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8 October 2010

Joint Regional Planning Panel
GPO Box 3415
Sydney NSW 2001

Attention: Angela Kenna
Email: angela.kenna@jrpp.nsw.gov.au

Architecture
Urban Design
Planning
Interior Architecture

Dear Angela

RE: 22 Henry Street, Ryde
LDA 2010/0078 – draft conditions of consent

I refer to an enquiry from Ms Carol Pereira Crouch, Senior Project Officer JRPP, regarding Sydney Water comments on the draft conditions of consent for the above DA that has been referred to the JRPP. In response, Architectus has been requested by Sydney Water as applicant under Crown Development Application LDA 20110/0078 to provide the following comments on the draft conditions contained in the City of Ryde Report dated 2nd August, 2010 File Number GRP/10/4/001/3-BP10/443:

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

1 (a) Protection of Sacred Fig. “The Sacred Fig shall be amended so that the of subdivision between the proposed lots diverts around the canopy of the Sacred so that the tree falls within Lot 21.....”

This is not agreed by Sydney Water. The Sacred Fig tree stands within the proposed Lot 21 to be dedicated by Council. The tree is protected by Council's Tree Significant Tree Register. The canopy of the tree cannot therefore not be altered without the first approval of Council. Amending a proposed subdivision line to suit a tree canopy “at a point in time” when canopies are subject to natural growth is not a fair and reasonable request in the light of protections already in place which can be imposed by Council in future Development Approvals for development of proposed Lot 22.

(b) Right of Way. Agreed by Sydney Water.

(c) Dedication of Lot 21. Agreed by Sydney Water.

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Sydney

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 Agreed by Sydney Water.

2 (a) – (b) “The land shall not be developed for residential purposes until the applicant has submitted to Council a site investigation report.....if

remediation is required then the site shall be remediated to the extent necessary for the proposed use prior to any development taking place”.

Not agreed by Sydney Water. This draft condition should be restricted to the land contained by proposed Lot 22 only. Sydney Water should not be required to incur cost on proposed Lot 21 which is to be dedicated to Council as open space and has been leased by Council for that purpose for many years.

3 Agreed by Sydney Water.

General Engineering Conditions

4 On-site Detention. “To minimise downstream impacts due to future development on proposed Lot 1, an instrument setting out terms of restrictions on the use of land to be created.....proposed Lot 22 shall incorporate an on-site stormwater detention system.....The instrument may not be extinguished or altered without prior approval being obtained from Ryde City Council. The wording of the instrument shall be submitted to and approved by Council prior to release of the Subdivision Certificate”

Not agreed by Sydney Water. Council should impose this as a condition of any future development on proposed Lot 22. It is unreasonable for Sydney Water to incur expense in drafting and registering such a covenant and registering such an instrument when Council can impose the condition readily if and when future DA's occur on proposed Lot 22, by others. LDA 20110/0078 relates only to a paper subdivision.

5 Registration of Easements. “The registration of all necessary easements as required to ensure that all proposed lots will have legal access to all utility services, inter-allotment drainage and vehicular access. This shall include the creation of a reciprocal right of way over the first 6m of the access driveway to Lot 22. Prior to release of the Subdivision Certificate.....”

Not agreed by Sydney Water. This condition is considered to have no use for proposed Lot 21, which is to be owned (after dedication by Sydney Water) by Council as open space. With respect to proposed Lot 22, the location of utility services, inter allotment drainage etc will not be known if and when a Development Application is lodged for construction of dwellings on the proposed Lot 22, by others. Accordingly, this should be a condition of such a future Development Approval for the proposed Lot 22 as it will be the responsibility of such a future developer of Lot 22 to secure all necessary easements to suit the development plans.

The right of way has already been agreed by Sydney Water under Part 1 – Condition 1(b).

6 “Inter-allotment Drainage System. To facilitate legal disposal of stormwater from Lot 22 onto Lot 21, the following shall be implemented at no cost to Council:

- (a) The design and construction of an inter allotment drainage system to facilitate stormwater disposal from lot one into Council's existing drainage system located on Lot 21. The inter-allotment drainage system shall be located adjacent and parallel to the southern boundary of Lot 21 and connecting to the southwest corner to Lot 22.....
- (b) The registration of a 1.2m wide easement.....

