposit for Demolition** - A security deposit (Category: demolition) is to be paid to Council (Public Works and Services Group) prior to the commencement of any demolition works. Please refer to Council's Management Plan for the applicable fee amount.
43. **Enforcement Levy** - An Enforcement levy is to be paid to Council on lodgement of the Construction Certificate application in accordance with the requirements of Council's Management Plan (scheduled fees).

44. **Long Service Levy** - Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be received prior to the issuing of the **Construction Certificate**.
45. **Street Alignment Levels** - The applicant is to apply to Council, pay the required fee, and have issued street alignment levels by Council prior to the issue of the **Construction Certificate**.
46. **Payment of Council Fees and Charges** - Documentary evidence of compliance with Conditions 41 to 45 to the satisfaction of Council or an accredited certifier is to be submitted to the Council prior to the issuing of the Construction Certificate.
47. **Section 73 Certificate** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building, Development and Plumbing section of the website at www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, as it may take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority prior to the **Construction Certificate** being issued.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to occupation of the development / release of the plan of subdivision.

48. **Design Verification in Respect of SEPP 65** - Prior to a Construction Certificate being issued with respect to this development, the Principal Certifying Authority (PCA) is to be provided with a written Design Verification from a qualified designer. The statement must include verification from the designer that the plans and specifications achieve or improve the design quality of the development to which this consent relates, 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 143A of the Environmental Planning and Assessment Regulation 2000.

49. **Fire Safety Schedule** - A "Fire Safety Schedule" must be provided prior to issue of the Construction Certificate; specifying the fire safety measures (both current and proposed) to be implemented in the building premises. The fire safety schedule must deal with the whole of the building (not merely part of the building to which this development consent relates), in accordance with Clause 168 - Environmental Planning & Assessment Regulation 2000.

50. **Site Works Plan** - A site works plan indicating compliance with Council's DCP 2010, Part 8.1 – Construction Activities, in relation to:

- a) sedimentation and pollution controls;
- b) tree preservation and protection measures;
- c) security fencing;
- d) builder's identification signage and demolition in progress signage;
and
- e) provision of site toilets

to the satisfaction of Council or an accredited certifier is to be submitted to Council with the Construction Certificate.

51. **Details of BASIX Commitments** - The Construction Certificate plans and specifications are to detail all of the 'CC plan' commitments of the BASIX Certificate.

52. **Energy Efficiency** - The commercial component of the building must be in accordance with the City of Ryde's DCP in terms of energy efficiency and the following:

- (a) Where a hot water system is of domestic / residential scale it must achieve a minimum 3.5 Star Greenhouse Score. The energy rating of the hot water system should be visible on the product at the place of purchase.
- (b) The total anticipated energy consumption for the base building is no greater than 450 Mega Joules / annum / metre square for commercial uses and 900MJ/am² for retail uses.
- (c) The use of electrical appliances such as dishwashers, refrigerators, freezers and washing machines are to be provided with a minimum star of 3.5.
- (d) The development is to incorporate energy-efficient lighting, motion detectors and dimmers.
- (e) AAA or AAAA rated fittings and fixtures are to be used to ensure high levels of water efficiency. Where fittings cannot be AAA or AAAA, self-regulating flow restrictors will be provided on the supplies to limit the discharges to levels equivalent to AAA ratings.

The Construction Certificate plans are to demonstrate compliance with the above.

