

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No	2011SYE097
DA Number	MOD2012/0118
Local Government Area	City of Ryde
Proposed Development	Section 96(2) to amend the use of the hotel building and residential Building A to serviced apartments and associated design modifications.
Street Address	84-92 Talavera Road, Macquarie Park
Applicant/Owner	Meriton Property Services Pty Ltd Karimbla Properties (No. 29) Pty Ltd
Number of Submissions	Nil
Recommendation	Approval
Report by	Sandra Bailey, Team Leader Major Developments

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

The following report is an assessment of a Section 96(2) application to amend the development consent 2011/0485 for the construction of a mixed use development comprising four buildings at 84-92 Talavera Road, Macquarie Park. Three of these buildings were approved for residential use and the fourth building as a hotel.

The Section 96(2) application proposes to amend the use of the hotel building and residential Building A to serviced apartments. As a result of this change of use, a number of design modifications are also proposed. In addition, the applicant has requested that several conditions be either amended or deleted to reflect these changes.

A comparison of the numerical differences and the qualitative differences between the development as originally approved and the proposed modified development demonstrates that the amended development is substantially the same as originally approved. The amended application satisfies all of the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979.

The amended development does not raise any additional issues in respect of the relevant planning instruments.

The amended development was publicly exhibited between 5 September 2012 and 19 September 2012. During this time, no submissions were received.

The amended development is recommended for approval.

2. SITE DESCRIPTION

The site is known as 84-92 Talavera Road, Macquarie Park and the legal description of the land is Lot 1 DP563745. The site area is 14,160m².

The subject site is located at the north west corner of the junction of Talavera Road and Alma Road. The site also adjoins the M2 to the north. The site location is illustrated in Figure 1.

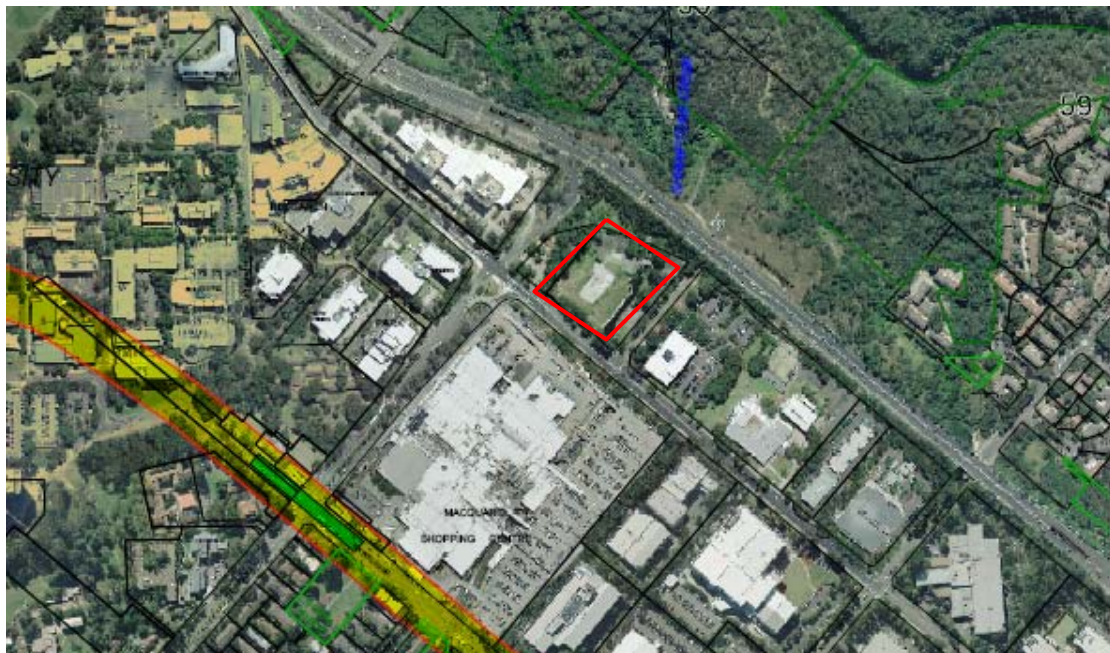


Figure 1. The above aerial photograph demonstrates the location of the site.

Part of Shrimptons Creek runs through the site from north to south. The creek effectively divides the site into two areas. The topography of the site slopes from the west to the east of the site, with the eastern boundary of the site being relatively level.

The site currently contains a concrete slab and retaining wall to Shrimptons Creek and part of an internal road layout including a car parking area and bridge over Shrimptons Creek. Construction of the proposed basement has commenced.

The site is surrounded by:

- Macquarie Shopping Centre to the south opposite Talavera Road
- A four storey commercial building to the east opposite Alma Road
- The M2 to the north and a small parcel of land to the west which is being used for the construction of an access ramp for the M2.

The site is also within close proximity to the Macquarie University Railway Station and bus interchange.

3. PROPOSAL

The predominant change as part of this Section 96(2) application is to amend the use of the hotel building and residential Building A to serviced apartments. As a result of this change of use a number of design modifications are also required. The proposed amendments include the following:

- The internal layout of Building D and A is proposed to be amended to reflect a layout appropriate for the serviced apartments. Building D originally contained 168 hotel rooms. As a result of the amendment, Building D will contain 48 x studio and 83 x 1 bedroom serviced apartments. Building A originally contained 1x studio, 7x1 bedroom and 42x2 bedroom apartments. This building will now contain 15 x studio, 40 x 1 bedroom and 13 x 2 bedroom serviced apartments.
- Balconies have been added to each serviced apartment in Building D.
- The ground floor plan of Buildings D and A has been modified to include a pedestrian walkway from the main lobby in Building D to Building A. This has resulted in the deletion of some storage space in the basement.
- Level 1 of the approved hotel consisted of back of house area. This is proposed to be replaced with a truck dock area.
- The plant room on Buildings A and D are proposed to be amended. The size of the plant is to be reduced and floor space will be added which will be used as serviced apartments.
- The footprint of Building A will be amended on each level. On level 1 and 2 the building will be extended 1.25m towards the east. On levels 3 to 8, the building will be extended 2m x 8m in the north eastern corner of the building.
- The footprint of Building D will be amended on each level. On level 1 the approved footprint provided a U shape. It is proposed to delete part of the floor space and “square up” the building. On levels 2 to 8 the footprint will be extended between 1.5m to 2m along the western elevation and between 1.5m to 2.8m along the northern elevation.
- The location of the pool and gym on level 1 in both buildings has been amended.

- The RL's of Building A has been amended as demonstrated in Table 1.

