

MEMO

Environment & Planning
CITY OF RYDE

To : Angela Kenna – Panel Secretariat
Joint Regional Planning Panel

From : Sandra McCarry– Senior Town Planner

Date : 1 November 2011

SUBJECT : 4 Eden Park Drive, Macquarie Park LDA2011/413
(2011SYE091)
ADDENDUM

The purpose of this memo is to bring to The Panels attention amendments to some of the conditions, as requested by the applicant, including Council's Section 94 Contributions. Council has also received another submission from a tenant at 6 Eden Park Drive objecting to the proposal.

The conditions were reviewed by the applicant and via a letter dated 27 October 2011, the applicant has requested amendments to the following conditions:

- **Condition 7 - 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.

The applicant advised that the proposed centre is a high security facility that will be monitored by specialist security personnel and requires a specialist security lighting solution. As such the above condition is inappropriate for this development and wishes to amend the condition to read:

7. Security Lighting: *Where security lighting is provided within the development it shall provide the appropriate level of illumination in accordance high security guidelines and should be designed so as not to illuminate or impact on pedestrians or motorists or police using Eden Park Drive.*

Council has no objections to the amendment and it is requested that condition 7 be amended as above.

- **Condition 27 - 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 **residential** 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.

The amendment is noted in red and is considered satisfactory by Council's Environmental Health Officer as part (b) of the condition will cover the adjoining commercial occupancies.

Therefore, it is requested that condition 27 be amended as above.

- **Condition 28 - Noise from emergency generator:** The noise emitted by the emergency generator must comply with the following criteria:
 - (a) The ~~L_{A10}~~ **A10EQ** noise level must not exceed ~~the background noise level by more than 15 dBA and, in any case,~~ a noise level of 65 dBA, when measured at the boundary of any affected industrial or commercial premises in the vicinity.
 - (b) Between 7.00am and 10.00pm the ~~L_{A10}~~ **A10EQ** noise level must not exceed the background noise level by more than 10 dBA and, in any case, a noise level of ~~55 dBA~~, **59 dBA** when measured at the boundary of any affected residential premises in the vicinity.
 - (c) Between 10.00pm and 7.00am the ~~L_{A10}~~ **A10EQ** noise level must not exceed the background noise level by more than 5 dBA and, in any case, a noise level of ~~45 dBA~~, **51 dBA** when measured at the boundary of any affected residential premises in the vicinity.

Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).

Council's Environmental Health Officer has reviewed the request and advised:

- Changes to L_{A10} to L_{A10EQ} is acceptable;
- The proposed deletion of the wording *the background noise level by more than 15 dBA and in any case* is not supported as the Acoustic consultant report by Cardno ITC quotes the same criteria.
- The changes to part (b) and (c) in regards to the dBA level is not substantiated. The requirements quoted in Council's condition are the minimum criteria stated in the Industrial Noise Policy.

Therefore, it is requested that condition 28 be amended as follows:

- 28. Noise from emergency generator:** The noise emitted by the emergency generator must comply with the following criteria:
 - (d) The L-**A10EQ** noise level must not exceed the background noise level by more than 15 dBA and, in any case, a noise level of 65 dBA, when measured at

the boundary of any affected industrial or commercial premises in the vicinity.

- (e) Between 7.00am and 10.00pm the L_{A10EQ} noise level must not exceed the background noise level by more than 10 dBA and, in any case, a noise level of 55 dBA, when measured at the boundary of any affected residential premises in the vicinity.
- (f) Between 10.00pm and 7.00am the L_{A10EQ} noise level must not exceed the background noise level by more than 5 dBA and, in any case, a noise level of 45 dBA, when measured at the boundary of any affected residential premises in the vicinity.

Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the New South Wales Industrial Noise Policy (EPA, 2000).

- **Condition 30 - Section 94 Contribution:** A contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of the Construction Certificate.

A	B
Community & Cultural Facilities	\$373,757.37
Open Space & Recreation Facilities	\$0
Civic & Urban Improvements	\$366,170.16
Roads & Traffic Management Facilities	\$385,079.81
Transport & Accessibility Facilities	\$0
Cycleways	\$50,542.45
Stormwater Management Facilities	\$44,822.87
Plan Administration	\$13,540.24

The total contribution is **\$1,233,912.91**

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 (2010 Amendments)

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.

Condition 30 required a Section 94 contribution of \$1,233,912.91 for the proposed data centre calculated under Council's S94 Contribution Plan based on the category "commercial office, research and development per m² of gross floor area". This is at a rate of 1 employee/20m² of GFA.

The applicant has requested that the S94 Contribution be reduced to reflect the number of people to be employed in the building. The applicant has made the following argument to support their request:

We request that the contribution required by Condition 30 be reduced to reflect the requirements of Council's Section 94 Contributions Plan 2007 and the number of people to be employed in the building.

In relation to non-residential development in the Macquarie Park Corridor, a number of the contributions required by the Plan are predicated on the number of people to be employed in a development, with these contributions being based on work space ratios of:

- Commercial offices/research & development - 1 employee/20m² GFA*
- Retail - 1 employee/40m² GFA*
- Industrial - 1 employee/50m² GFA*

Data centres do not neatly fit into any of the classifications specified in the Contributions Plan and, by their intrinsic nature, have lower work space ratios than the classifications contained in the Plan.