53. **Visual Privacy** - To ensure adequate visual privacy, obscure glazing is to be provided in the bathroom and ensuite windows along the south western elevation. This is to be demonstrated on the Construction Certificate plans.
54. **Arts and Cultural Plan** - Prior to the issue of a Construction Certificate, a site specific Arts and Cultural Plan is to be submitted for approval by Council. This Plan is to be prepared by an arts and cultural planner and will be required to address the following:
- a) Identify opportunities for the integration of public art in the development.
 - b) Identify themes for public art.
 - c) Durability, robustness and longevity.
 - d) Demonstrate how public art is incorporated in the site and build form design.
55. **Location of Service Infrastructure / Utilities** - All service infrastructure/utilities including electrical substations, fire hydrants, gas meters and the like shall be located within the building envelope. No service ducts or pipes are to be visible from the street. 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.
56. **Planting Within Front Setback Areas to Porter and Belmore Street** - To ensure that the pedestrian pathway along the northern boundary of the site is well identified, the planting proposed within the Porter Street and Belmore Street setback is not to exceed a maximum of 1 metre in height. To demonstrate compliance, a revised landscaping plan is to be submitted with the Construction Certificate.
57. **Soil Depth over Structures** – Where planting is proposed over a structure, the development is to achieve the minimum standards for soil provision as contained in the Residential Flat Design Code. Information verifying that the development complies with these requirements is to be provided on the Construction Certificate plans.
58. **Disabled Access** - Prior to the issue of the Construction Certificate, a report is to be provided from a suitably qualified access consultant to verify that the Construction Certificate drawings fully comply with Development Control Plan 2006 Part 9.2 Access for People with Disabilities. This report is to be provided to the PCA and Council (if Council is not the PCA).
59. **Door Openings** - To ensure compliance with DCP 2010 Part 9.2 Access for People with Disabilities, clear door openings of at least 960mm width is to be provided to the main residential entry doors into the building, the outdoor areas and the adaptable units. Details demonstrating compliance are to be submitted on the Construction Certificate drawings.

60. **Access to the Communal Open Space** -To ensure compliance with DCP 2010 Part 9.2 Access for People with Disabilities, details are to be submitted on the Construction Certificate drawings to confirm that the communal open space area will be accessible from the adjoining paved terrace.
61. **Adaptable Units** - Adaptable units are to comply with the provisions of a Class A adaptable unit as specified in AS 4299.
62. **Disabled Car Parking** - A total of 4 parking spaces in both the commercial parking area and the residential parking area are to be wide-bay spaces for people with a disability. The width of these spaces is to be a minimum of 3.6 metres and a vertical clearance of 2.55 metres. The Construction Certificate plans are to demonstrate the location of the disabled car parking spaces.
63. **Landscaping and Public Domain.** A detailed landscape plan for the site, the area identified in the VPA and the required area of the public domain is to be submitted and approved by Council prior to the construction of the development. The landscape plan is to include details of plant selections as well as details of all hard surfaces. The design and documentation of the landscape plan is to be completed by a qualified landscape architect. All of the landscaping is to be compatible with the Council's Town Centres Public Domain Technical Manual.
64. **Town Centres Public Domain Technical Manual** - All hard landscaping, paving, soft landscaping including species selection, street furniture and the like shall be in accordance with the Town Centres Public Domain Technical Manual. Full details, including samples, schedules and plans are to be submitted and approved by Council prior to the construction of the development.
- Where soft landscaping is proposed, including species selection, the applicant must ensure that species health is guaranteed for a minimum of 2 years to ensure the character and appearance of the streetscape is established and maintained. Any species that die within two years of planting must be replaced by the applicant with a specimen of a similar size and maturity.
65. **Privacy of Balconies** - Balcony dividers between the dwellings are to be provided from floor to ceiling and be of a design that protects the visual and aural privacy of adjacent residents. Details are to be submitted on the Construction Certificate plans.
66. **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.