Approved RL of Building A	Proposed RL of Building A
Level 1 RL 41	Level 1 RL 41
Level 2 RL 45	Level 2 RL 44.1
Level 3 RL 48	Level 3 RL 47.1
Level 4 RL 51	Level 4 RL 50.1
Level 5 RL 54	Level 5 RL 53.1
Level 6 RL 57	Level 6 RL 56.1
Level 7 RL 60	Level 7 RL 59.1
Level 8 RL 63	Level 8 RL 62.1
Roof RL 66.5	Level 9 RL 65.3
Top of Plant RL 70.5	Top of roof RL 68.3
	Lift overrun RL 70.1

Table 1. Approved and Proposed RL's of Building A.

- The RL's for Building D have been slightly adjusted as demonstrated in Table 2.

Approved RL of Building D	Proposed RL of Building D
Ground RL 37	Ground RL 36.9
Level 1 RL 40.75	Level 1 RL 41
Level 2 RL 44.5	Level 2 RL 44.15
Level 3 RL 47.4	Level 3 RL 47.15
Level 4 RL 50.3	Level 4 RL 50.15
Level 5 RL 53.2	Level 5 RL 53.15
Level 6 RL 56.1	Level 6 RL 56.15
Level 7 RL 59	Level 7 RL 59.15
Level 8 RL 61.9	Level 8 RL 62.15
Roof RL 65.05	Level 9 RL 65.35
Top of Plant RL 68.5	Top of roof RL 68.5
	Lift overrun RL 70.5

Table 2. Approved and Proposed RL's of Building D.

Table 3 gives a comparison of some of the key statistics for the approved development and the current Section 96 application.

Key Development Parameters	Approved	Amended
Land Use Mix	Hotel and 3 residential buildings	2 serviced apartment buildings and 2 residential buildings
GFA	28,300m ² FSR 2:1	27,161m ² 1.919:1
Number of Storeys	Buildings A, B and C - 9 storeys (including the plant room) Hotel – 10 storeys (including the plant room)	No change
Maximum height of	Building A – 29.5m	Building A – 29.1m

building	Building B – 29.45m Building C – 28.45m Hotel – 31.5m		Building B – No change Building C – No change Building D – 32.5m	
Car Parking	325 spaces		325 spaces	
Unit Mix	Hotel	168 apartments	Building D	48 x studio 83 x 1 bed
	Building A	1 x studio 7 x 1 bed 42 x 2 bed	Building A	15 x studio 40 x 1 bed 13 x 2 bed
	Building B	12 x studio 43 x 1 bed 43 x 2 bed	Building B	No change
	Building C	13 x studio 32 x 1 bed 39 x 2 bed	Building C	No change
Setbacks	Talavera Road – 5 to 10m Alma Road – 31m M2 – 3m to 12.5m Western boundary – 5m		No change	
Landscaped Area	Approximately 71% of the site area		No change	

Table 3. Comparison of the key statistics for the approved and amended development.

In addition to the above design changes, the applicant has requested changes or deletion to the following conditions of consent. The changes to the conditions, as requested by the applicant are shown in either strikethrough or italics in Table 4.

Condition Number	Proposed wording of the condition
1 To be amended.	Approved Plans. This condition is to be amended to reflect the current plans.
48 To be amended.	<p>Stormwater Runoff. Stormwater runoff from site shall be collected and piped to Council's underground drainage system in accordance with DCP 2010 part 8.2. OSD is not required for the site however, a rainwater tank collection system is required. The system shall be designed to collect all roof water runoff from the site and connected for internal reuse in the toilets, laundry and irrigation.</p> <p>The rainwater tank volume required shall be the equivalent On-site detention (OSD) volume that would normally be required for the site under Development Control Plan 2010: - Part 8.2; Stormwater Management. This volume is additional to any rainwater tank volume that may be required under any legislative requirement.</p> <p>The stormwater system design shall ensure all gutters, down pipes and pipelines conveying runoff to the rainwater tanks system are be designed for a 1 in 100 year 5 minutes storm.</p> <p>Accordingly, detailed engineering plans including certification from a chartered civil engineer with NPER registration with Engineers Australia indicating compliance with this condition are to be submitted for approval with the Construction Certificate application.</p>
67(a) To	CCTV. CCTV cameras are to be installed to monitor:

be amended.	(a) The ground floor of the hotel . <i>serviced apartment buildings</i> .
29. This condition is to be amended.	<p>Energy Rating for the Hotel. The hotel is to achieve a minimum NABERS rating of 4 stars for energy and 3 stars for water. A report from an appropriately qualified person is to be submitted with the Construction Certificate verifying that this rating can be achieved.</p> <p>Certification of the energy efficiency performance of the hotel must be submitted to the PCA by a suitably qualified consultant prior to the Final Occupation Certificate being issued.</p> <p>Energy Rating for the Serviced Apartment Buildings. The serviced apartment buildings are to achieve the water ratings within BASIX, and the energy requirements are to comply with Part J of the Building Code of Australia. A report from an appropriately qualified person is to be submitted with the relevant Construction Certificate verifying that this can be achieved.</p>
32. This condition is to be deleted.	<p>Amendments to the Landscaping Plan. The landscape plan is to be amended by the deletion of <i>Alocasia Macrorrhiza</i>, <i>Philodendron 'Xanadu'</i> and <i>Tracheloperium jasminoides</i>. These species are to be replaced with any of the following species:</p> <p style="padding-left: 40px;"> <i>Dichondra repens</i> (ground cover) <i>Viola hederacea</i> (ground cover) <i>Geranium solanderi</i> (ground cover) <i>Clematis glycinoides</i> (vine) <i>Pandorea pandorana</i> (vine) <i>Ozothamnus diosmifolius</i> (small shrub) <i>Indigofera australis</i> (small shrub) <i>Syncarpia glomulifera</i> (tree). </p> <p>The amended landscaping plan is to be submitted with the Construction Certificate to the satisfaction of the PCA.</p>
37. This condition is to be deleted.	<p>Food Premises within the Hotel. The food premises within the hotel must comply with Food Safety Standard 3.2.3: <i>Food Premises and Equipment</i> and Australian Standard AS 4674 – 2004 <i>Design, construction and fit-out of food premises</i>.</p> <p>Details of all food handling areas must be submitted to and approved by Council before the issue of a Construction Certificate. Such details must include:</p> <p style="padding-left: 40px;"> (a) the layout and use of each room or area; (b) the construction and finishes of all floors, walls and ceilings; and (c) the location and details of all fixtures, fitting and equipment (including the method of installation). </p>
41. This condition is to be deleted.	<p>Grease Trap. A grease trap must be installed for the hotel kitchen. The grease trap must be located outside the building or in a dedicated grease trap room and be readily accessible for servicing. Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.</p> <p>The grease trap room must be constructed in accordance with the</p>