- (c) **The design and construction of the inter allotment pipe line shall ensure that it will have the capacity to convey 1 in 100 year flow generated from Lot 21 and in accordance with Part 8.2 of Council's Stormwater Management Manual".**

Not agreed by Sydney Water. Council should impose this condition in a future Development Approval for the proposed Lot 22, as until then there is no change to the stormwater situation. There should be no obligation to construct until such development plans for Lot 22 are known by Council. A future developer of proposed Lot 22 should have the obligation to manage stormwater and construct infrastructure in accordance with the development design lodged with the DA for development of Lot 22.

- 7 Provision of Services.** "To ensure satisfactory effluent disposal and utility services are available to all proposed lot, the applicant is required to submit to Council with the application for Subdivision Certificate certificates a s.73 Certificate from Sydney Water indicating that sewer has been made available to each lot".

Not agreed by Sydney Water. This condition should be restricted to proposed Lot 22.

It is Council's responsibility to service the open space Lot 21, which is being **dedicated** to Council by Sydney Water, if it requires sewer connection after many years of the licensing the land for open space without such a need. Sydney Water will apply for, and comply with conditions imposed by Sydney Water for a Section 73 Certificate for the proposed Lot 22.

- 8 Works as Executed Plan.** "A 'Works as Executed plan of the constructed Inter-allotment drainage system prepared by a registered surveyor....."

Not agreed by Sydney Water. This should be a condition of a future Development Approval for development of proposed Lot 22. A developer of that site should undertake the work when the development plans are known for this proposed Lot.

- 9 88B Instrument.** "The submission of an instrument under Section 88B... creating any easements.....with Ryde City Council being the authority empowered to release vary or modify the same".

Not agreed by Sydney Water. Any Section 88B instrument should not automatically make Ryde City Council the only authority empowered to release vary or modify the terms an easement, positive covenant and restriction on use. This is dependant on who is affected by such easement, positive covenant or restriction on use. The wording should be changed to:

"The instrument may not be extinguished or altered without prior approval of all parties either burdened or benefited by the easement, positive covenant and restriction on use."

Advisory Condition

Protection of Fig Tree. The existing Sacred Fig tree located adjacent to the Arnold Street entrance to the site shall be protected during the future development of Lot 22.

Not agreed by Sydney Water. Council should impose this condition in a future Development Approval for development of the proposed Lot 22 or note it as an advisory condition only and not required for the issue of the Subdivision Certificate.

We enclose a full copy of the draft Conditions of Consent as contained in Council's report.

Sydney Water Corporation would be happy to meet with the Sydney Region East JRPP and City of Ryde Council officers to discuss the draft conditions if required during the assessment of the application.

Yours sincerely



John Riordan
Associate Director

Attached: draft Conditions of Consent.

Copy: Carolina De Wolff – Senior Project Manager, Property Transactions, Sydney Water Corporation
Geoff Fitzsimmons - Charterlink

ITEM 4 (continued)

ATTACHMENT 1

ATTACHMENT 1 – Proposed Conditions

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

1. This consent shall not operate until the applicant has submitted to Council an amended plan of subdivision that shows the following:
 - (a) **Protection of Sacred Fig:** The plan of subdivision shall be amended so that the line of subdivision between the proposed lots diverts around the canopy of the Sacred Fig tree so that the tree falls within Lot 21. In this regard a detailed survey plan shall be prepared and submitted to Council that shows the location of the tree, its existing canopy and the amended line of subdivision.
 - (b) **Right-of-way:** The right-of-way upon Lot 22 shall be maintained to ensure unencumbered pedestrian access from Arnold Street onto Lot 21 (being the area to be dedicated to Council).
 - (c) **Dedication of Lot 21:** The plan of subdivision shall retain the dedication of Lot 21 to Council; and

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. Except where otherwise provided in this consent, the development is to be carried out in accordance with subdivision plans as endorsed by Council's stamp and support information submitted to Council with Lot 21 dedicated to City of Ryde at no cost.
2.
 - (a) The land shall not be developed for residential purposes until the applicant has submitted to Council a site investigation report which has determined whether any contaminants are present within the soil and demonstrating that the land is suitable for residential purposes or that the land can be remediated to the extent necessary for that land use; and
 - (b) If remediation is required then the site shall be remediated to the extent necessary for the proposed use prior to any development taking place.
3. A contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the release of the Subdivision Certificate for registration at the Land and Property Management Authority (LPMA).