67. **Council may Require Site Audit of Validation Report** - 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.
68. **Garbage Room Details** - Details of the proposed garbage room(s) must be submitted to Council or an accredited private certifier for approval with the application for the Construction Certificate. Such details must include:
- (a) the specifications and layout of all proposed waste containers and equipment for both the residential and commercial components; and
 - (b) the access to the collection point.
69. **Access Details for Waste Collection Vehicles** - Details of all driveways and manoeuvring areas for waste collection vehicles must be submitted to Council or an accredited private certifier for approval with the application for the Construction Certificate. Such details must include:
- (a) vehicle turning circles and swept paths; and
 - (b) overhead and side clearances (where appropriate).
70. **Carpark Ventilation Details** - Details of the proposed method of ventilating the basement carpark must be submitted to Council or an accredited private certifier for approval with the application for the Construction Certificate.
71. **Details of Provisions for Kitchen Exhaust Systems** - Details of the provisions made for the installation of kitchen exhaust systems to the commercial premises must be submitted to Council or an accredited private certifier for approval with the application for the Construction Certificate.
72. **Mechanical Ventilation Details** - Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier for approval with the application for the Construction Certificate. Such details must include:
- (a) Certified plans of the proposed work, with any alterations coloured to distinguish between new and existing work;
 - (b) A site survey plan showing the location of all proposed air intakes and exhaust outlets on the site, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity;
 - (c) A completed Mechanical Services Design Certificate (Form M1), together with a copy of the certifier's curriculum vitae; and

- (d) Documentary evidence in support of any departures from the deemed-to-satisfy provisions of the *Building Code of Australia*.

73. **Drainage Plans.** The plans and supporting calculations of the proposed drainage system, including the on-site detention system and details addressing any overland flow from upslope properties are to be submitted with the Construction Certificate application.

A positive covenant shall be executed and registered against the title of any lot containing an on site detention system to require maintenance of the system in accordance with Council's standard terms.

Any drainage pit within a road reserve, a Council easement, or that may be placed under Councils' control in the future, shall be constructed of cast in-situ concrete. Details shall be submitted with the Construction Certificate application.

74. **Stormwater Pipes.** The outlet pipes from the interception drain along the northern boundary of the site shall be constructed with RHS to minimise the risk of blockage and crushing under the footpath.

75. **Stormwater Control.** The gravel filter shown adjacent to the outlet control pit may be deleted in this case as no sediment should reach this point due to the settling that will occur in the detention/ irrigation tank.

76. **Soil and Water Management Plan.** A *Soil and Water Management Plan (SWMP)* 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. **This is to be submitted to and approved by the Consent Authority prior to the release of the Construction Certificate.** These devices shall be maintained during the construction works and replaced where considered necessary. Suitable erosion control management procedures are to be practiced during the construction period.

The following details are to be included in drawings accompanying the *Soil and Water Management Plan*:

- (a) Existing and final contours
- (b) The location of all earthworks, including roads, areas of cut and fill, and regrading.
- (c) Location of all impervious areas
- (d) Location and design criteria of erosion and sediment control structures including sediment collection basins**
- (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) Proposed techniques for re-grassing or otherwise permanently stabilising all disturbed ground.
- (l) Procedures for maintenance of erosion and sediment controls
- (m) Details for any staging of works
- (n) Details and procedures for dust control.

PRIOR TO COMMENCEMENT

77. Dial 1100 Before You Dig - Underground pipes and cables may exist in the area. In your own interest and for safety, telephone 1100 before excavating or erecting structures. Information on the location of underground pipes and cables can also be obtained by fax on 1300 652 077 or through the following website www.dialbeforeyoudig.com.au.

If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the Development Consent (or a new development application) may be necessary. Council's Assessment Officer should be consulted prior to the lodgment of an application for a **Construction Certificate** if this is the case.

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

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

79. Traffic Management. Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 1985 and City of Ryde, Development Control Plan 2010: - Part 8.1; Construction Activities. A plan of traffic management is to be submitted to and approved by the Consent Authority.

80. Truck Shaker. A truck shaker grid with a minimum length of 6 metres must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass them. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.