	<p>following requirements:</p> <p>(a) The floor, walls and ceiling must be constructed of solid materials finished to a smooth even impervious surface free of any cracks, holes or other openings that may allow the escape of odours.</p> <p>(b) The room must be fitted with an air-tight (eg. coolroom type) door.</p> <p>(c) The room must be provided with an approved system of mechanical exhaust ventilation.</p> <p>(d) The room must be provided with intrinsically safe artificial lighting.</p> <p>(e) A hose tap with a backflow prevention device must be provided in or adjacent to the room to facilitate cleaning.</p> <p>A fixed pump out line must be provided in accordance with the requirements of Sydney Water Corporation to facilitate servicing of the grease trap.</p> <p>Details demonstrating compliance with the above must be submitted with the Construction Certificate plans.</p>
92. This condition is to be deleted.	Inspection of the Food Premises. Council's Environmental Health Officer must inspect and approve the completed fit-out of any food premise when the hotel before the issue of an Occupation Certificate.
103. This condition is to be deleted.	NSW Food Premises to be Notified. The operator of any food premise within the hotel must notify their business details to the NSW Food Authority before trading commences. Notifications may be lodged on-line at www.foodnotify.nsw.gov.au.
109a. Additional condition to be included.	<i>A Plan of Management must be submitted and approved by Council prior to the issue of an Occupation Certificate for the serviced apartments. The use must always be operated/managed in accordance with the approved Plan of Management.</i>

Table 4. List of conditions to be either amended or deleted as requested by the applicant.

4. BACKGROUND

Development Consent 2011/0485 was granted by the Joint Regional Planning Panel on 15 March 2012 for the construction of a mixed use development comprising four buildings. Three of these buildings were approved solely for residential purposes and the remaining building as a hotel. The residential component of the development contained 232 residential apartments distributed across 3 x 8 residential storey buildings with car parking for 315 cars. The hotel building will contain nine commercial storeys with 168 hotel rooms, restaurant, bar and meeting rooms.

A Section 96(1A) application was submitted to Council on 27 March 2012 (MOD2012/0037). This Section 96 involved inserting a new condition 1A to allow for the development to be staged as well as modifying the wording of several conditions of consent. The new condition 1A reads as follows:

1A (a) The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of a construction certificate for each stage as follows:

Stage	Description of the Stage	Specific Condition
1A	<i>Includes installation of shoring walls and associated works around the whole development site.</i>	19, 21, 22, 23, 47, 51; 56
1AB	<i>Controlled Activity Approvals. Includes installation of the shoring walls and associated works within a 40 metre radius of the natural creek</i>	12, 110 to 123
1B	<i>Includes ground preparation, piling and excavation over the whole development.</i>	43, 44; 49; 50
2	<i>Includes the construction of structures from basement to ground level.</i>	8; 11; 26, 35, 42, 45, 46, 48
3	<i>Includes the construction of structures above ground level.</i>	36
4	<i>Includes the construction of fit out works from basement to ground level.</i>	38, 39
5	<i>Includes construction fit out works above ground level.</i>	3, 25; 27; 28; 29; 30, 31; 32; 33; 34, 37, 40, 41

This application was approved by Council on 30 May 2012.

A further Section 96(1A) application (MOD2012/0082) was lodged on 29 June 2012. This application proposed changes to the parking level 1 and ground level. The changes reflected a revised layout of the car parking on both of these levels. As part of this application the number of car parking spaces and bicycle parking spaces was amended to reflect the Council's new requirements. This Section 96 application was approved on 2 August 2012.

The current Section 96 application was submitted to Council on 28 August 2012. Following a preliminary assessment of this application the applicant was advised that the Section 96 could not be supported by Council's Officers. Concerns were raised in respect to the increased height of the buildings, building separation distances, car parking and whether the development complied with the floor space ratio. A meeting occurred with the applicant where it was agreed that amended plans and additional supporting information would be submitted to address the areas of concern raised by Council. The amended plans and additional information was submitted to Council on 13 September 2012. The amended plans were not required to be readvertised or renotified as they resulted in a reduction in the building envelopes. The amendments to the plans and the additional information included the following:

- The depth of Building A was reduced.
- The floor space proposed on the plant room level in Buildings A and D was reduced.

- The fire stair in Building D was relocated.
- The car parking for the serviced apartments has been increased and justification has been provided for the car parking rate.
- Details have been provided in respect of the floor space ratio.
- The entry portal and the width of the pathway from Talavera Road and extending between Buildings A and D have been widened.
- Legal advice has been submitted in respect to whether the amended development is substantially the same as the approved development.
- Details have been provided in respect of the energy efficiency of the hotel.

This report including the description of the proposal addresses the amended plans.

5. APPLICABLE PLANNING CONTROLS

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

- Section 96(2) of the Environmental Planning and Assessment Act, 1979;
- Ryde Local Environmental Plan 2010;
- Ryde Development Control Plan 2010;
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development;
- State Environmental Planning Policy No. 55 – Remediation of Land; and
- State Environmental Planning Policy (Building Sustainability Index: BASIX).

6. PLANNING ASSESSMENT

Section 96(2) of the Environmental Planning and Assessment Act 1979

The provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979 allow a consent authority to modify the consent where the application meets the following criteria:

- (a) The development to which the consent as modified relates is substantially the same development.
- (b) Any concurrence authority has been consulted and has not objected.
- (c) The application has been notified in accordance with the regulations.
- (d) Submissions made during the prescribed notification period have been considered.

These issues are discussed below.

- (a) The development to which the consent as modified relates is substantially the same development.

Under Section 96(2)(a) Council must be satisfied that the development as modified is substantially the same as was approved in the original consent. In arriving at this determination there should be no consideration of the merits of

the proposal but rather a straight before and after comparison. If it is determined to be substantially the same then the proposed modifications need to be assessed on their merits having regard to submissions received and any relevant council planning controls.

There have been a number of decisions in the Land and Environment Court that have addressed the issue of whether a development is substantially the same development as previously approved. In Vacik Pty Limited v Penrith City Council (1992 NSWLEC 8 (24 February 1992) Stein J said:

“In my opinion ‘substantially’ when used in this section means essentially or materially or having the same essence.”

In Moto Projects (no 2) Pty Limited v North Sydney Council (1999) 106 LGERA 298, Bignold J made the following observations:

“The relevant satisfaction required by s96(2)(a) to be found to exist in order that the modification power be available involves an ultimate finding of fact based upon the primary facts found. I must be satisfied that the modified development is substantially the same as the originally approved development.

The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of the comparison must be a finding that the modified development is ‘essentially or materially’ the same as the approved development.