A	B
Community & Cultural Facilities	\$3,819.50
Open Space & Recreation Facilities	\$9,402.82
Civic & Urban Improvements	\$3,197.98
Roads & Traffic Management Facilities	\$436.14
Cycleways	\$272.48
Stormwater Management Facilities	\$865.78
Plan Administration	\$73.47
The total contribution is	\$18,068.17

ITEM 4 (continued)

ATTACHMENT 1

This contribution is a contribution under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 adopted by City of Ryde on 11/12/2007. The above amount, if not paid within the quarter that the consent is granted, shall be adjusted for inflation by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) on the basis of the contribution rates that are applicable at time of payment.

General Engineering Conditions

4. **On-Site Detention.** To minimise downstream impacts due to future development on proposed lot 1, an instrument setting out Terms of Restrictions on the use of land intended to be created, pursuant to Section 88 B of the Conveyancing Act, 1919 shall be submitted in a form acceptable to Council indicating the following:
 - (a) All future development on proposed Lot 22 shall incorporate an on-site stormwater detention system designed and constructed in accordance with City of Ryde, Development Control Plan 2010: - Part 8.2; Stormwater Management.
 - (b) The 88B Instrument may not be extinguished or altered without prior approval being obtained from Ryde City Council.

The wording of the instrument shall be submitted to and approved by Council prior to release of the Subdivision Certificate

5. **Registration of easements.** The registration of all necessary easements as required to ensure all proposed lots will have legal access to all utility services, inter-allotment drainage and vehicular access. This shall include the creation of a reciprocal right of way over the first 6m of the access driveway to Lot 22.

Prior to release of Subdivision Certificate, certification shall be obtained from a registered surveyor confirming the above requirement will be met upon registration of the linen plan.
6. **Inter-allotment Drainage System.** To facilitate legal disposal of stormwater from Lot 22 onto Lot 21, the following shall be implemented at no cost to Council:
 - (a) The design and construction of an inter-allotment drainage system to facilitate stormwater disposal from lot one into Council's existing underground drainage system located on Lot 21. The inter-allotment drainage system shall be located adjacent and parallel to the southern boundary of Lot 21 and connecting the southwest corner of Lot 22 to Council's existing drainage system traversing Lot 21.
 - (b) The registration of a 1.2m wide drainage easement over the inter-allotment pipeline in favour of Lot 22.
 - (c) The design and construction of the inter-allotment pipe line shall ensure it will have capacity to convey 1 in 100 year flow generated from Lot 21 and in accordance with Part 8.2 of Council's Stormwater Management Manual.
7. **Provision of Services.** To ensure satisfactory effluent disposal and utility services are available to all proposed lot, the applicant is required to submit to Council with the application for Subdivision Certificate certificates a s.73 Certificate from Sydney Water indicating reticulated sewer has been made available to each lot.

ITEM 4 (continued)

ATTACHMENT 1

8. **Work as executed plan.** A "Works as Executed" plan of the constructed inter-allotment drainage system prepared by a registered surveyor including engineering certification by a chartered civil engineer with NPER registration confirming that the work has been constructed in accordance with the approved plans shall be submitted to Council, prior to release of Subdivision Certificate.
9. **88B Instrument.** The submission of an instrument under Section 88B of the Conveyancing Act 1919 plus 2 copies, creating any Easements, Positive Covenants and restrictions on use with Ryde City being the authority empowered to release vary or modify the same.

ADVISORY CONDITION

Protection of fig tree: The existing Sacred Fig tree located adjacent to the Arnold Street entrance to the site shall be protected during any future development of Lot 22. An updated arborist's report will need to accompany any future development proposal showing the protection of the tree's root zone and should also outline a construction management plan which includes the supervision of the driveway construction by an arborist. Design of the driveway is to be of a construction that minimises impacts within the root zone of the tree; in this regard engineering design shall be in consultation with a suitably qualified arborist.