81. **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.
82. **Compliance Certificate.** A Compliance Certificate should be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and City of Ryde, Development Control Plan 2006: - Part 8.1; Construction Activities

SECTION 4: DURING DEMOLITION

83. **Demolition Work** - In relation to demolition, all work is to be carried out in accordance with the requirements of AS 2601 (*The Demolition of Structures*).
84. **Security Fencing** - Security fencing shall be provided around the perimeter of the building/demolition site and precautionary measures taken to prevent unauthorized entries of the site at all times during demolition and construction.
85. **Demolition and Construction Hours** - All demolition and all construction and associated work is to be restricted to between the hours of 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No work is to be carried out on Sunday or public holidays.
86. **Dust Control** - Adequate precautions must be taken to control the emission of dust from the site during demolition and construction work. These precautions could include minimizing soil disturbance, use of water sprays, erecting screens and not carrying out dusty work during windy conditions.
87. **Demolition and Building Wastes** - Adequate arrangements must be made for the storage and disposal of demolition and building waste generated on the premises. In this regard the demolishers and builders are encouraged to maximize the re-use and recycling of materials (e.g. Concrete, bricks, roof tiles, timber, doors, windows, fittings, etc.) by separating these materials from other wastes.
88. **Asbestos Work** - All work involving asbestos products and materials, including asbestos-cement sheeting (ie. fibro), must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.

89. **Storage of Asbestos Wastes** - All asbestos wastes must be segregated from other wastes and stored in a secure area in accordance with the requirements of the *Protection of the Environment Operations (Waste) Regulation 2005*.
90. **Disposal of Asbestos Wastes** - All asbestos wastes including used asbestos-cement sheeting (i.e. fibro), must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be kept by the applicant for at least 3 years and be submitted to Council on request.
91. **Concrete Wastes** - Concrete wastes must be collected, stored and treated in accordance with the *Concrete Wastes* guide published by the Environment Protection Authority.

DURING CONSTRUCTION

92. **Inspections of Construction** - The occasions on which building work must be inspected are:
- a) after excavation for, and before the placement of, any footings.
 - b) prior to covering of waterproofing in any wet areas, for a minimum of 10% of rooms with wet areas within a building, and
 - c) prior to covering any stormwater drainage connections, and
 - d) after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

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

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

93. **Construction Activities** - In addition to the abovestated inspections, the Principal Certifying Authority is required to ensure that adequate provisions are made for the following measures at each stage of construction, to ensure compliance with the approval and City of Ryde's DCP 2010, Part 8.1 - "Construction Activities":
- a) Sediment control measures.
 - b) Tree Preservation and protection measures.
 - c) Security fencing.
 - d) Materials or waste containers upon the footway or road.
 - e) PCA and principal contractor (the coordinator of the building work) signage and site toilets.

94. **Surveyor's Check** - Council recommends that a Registered Surveyors check survey certificate be submitted to the Principal Certifying Authority (*and Council, if Council is not the PCA*) detailing compliance with Council's approval at the following stages:
- a) Prior to construction of the first completed floor/floor slab showing the area of the land, proposed building and the boundary setbacks and verifying that the proposed building is being constructed to the approved levels.
 - b) Prior to construction of each floor level showing the area of the land, proposed building and the boundary setbacks and verifying that the proposed building is being constructed to the approved levels.
 - c) On completion of the proposed building showing the area of the land, completed building and the boundary setbacks.
95. **Contaminated Soil** - All potentially contaminated soil excavated during demolition work must be stockpiled in a secure area and be assessed and classified in accordance with the *Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes* (EPA, 1999) before being transported from the site.
96. **Water into Council's Stormwater Drainage System** - Only unpolluted water is to be discharged to Council's stormwater drainage system.
97. **Demolition and Construction Noise** - 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.
98. **Removal of Excavated Material** - All excavated material must be removed from the site. No fill is to be placed above the natural ground level.
99. **Demolition and Construction Hours** - All demolition and all construction and associated work is to be restricted to between the hours of 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No work is to be carried out on Sunday or public holidays.
100. **Council Owned Land** - No spoil, stockpiles, building or demolition material is to be placed on any public road, footpath, park or Council owned land.
101. **Toilet Facilities** - Site toilets shall be provided in accordance with the WorkCover Code of Practice entitled "Amenities for Construction Work".
102. **Essential Services** - essential services must be provided within the development to the requirements of the Building Code of Australia, the

Environmental Planning and Assessment Act 1979 (as amended) and Regulations.