The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where the comparative exercise is undertaken in some type of sterile vacuum. Rather the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).....because the requirements of s96(2)(a) calls for an ultimate factual finding on the primary facts of the case, only illustrative assistance is to be gained from consideration of other cases involving their own factual findings on relevant satisfaction required by s96(2)(a). References to those cases indicates that environmental impacts of proposed modifications to approved developments are relevant to the ultimate factual finding.”

In determining if a development application is substantially the same as the approved development, the question is whether such changes result in it being able to be said that the modified development is essentially or materially the same as the approved development. The Land and Environment Court has also found that the more substantial or complex the original development, the more likely it is that a larger degree of change will be permitted.

The current application involves variations to the approved hotel and residential Building A. The use of both of these buildings is proposed to be

changed to serviced apartments. The remaining two buildings will be used as residential as per the original approval.

Under LEP 2012, a hotel and serviced apartments are both defined as a type of tourist and visitor accommodation. Despite the changes in the floor plan layout, the change will still allow the use of the building to provide temporary or short term accommodation. The approved development contained 168 hotel rooms whereas the amended development will contain 199 serviced apartments.

A greater change occurs in respect of the use of Building A. The Section 96 intends to convert this building from a residential use to a commercial use being serviced apartments. Although the use of the building is changing, the serviced apartments are similar in nature to a residential use as opposed to another type of tourist and visitor accommodation. The floor plan of the building will still reflect a layout typical for a residential building. The remaining two buildings will still be residential in use. The Section 96 will result in a reduction of residential apartments from 232 to 182. This represents a reduction of 22% and will still ensure that the development provides a mix use development.

No changes are proposed to the use or the layout of the remaining two buildings on the site, being Buildings B and C.

The development still provides a mixed use development consisting of residential and tourist and visitor accommodation. The change in the various mixes of uses is not a significant change.

Part of the Section 96 application also includes an increase in the floor space of Building D and A. This predominantly occurs on the plant room level and in the case of Building D it will not be visible from either Talavera Road or Alma Road. With Building A the increase in the footprint is well setback on the western and southern elevation of the building so that it will not be readily visible from the adjoining roads. The increase in the floor space of the buildings will result in minimal changes to the bulk and massing of the buildings.

A comparison of the resulting elevations by reference to the approved and proposed plans indicates a substantial degree of similarity. This is based on the overall design, scale and form of the development not being substantially altered by the proposed amendments. The critical elements of the proposed development such as the overall massing, bulk and scale of the 4 buildings, the buildings footprints, the location of pedestrian and vehicle ingress and egress points, the provision of open space and the development still providing a mix of residential and tourist and visitor accommodation will remain essentially or materially the same as the original development.

The applicant has provided a copy of a legal opinion in respect of this issue. This opinion has been attached to the report as Annexure A.

For the above reasons, it is considered that the proposed development is substantially the same as that which was originally approved.

(b) Concurrence Authority

The Section 96 application was referred to the NSW Office of Water on 28 August 2012. NOW advised on 13 September 2012 that as there are no further encroachments into the riparian corridor, they do not require to see the Section 96 application.

(c) Advertising and Submissions

The Section 96 application was advertised in accordance with Council's notification requirements for a 14 day period between 5 September and 19 September 2012. During this time, Council received no submissions.

Conclusion

The proposed development satisfies all of the requirements of Section 96(2).

In addition to the above consideration, section 96(3) requires the consent authority to take into consideration matters referred to in Section 79C of the Environmental Planning and Assessment Act, 1979 that are relevant to the proposed development. These matters are discussed below:

Ryde 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 2.3 Zone Objectives and Land Use Table

The site is zoned B4 Mixed Use under the provisions of the LEP 2010.

Serviced apartments are defined in LEP 2010 as meaning a building (or part of a building) providing self-contained accommodation to tourists or visitors on a commercial basis and that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's managing agents. Serviced apartments are a permitted form of development in this zoning.

The objectives for the B4 Mixed Use zone are as follows:

- To provide a mixture of compatible land uses;
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximize 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 recognize topography, landscape setting and unique location in design and land use.

The amended development will satisfy the above zone objectives. The development proposes residential uses as well as serviced apartments. These uses are compatible with each other and the amended development still retains a mix of land uses. The provision of residential and serviced apartments will add to the activation of the area and contribute to providing a vibrant and safe community. The amended development will not change any of the public domain conditions imposed on the original approval so the development will still maintain a safe and attractive environment for pedestrians. As the bulk, scale and massing of the development is not significantly changing the topography and landscaped setting of the development will be retained.

Clause 4.3 Heights of Buildings

The approved development exceeded the 21.5m height control as permitted by LEP 2010. The justification for allowing the variation to the height control was based on the fact that there is an existing approval which also exceed the height control, there would be minimal impacts as a result of the non compliance and the heights of future development on the adjoining site would be 30m. Table 5 demonstrates the approved heights of Buildings A and the hotel.

Building	Min. height to roof parapet	Max. height to roof parapet	Min. height to top of roof plant	Max. height to top of roof plant
A	22.5m	25.5m	26.5m	29.5m
Hotel	25.4m	28.4m	28.5m	31.5m

Table 5. Approved heights of Building A and the hotel.

As a result of this Section 96, the height of these two buildings will be amended. This amendment is due to the enlarging of the previous plant room floor and the provision of a lift overrun. The heights of the amended development are demonstrated in Table 6.

Building	Min. height to roof parapet	Max. height to roof parapet	Min. height to top of lift over run	Max. height to top of lift over run
A	21.3m	26.8m	26.1m	29.1m
D	25.4m to 29.4m	31.85m	30.5m	32.5m

Table 6. Proposed heights of Buildings A and D.

Figure 2 illustrates the area of the plant room floor that will be enlarged for Building D.