The Notes applying to Table 1.2 indicate:

- work space ratios will be applied unless an applicant can demonstrate to Council's satisfaction that an alternative rate should be applied to a specific development; and*
- the contribution for development that does not fall within the specified development types will be based on an assessment of the expected demand for public facilities that the development generates.*

In the proposed data centre, a total of 12 people are to be employed in each of 3 shifts, i.e. an overall total of 36 people. This represents a work space ratio of 1 employee/289m² GFA, markedly less than the 1 employee/20m² GFA on which the contributions proposed in Condition 30 are based.

In these circumstances, it would be reasonable for the contribution to be based on a work space ratio of 1 employee/200m² GFA. This would facilitate a total of 50 people working on the site.

On this basis, we request that Condition 30 be amended to include the following contributions:

<i>Community & Cultural Facilities</i>	<i>\$ 37,375.74</i>
<i>Open Space & Recreational Facilities</i>	<i>\$ -</i>
<i>Civic & Urban Improvements</i>	<i>\$ 36,617.02</i>
<i>Roads & Traffic Management Facilities</i>	<i>\$385,079.81</i>
<i>Transport & Accessibility Facilities</i>	<i>\$ -</i>
<i>Cycleways</i>	<i>\$ 5,054.25</i>
<i>Stormwater Management</i>	<i>\$ 44,822.87</i>
<i>Administration</i>	<i>\$ 1,354.02</i>
<i>The total contribution is</i>	<i>\$510,303.71</i>

Council's S94 Contribution Plan states: the contribution for development that does not fall within the above development types will be based on an assessment of the expected demand for public facilities that the development generates."

Based on the arguments given by the applicant, it is reasonable to amend the condition to reflect the wording as proposed by the applicant.

The above figures are subject to CPI adjustments as the figures were based on the CPI June quarter. The new September quarter came out on Thursday 27th October 2011, as such the figures have been amended accordingly.

Therefore, it is requested that condition 30 be amended to read as follows:

Condition 30 - Section 94 Contribution: A contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of the Construction Certificate.

A	B
Community & Cultural Facilities	\$37,628.27
Open Space & Recreation Facilities	\$0
Civic & Urban Improvements	\$36,864.42
Roads & Traffic Management Facilities	\$387,681.70
Transport & Accessibility Facilities	\$0
Cycleways	\$5,088.39
Stormwater Management Facilities	\$45,125.73
Plan Administration	\$1,363.17

The total contribution is **\$513,751.68**

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 (2010 Amendments)

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.

It is requested that condition 30 (a) be added as follows:

Condition 30 (a) Number of Employee: The maximum number of employees to be employed on the site is fifthly (50) and any increase over this maximum will require prior consent from Council.

- **Condition 37 - Compliance with Consultants Reports:** To confirm compliance with condition 36, specialist consultants are to be engaged in the detailed design to ensure that **the comments and recommendations contained in the reports specified in condition 36 are adhered to.** ~~there are no adverse effect on the occupants within the centre and those within adjacent properties.~~ Certifications from the relevant specialists are to be submitted to the Principal Certifying Authority certifying compliance with the relevant standards and recommendations.

The proposed variation is considered acceptable as compliance with the various consultants' reports will ensure that there are no adverse impacts on other occupants and adjacent premises.

Therefore, it is requested that condition 37 be amended as above.

- **Condition 42 - Public Domain Works.**

The applicant acknowledge the requirement to undertake the Public Domain works as a condition however given the time required to develop the design, review and obtain

Council's approval to these works, has requested that the condition be amended so as the approval is required to be granted prior to the issue of an Occupancy Certificate, in lieu of the Construction Certificate.

Council has no objections to this request subject to the work also being completed prior to Occupation Certificate.

Therefore, it is requested that condition 42 be amended to read as follows:

- 42. Public Domain Works:** Public domain improvement works including footpath paving, street furniture, street lighting, street tree planting with suitable plant species along the Eden Park Drive fronting the subject site and the like shall be in accordance with the Macquarie Park Public Domain Technical Manual. Full details, including samples, schedules and plans are to be submitted and approved by Council and constructed prior to the issuing of the Occupation Certificate. Applicants must ensure that the health of the street trees are 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.
- **Condition 44 - Substations:** All service infrastructure/utilities including electrical substations, fire hydrants, gas meters and the like shall be located within the building envelope. Details of all service infrastructure/utilities are to be approved prior to issue of the Construction Certificate.

The applicant has advised that there will be a requirement for a number of services such as hydrants points, fire booster valves, gas meters and the like to be located around the perimeter of the building or adjacent to the street boundary. The applicant has request the condition to be amended to read:

"All electrical sub-stations and the like shall be located within the building envelope. Details of all service infrastructure/utilities are to be submitted with the construction certificate application."

This is not acceptable to Council as all service infrastructure/utilities are to be located within the building envelope. This is required to ensure that the aesthetic/streetscape is maintained. Condition 44 is to remain unchanged.

Council has received another objection from a tenant at 6 Eden Park Drive, objecting to the proposal on the grounds that the 4 generators will not only emit fume but also noise, which will affect their business and health.

The issue of noise and air pollution have been addressed by the relevant consultant reports and conditions have been imposed to ensure compliance with the comments and recommendations contained in the reports. Council's Environmental Health has also imposed noise and air pollution conditions.

Sandra McCarry
Senior Town Planner