103. **Intercom facilities** - Intercom facilities are to be incorporated into the pedestrian entry / exit points to the residential component of the development as well as the driveway access, to enable residents to communicate and identify with people prior to admitting them to the development. An auxiliary lock should be incorporated into the design of each of the pedestrian entry / exit points to enable emergency services to access the development.
104. **Vehicular Entry** - The vehicular entry to Porter Street is to have high quality finishes to the walls and ceilings as well as high standard detailing. No service ducts or pipes are to be visible from the street.
105. **Roof Material** - The roof material is to be non-reflective.
106. **External Glazing** - All external glazing is to have a minimum reflectivity of 18%.
107. **Undergrounding of Transmission and Telecommunication Lines** - All telecommunications and utility services are to be undergrounded. This work is to be completed by the applicant to Council's satisfaction.
108. **Lighting** - Australia / New Zealand Lighting Standard 1158 – Carparks must be used throughout the development. Lighting for all other internal areas is to meet the standards of AS1158 and AS1680. Ground level entrances to upper level dwellings should be unobstructed and well lit.
109. **Car Park Painting** - The walls and ceilings of the car park areas should be painted in a light colour.
110. **Lighting of Pedestrian Pathways** - The lighting of pedestrian pathways within the development shall be designed, installed and maintained to Australian Standard AS1158.3.1 – 1999: Road Lighting Pedestrian Area (Category P4) Performance and Installation Design Requirements. Areas besides thoroughfares should be evenly lit to avoid concealment or entrapment opportunities. The same is applicable to public clotheslines, communal courtyards and letterbox areas.
111. **Security Lighting** - Where security lighting is provided within the development, it should not illuminate observers or vantage points. Light should be projected outwards towards pathways and gates, not towards windows and doors. Passing motorists, police and pedestrians will be the likely observers.

112. **Surveillance Equipment** - Any surveillance equipment installed is to utilise digital or video technology to record images from the cameras. Cameras are to be installed in and around the business to maximise surveillance opportunities. Any surveillance system should be manufactured and installed by a qualified/reputable installer and regularly function tested. If surveillance equipment is installed, it should meet the requirements of the Privacy legislation.
113. **Graffiti Control** - All ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place is to be removed immediately.
114. **Garbage Services** - Arrangements must be made with Council for the provision of garbage services to the premises before occupation commences.
115. **Doors and Windows** - Doors and windows within the development are to comply with Australia / New Zealand Standard – Locksets to restrict unauthorised access:
- The main / entry exit points for this development should be fitted with single-cylinder locksets and are to be in compliance with the Building Code of Australia.
 - Fire exit doors to the development should be fitted with single-cylinder locksets to restrict unauthorised access to the development.
 - The main entry / exit doors to individual units should be fitted with single-cylinder locksets to restrict unauthorised access to the unit.
 - The balcony doors to individual units should be fitted with single-cylinder locksets to restrict unauthorised access to the unit.
 - The windows to individual units should be fitted with key operated locksets to restrict unauthorised access to the unit.

BEFORE ISSUE OF OCCUPATION CERTIFICATE

116. **Occupation Certificate** - An **Occupation Certificate** must be obtained from the Principal Certifying Authority (PCA) and a copy furnished to Council in accordance with Clause 151 of the Environmental Planning and Assessment Regulation 2000 prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.
117. **Fire Safety Certificate** - A Fire Safety Certificate/s from a suitably qualified person/s is to be submitted to Council or an accredited certifier (*and Council, if Council is not the PCA or an accredited certifier*) for all the essential services installed in the building in accordance with Clauses 170 and 171 of the Environmental Planning and Assessment Regulation 2000.