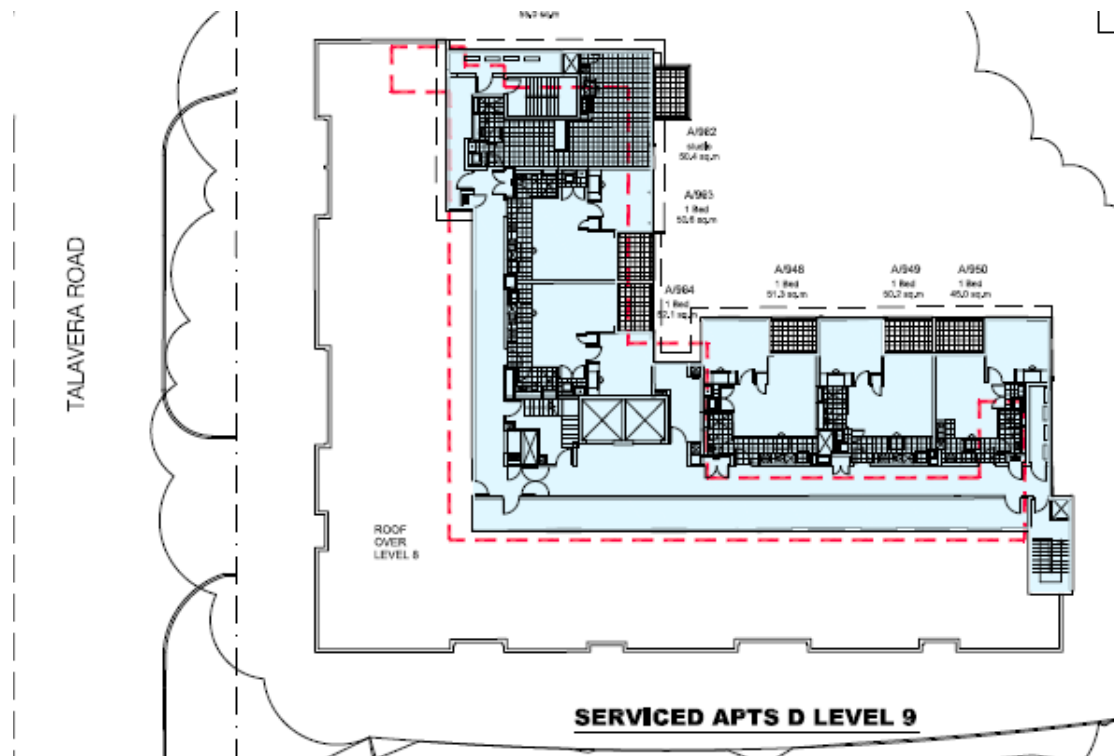


Figure 2. The above diagram demonstrates upper level of Building D. The red dotted line represents the footprint of the approved plant room.

The approved plant room occupied 40.9% of the roof area. The enlarged floor plan will now occupy 53% of the roof area. The floor plan is being enlarged in the north western corner of this building. This will not be visible from either Talavera Road or Alma Road so there will be no change to the massing of this building as viewed from a public place. There will be no increase in overshadowing and no loss of amenity for the adjoining buildings as a result of this increase.

The height of Building D is still consistent with the heights approved in the development application with the exception of the lift overrun. The lift overrun is relatively minor in respect to the entire roof level and will not be visually prominent.

Figure 3 demonstrates the area of the building footprint that will be enlarged for Building A

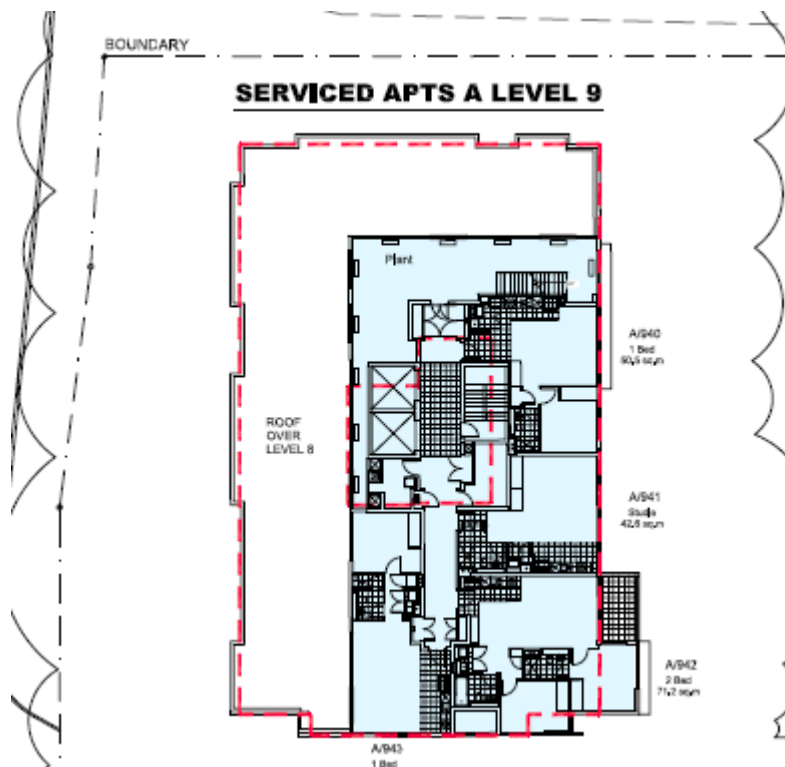


Figure 3. The above diagram demonstrates upper level of Building A. The red dotted line represents the footprint of the approved plant room.

The footprint for this floor will be enlarged from 9.3% to 57%. Despite the increased footprint of the upper level, the floor to ceiling heights in the building have been reduced. This ensures that the maximum approved RL is not exceeded for the development. To reduce the visual massing and appearance of this floor, it has been setback a minimum of 5 metres from the Talavera Road frontage and the M2 access road frontage. This setback will ensure that the additional massing will not impact on the streetscape. The height and massing of this building will not exceed the height of any future development on the Macquarie Shopping Centre site. As such this building is still consistent with the desired character of the area.

Building separation distances are also adequate to ensure the amenity of Building B will not be affected. Also no additional overshadowing will occur as a result of this change.

The variation in height and massing is considered acceptable. The development will still comply with the objectives for the height control as well as the additional objectives for height for development within the Macquarie Park Corridor.

Clause 4.4 Floor Space Ratio

The floor space ratio of a building is not to exceed the maximum floor space ratio as specified on the Floor Space Ratio Map. The floor space ratio map identifies the site as having a 2:1 floor space ratio.

Based on the above, the site may accommodate a maximum permitted floor space of 28,320m². The development proposes the following floor space:

Building A – 4,517m²
Building B – 7,677m² (no change)
Building C – 6,718m² (no change)
Building D – 8,249m²
Total – 27,161m²

This results in a floor space ratio of 1.919:1. The amended development does not exceed the maximum floor space ratio.

Clause 6.6 Macquarie Park Corridor

The consent authority must not grant consent for development on the land to which this clause applies unless it has considered whether the proposed development is consistent with the following objectives:

- To promote the corridor as a premium location for globally competitive businesses with strong links to the Macquarie University and research institutions and an enhanced sense of identity.
- To implement the State Government's strategic objectives of integrating land use and transport, reducing car dependency and creating opportunities for employment in areas supported by public transport.
- To guide the quality of future development in the corridor.
- To ensure that the corridor is characterised by a high-quality, well-designed and safe environment that reflects the natural setting, with three accessible and vibrant railway station areas providing focal points.
- To ensure that residential and business areas are better integrated and an improved lifestyle is created for all those who live, work and study in the area.

The amended development satisfies the above objectives.

Ryde Development Control Plan 2010

Council adopted City of Ryde DCP 2010 on 16 June 2009 and its provisions became effective on 30 June 2010. The following sections of DCP 2010 are relevant to the proposed development:

Part 4.5 of DCP 2010 – Macquarie Park Corridor

This part of the DCP provides a framework to guide future development in the Macquarie Park Corridor, North Ryde. The DCP specifies built form controls for all development within the Corridor and sets in place urban design guidelines to achieve the vision for Macquarie Park as a vibrant community, as a place to live, work and visit.

The DCP is divided into four sections. The first section is the structure plan and this sets out the broad framework for development within the Macquarie

Park Corridor. The second section deals with special precincts and provides character statements, objectives and development controls for the areas. This section is not relevant to the current development as it is not located within a special precinct. The third section of the DCP deals with controls applicable for the public domain. The final section contains controls in respect to the siting and planning design.

Many of the requirements of this DCP are not applicable as the development involves a Section 96 Application. The following table demonstrates the relevant provisions of the DCP and the proposals compliance with these requirements.

Control	Comments
S6.0 – Site and Building Design	
Site Planning & Staging <ol style="list-style-type: none"> Buildings are to be sited to address existing and new frontages in the following order of precedence: <ol style="list-style-type: none"> Primary frontages: These are located along existing streets (typically Type 1 or 2 streets). Secondary frontages: these are generally existing, or new Type 2 or 3 streets. Front door and street address is to be located on the primary frontage. Loading docks, vehicular access is not permitted to be located on the primary frontage unless it can be demonstrated that there is no alternative. 	<p>Talavera Road is identified as a primary frontage. Buildings A and D will still address Talavera Road. Talavera Road also acts as a major entry for pedestrians to access the residential Buildings B and C. In the original plans the footprint of Building A was extended closer to Building D. This resulted in the width of the pedestrian access being restricted and more confined. The amended plans have reinstated the width of the pedestrian path. Part of the previous back of house areas for the hotel was located adjacent to the Talavera Road frontage. This area will be replaced with a loading dock. This will not affect the appearance of the development from Talavera as it will be located behind a wall.</p>
Building Articulation <ol style="list-style-type: none"> Facades are to be composed with an appropriate scale, rhythm and proportion, which respond to the building use and the desired character. Building services such as roof plant and parking ventilation are to be coordinated and integrated with the overall façade and building design, and screened from view. Roof forms, building services and screening elements are to occur within the overall height control. 	<p>The façade of Building A remains similar to the approved development.</p> <p>Balconies have been introduced to Building B. This improves the building articulation from the approved development.</p>

Table 7. Applicable DCP controls.

Part 9.3 of DCP 2010 - Car Parking

The car parking numbers were amended as part of MOD2012/0082. The modifications reflected the car parking rates that were adopted by Council on 22 November 2011 with the exception of the hotel. The hotel retained the

same amount of car parking as approved by the JRPP. The current wording of condition 102 is as follows:

102. Off Street Car parking. *325 off-street car spaces being provided in accordance with the submitted plans. Such spaces to be paved, line marked and made freely available at all times during business hours of the site for staff and visitors. These spaces are to be allocated as follows:*

- *69 spaces for the hotel.*
- *209 spaces for the residents of the residential buildings.*
- *47 residential visitor spaces.*

The applicant originally proposed to allocate car parking to the serviced apartments based on a similar rate that was approved for the hotel being 1 space per 2.4 units (88 car parking spaces in total). Concerns were raised with the applicant that this rate was not appropriate for the serviced apartments due to the different nature of occupants that may be attracted to serviced apartments rather than a hotel.

Council's Current car parking rate for serviced apartments is 1 space per 1.5 units. This would require the serviced apartments to provide 133 spaces.

The applicant has amended the development to provide 100 car parking spaces for the serviced apartments. This results in a rate of 1 space per 1.97 units. To support this parking rate, the applicant has provided car parking and occupancy figures for two other serviced apartment buildings. One of these is in Parramatta and the other in Waterloo. Both of these buildings had significantly less car parking than currently proposed for this development.

Council's current DCP rate applies across the entire Council LGA and does not take into account specific locations of sites. In this regard, the subject development is located within the Macquarie Park precinct and in close proximity to public transport (both bus and rail).

The rate of car parking for the serviced apartments being 1 space per 1.97 units is considered acceptable for the above reasons. This rate is also supported by Council's Traffic Engineer.

As 100 car parking spaces will be allocated to the serviced apartments, this means 225 spaces will be available for the residential component. Council's current rates for residential is as follows:

- Studio and 1 bedroom units – 0.6 to 1 space per dwelling
- Two bedroom units – 0.9 to 1.2 spaces per dwelling
- Visitors – 1 space per 5 units

Based on the above rates a total of 37 visitor car parking spaces is to be provided. The required residential parking ranges from 134 spaces to 199 spaces. 188 car parking spaces are available for resident parking. As this is within the range, the development complies.

Condition 102 will be amended to read as follows to reflect the amended car parking rates:

102. **Off Street Car parking.** *325 off-street car spaces being provided in accordance with the submitted plans. Such spaces to be paved, line marked and made freely available at all times during business hours of the site for staff and visitors. These spaces are to be allocated as follows:*

- *100 spaces for the serviced apartments.*
- *188 spaces for the residents of the residential buildings.*
- *37 residential visitor spaces.*

Part 9.2 of DCP 2010 – Access for People with Disabilities

As part of the Section 96 application, an Access Review by Morris-Goding Accessibility Consulting has been submitted. This report demonstrates that the development will comply with the access requirements subject to compliance with certain recommendations that are outlined in the report. The main recommendations are as follows:

- Provide an accessible path of travel from the pedestrian site boundary to the entry of the serviced apartments lobby compliant with AS1428.1:2009 and Ryde Access DCP.
- Ensure all dual-hinged entry doors have a minimum 850mm clear width compliant with AS1428.1:2009 and Ryde Access DCP.
- Provide 4 additional adaptable unit car bays, compliant with AS4299 and Ryde DCP.
- Ensure adaptable unit car bays have a minimum 3800mm clear width compliant with AAS4299.
- Provide an additional 12 adaptable residential units in Building B and C in accordance with AS4299 and Ryde Council DCP.

These recommendations are associated with detailed design and will be required to be addressed prior to the issue of a Construction Certificate.