118. **BASIX** - Prior to the issue of the Occupation Certificate, the Principal Certifying Authority is to ensure that the BASIX commitments have been implemented in accordance with the approved BASIX Certificate. **NOTE:** Certificates from suitably qualified persons are to be submitted to the Principal Certifying Authority (*if Council is the PCA*) verifying that all BASIX commitments listed have been fulfilled in accordance with the BASIX Certificate.
119. **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.
120. **Undergrounding of Telecommunication Services** - The developer shall submit to Council a letter from Telstra and Optus confirming that satisfactory arrangements have been made for the provision of underground telephone service, prior to the release of the Subdivision Certificate or Occupation.
121. **Site Consolidation** - All land titles within the site must be consolidated into one allotment. A plan of consolidation in a form capable of registration shall be lodged with the Land Titles Office prior to issue of an Occupation Certificate under the Environmental Planning and Assessment Act 1979.
122. **Disabled Access** - Prior to the issue of an Occupation Certificate a report is to be provided from a suitably qualified access consultant to confirm that the development complies with DCP 2010 Part 9.2 Access for People with Disabilities, the Building Code of Australia and AS1428.
123. **Connection to Sewer** - The premises 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.
124. **Certification of Mechanical Ventilation Work** - A Mechanical Services Completion and Performance Certificate (Form M2) must be submitted to the Principal Certifying Authority on completion and commissioning of all mechanical ventilation work approved under this consent and before the issue of an Occupation Certificate.
125. **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 City of Ryde, Development Control Plan 2010: - Part 8.3; Driveways
- Confirming that the driveway is constructed in accordance with the construction plan requirements and City of Ryde, and Development Control Plan 2010: - Part 8.3; Driveways
- Confirming that the constructed internal car park and associated drainage complies with AS 2890, the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.3: Driveways.
- Confirming that the site drainage system (including the on-site detention storage system) servicing the development complies with the construction plan requirements and City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management
- Confirming that the on-site detention system will function hydraulically in accordance with the approved design.
- 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.
- Confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 - 1990 (National Plumbing and Drainage Code).
- Confirming that the vehicular crossing has been removed and the kerb and gutter have been constructed in accordance with Council's *Environmental Standards Development Criteria*

126. **Footpath Paving Construction.** The applicant shall, at no cost to Council, construct standard concrete footpath paving across the frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Engineering Services Division.

127. **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 of Council. 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.

128. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.

129. **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 City of Ryde, Development Control Plan 2010: - 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.

130. **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.
131. **Drainage Construction.** The stormwater drainage on the site is to be constructed in accordance with plan the Construction Certificate version of DA02 prepared by Ryan Consulting Group.
132. Documentary evidence of payment of the monetary contribution as identified in the Voluntary Planning Agreement is to be provided to the PCA prior to the issue of any Occupation Certificate or any Subdivision Certificate.

OPERATIONAL REQUIREMENTS

133. **Allocation of Car Parking** - Car parking is to be provided in accordance with the following:
 - 78 resident spaces
 - 16 residential visitor spaces
 - 17 commercial spaces.
134. **Graffiti Control** - Graffiti should be removed and cleaned within 48 hours. This is considered the most effective strategy for the reduction and deterrence of graffiti.
135. **Waste Containers** - An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.
136. **Cleanliness of Garbage Containers** - The occupier of the premises must keep all garbage containers as clean as practicable (having regard to their use).
137. **Maintenance of Waste Storage Areas** - All waste storage areas must be maintained in a clean and tidy condition at all times.
138. **Transfer of Waste Containers to Emptying Point** - Staff or contractors must be employed to take the waste containers from garbage

room to the container emptying point for servicing and to return the containers to the garbage room after servicing.

139. **Car Washing to be Carried out in Carwash Bay** - All car washing must be carried out within the confines of the carwash bay.
140. **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*.
141. **Hours of Operation** - The hours of operation for any commercial use within the building are to be restricted between the hours of 8.00am and 8.00pm Monday to Sunday.
142. The maintenance of the right of public footway as identified in the Voluntary Planning Agreement is to be at all times to Council's requirements.

PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE

143. **Issue of Subdivision Certificate** - Council will only issue a Subdivision Certificate pursuant to the Environmental Planning and Assessment Act 1979 Section 109J when this development consent is complied with and Council or an accredited certifier has lodged documentary evidence of completion of a final inspection of any building or engineering works with Council.