Condition 30 of the development consent stated the following:

30. **Disabled Access.** *Disabled access is to be provided to and within the development in accordance with the recommendations contained within the Access Review prepared by Accessible Building Solutions dated 24 August 2011. Details indicating compliance with these recommendations are to be submitted to the Principal Certifying Authority (PCA) prior to the construction certificate being issued. Prior to occupation of the development, a suitably qualified access consultant is to certify that the development complies with Australian Standard 1428 and the Building Code of Australia.*

It is proposed to amend this condition to reflect the current Access Report as well as including a reference to the recommendations contained in this report.

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

SEPP 65 relates to the design quality of residential flat developments. This SEPP is not applicable to the serviced apartment buildings however as the amended development retains two residential flat buildings, it is applicable to this application.

The SEPP includes 10 design quality principles that are applicable to residential flat buildings. Due to the nature of the proposed amended development some of these design quality principles are not applicable. The relevant principles are discussed in the following table.

Planning Principle	Comment	Comply
Amenity Good design provides amenity through the physical, spatial and environmental quality of a development. Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.	The Section 96 will still ensure that the residential units will provide for sufficient levels of amenity for the future occupants. The residential units will not be affected in terms of solar access, natural ventilation, private open space, storage areas, noise impacts or overlooking.	Yes
Social Dimensions and Housing Affordability Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.	The Section 96 will convert one of the residential buildings to serviced apartments. This will affect the approved housing mix. The housing mix will be <ul style="list-style-type: none"> • 25 x studio apartments • 74 x 1 bedroom apartments • 82 x 2 bedroom apartments. This mix will still provide for a range of housing which would attract singles, couples and possibly family occupants alike as well as contributing towards housing affordability.	Yes

Table 8. Applicable SEPP 65 considerations.

Residential Flat Design Code

The SEPP also requires the Council to take into consideration the requirements of the Residential Flat Design Code. The following matters are considered relevant to the Section 96 application.

Primary Development Control and Guidelines	Comments	Comply
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. Building separation for buildings 5 to 8 storeys should be: -18m between habitable rooms / balconies -13m between habitable / balconies and non-habitable rooms -9m 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 Section 96 proposes changes to the building envelope for both Buildings A and D. These changes will have impacts on the approved separation distances in respect to residential Building B.</p> <p>The approved building separation distances between Buildings A and B is 17.2, 21.725m and 23.5m. As part of the Section 96, the building envelope of Building A will be extended by 2m in the NE corner. This extension occurs where there is a greater separation between Building A and B and results in a separation distance being reduced to 19.725m and 21.5m. The development will still exceed the recommended building separation distances.</p> <p>The footprint of Building D will also be extended closer to residential Building B. As approved these buildings were separated by 9m and 12m. The Section 96 will result in the 12m separation distance being reduced to 10.5m. This will be a breach in the recommended 13m separation for levels 5, 6 and 7. Despite the breach, there will be no loss of amenity to the adjoining Building B.</p>	<p>Yes</p> <p>Variation acceptable</p>
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.	<p>The residential access to both Buildings B and C will not be affected. The amended development will however affect the residential pathway that extends from Talavera Road to Buildings B and C. As approved on the original development, there was a pedestrian walkway which extended between Building A and the hotel. This walkway was located in a landscaped setting with a 2.5m and 3.8m strip of landscaping on either side of the pathway. The amended development has reduced the width of the landscape planting to accommodate the loading dock and the increased footprint for Building A on levels 1 and 2. Despite the reduced width of the landscaping, the pathway will still provide a clear visual link to the residential component of the development.</p>	<p>Yes</p>
Parking	<p>The location of the parking will not be</p>	<p>Yes</p>

Primary Development Control and Guidelines	Comments	Comply
Determine the appropriate car parking numbers. Where possible underground car parking should be provided.	changed as a result of the Section 96. The amended development will provide car parking in accordance with Council's DCP's requirements.	
Mixed Use The development is to choose a mix of uses that complement and reinforce the character, economics and function of the local area. The development must also have legible circulation systems.	The amended development involves residential uses as well as serviced apartments. The serviced apartments have been designed to reflect the character and appearance of the residential buildings. These two uses are compatible and will not impact on the character of the area.	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. Limit the number of single aspect apartments with a southerly aspect to a maximum of 10% of the total units proposed.	66% of apartments in Building B and 80% of apartments in Building C will receive a minimum of 3 hours solar access. This equates to 73% of the residential apartments which exceeds the requirements. The amended development will not exceed 10% of apartments with a southerly aspect.	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. 25% of kitchens should have access to natural ventilation.	55% of the apartments in Building B will be naturally cross ventilated and 71% of apartments in Building C. This equates to 63% of the apartments being naturally cross ventilated.	Yes

Table 9. Applicable Residential Flat Design Code considerations.

State Environmental Planning Policy No 55 – Remediation of Land

A Phase 1 Contamination Assessment was submitted with the original development application. This report identified that the site was likely to be suitable for residential development. The report also recommended a Phase 2 Contamination Assessment. This matter was included as a condition on the consent.

Based on the above findings, the site is also likely to be suitable for the serviced apartments. The Phase 2 Contamination Assessment will still be required to be provided.

State Environmental Planning Policy (Building Sustainability Index: BASIX)

The serviced apartment buildings are not affected by BASIX.

Condition 3 and 80 on the development consent referred to compliance with the relevant BASIX Certificates for Buildings A, B and C. As this is no longer applicable for Building A, it is intended to amend these conditions to delete this reference.

Section 94 Development Contributions Plan 2007 (Amendment 2010)

Development Contributions Plan – 2007 (2010 Amendment) allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density / floor area. Condition 19 required the payment of various contributions. On 10 June 2012, the following contributions were paid:

Community and Cultural Facilities	\$661,297.90	
Open Space and Recreation Facilities	\$2,126,765.95	
Civic and Urban Improvements	\$402,013.18	
Roads and Traffic Management Facilities	\$359,766.94	
Cycleways	\$55,558.11	
Stormwater Management Facilities	\$41,182.85	
Plan Administration	\$14,962.54	
Grand Total		\$3,661,547.47

Table 10. Section 94 Contribution.

As a result of the Section 96 application, the Section 94 is required to be amended. For the purposes of the calculation, the serviced apartments are calculated at the commercial rate based on 12,766m² of floor space. A credit has also been given for the previous development that was located on the site.

The amended development requires the following Section 94 contributions:

Community and Cultural Facilities	\$666,260.53	
Open Space and Recreation Facilities	\$1,653,217.51	
Civic and Urban Improvements	\$461,610.85	
Roads and Traffic Management Facilities	\$420,702.16	
Cycleways	\$63,770.93	
Stormwater Management Facilities	\$48,430.06	
Plan Administration	\$17,148.08	
Grand Total		\$3,331,140.11

Table 11. Amended Section 94 Contribution.

It is proposed to amend condition 19 to reflect the above amounts.

7. LIKELY IMPACTS OF THE DEVELOPMENT

Many of the impacts associated with the amended development have already been addressed in the report. The other relevant matters include:

Traffic Generation

Traffic generation rates for the approved development were based on the RTA Guidelines and adopted a trip generation rate of 0.29 trips per dwelling per peak hour and 0.4 trips per hotel room per peak period. This resulted in an am and pm peak generation rate of 135 vehicles per hour. The impacts of the approved development on the surrounding road networks was assessed based on the Macquarie Park Corridor Paramics model and it was determined that the approved development would not impact on the network to an extent that would allow specific mitigation works to be identified.

The same traffic generation rates have been applied to the amended development. (Note: the serviced apartments are identified at the same traffic generation rate as hotels). This results in the amended development generating a rate of 137 vehicles per hour in the am and pm peak. As this result is almost the same as the approved development, the amended development also will not impact on the road network to an extent that would allow specific mitigation works to be identified.

8. PROPOSED AMENDMENTS TO THE CONDITIONS OF CONSENT

As part of the Section 96(2) application the applicant has requested variations or the deletion of certain conditions on the consent. In addition, as a result of the Section 96 certain other conditions are required to be amended. These conditions are discussed below:

Condition 1 Approved Plans

It is proposed to amend this condition to reflect the current plans. This amendment is supported.

Condition 1A – Staging of Work

As the applicant intended to construct the work in various stages, this condition was imposed in order to identify which condition of consent must be satisfied prior to the issue of a particular Construction Certificate. As a result of this Section 96, some of the conditions included in the table have been deleted. The purpose of amending this condition is to reflect these changes.

Condition 3 and 80 – BASIX and BASIX Commitments

As part of the original approval, a separate BASIX Certificate was submitted for each of the residential buildings. The BASIX Certificate for Building A is no longer applicable. It is proposed to amend the wording of these conditions to delete the reference to the Building A BASIX Certificate.

Condition 19

Condition 19 related to the required Section 94 to be paid for the development. The figures in this condition are to be amended to reflect the proposed amended development.

Condition 29 Energy Rating to the Hotel

This condition required the hotel to achieve a NABERS rating of 4 stars for energy and 3 stars for water. As the hotel is being replaced with serviced apartments the applicant has requested that this condition be replaced. The

replacement condition will require the serviced apartments to comply with Part J of the BCA as well as the water ratings within BASIX. This amended condition will ensure that the development complies with DCP2010 Part 7.1 Energy Smart and Water Wise. No objection is raised to the replacement condition.

Condition 30 – Disabled Access

It is proposed to amend the wording of this condition to require reference to the Access Report prepared by Morris-Goding Accessibility Consulting and the recommendations in that report.

Condition 32 Amendments to the Landscaping Plan

Part of the original DA submission involved an Ecological Assessment Report prepared by Travers Bushfire and Ecology. This report recommended that several of the plantings proposed on the landscaping plan should be replaced due to the weedy and/or potentially more invasive nature of the plantings. The report also included recommended replacement species. This requirement was reflected in respect of condition 32.

As part of the Section 96 application, the landscape plan has been amended and the replacement plantings have been incorporated on the plan. The landscaping plan forms part of the approved plans detailed in condition 1. For this reason, no objection is raised to the deletion of the condition.

Condition 37 Food Premises Within the Hotel

This condition required the food premises within the hotel to comply with the Food Safety Standard 3.2.3 and Australian Standard AS4674 – 2004. As the serviced apartments will not contain a commercial kitchen, this condition is no longer relevant. No objection is raised to the deletion of the condition.

Condition 41 Grease Trap

A grease trap was required to be installed into the hotel kitchen. This condition is no longer relevant as the serviced apartments will not contain a kitchen. No objection is raised to the deletion of the condition.

Condition 48 Stormwater Runoff

In the original approval, on-site detention was not required. The development however was conditioned to require an equivalent amount of stormwater that would have been collected as part of an OSD system to be collected as part of a rainwater tank collection system. This water was then to be used for internal reuse in the toilets, laundry and irrigation. The applicant has requested that the condition be amended so that this water is only used for irrigation. Council's Development Engineer has advised that in these circumstances, OSD will be required as the offset provisions are no longer going to apply. It is proposed to amend the wording of condition 48 to read as follows:

48. ***Stormwater Runoff.*** *Stormwater runoff from site shall be collected and piped to Council's underground drainage/creek system via an On-site detention system designed in accordance with DCP 2010 part 8.2.*

The OSD system shall be designed to incorporate, but not be limited to the following:

- a. The design shall be performed using a computer model like Drains, ILSAX or similar to determine the permissible site discharge (PSD) & Site Storage Requirement (SSR).*
- b. The PSD & SSR shall be calculated by assuming the entire site is 100% pervious predevelopment.*
- c. The design shall ensure post development discharge from the site equal the predevelopment values for all storms up to and including the 1 in 100 year storm event.*
- d. The design shall ensure the outlet pipe from the OSD system will not be affected by backwater flow and an emergency overland flow path be made available to safely convey all surcharge flows downstream.*
- e. All gutters, downpipes and pipeline conveying runoff to OSD system shall be sized for the 1 in 100 year, 5 minute storm event.*

Detailed engineering plans including certification from a chartered civil engineer with NPER registration with Engineers Australia indicating compliance with this condition are to be submitted for approval with the Construction Certificate application.

The applicant has agreed to this change.

Condition 67(a) CCTV

This condition required CCTV cameras to be installed on the ground floor of the hotel. It is proposed to amend the wording of this condition to require the CCTV on the ground floor of the serviced apartment buildings. No objection is raised to this change.

Condition 92 Inspection of the Food Premises

This condition required the inspection of the completed kitchen prior to the issue of an Occupation Certificate. This condition is no longer relevant as the serviced apartments will not contain a kitchen. No objection is raised to the deletion of the condition.

Condition 102 – Car Parking

This condition will be amended to reflect the car parking required for each use within the development as identified in Section 6 of this report.

Condition 103 NSW Food Premises to be Notified

Again this condition related to the commercial kitchen in the hotel. This condition is no longer relevant as the serviced apartments will not contain a commercial kitchen. No objection is raised to the deletion of the condition.

Condition 109A – Plan of Management

This condition was suggested to be included by the applicant. The condition will require the submission of a Plan of Management for the operation and

management of the serviced apartment buildings. This is considered to be an appropriate condition.

9. CONCLUSION

The application satisfies the requirements of Section 96(2) of the Environmental Planning and Assessment Act, 1979 and does not raise any additional matters referred to in Section 79C of the above act. The application is recommended for approval.

10. RECOMMENDATIONS

That the Sydney East Region Joint Regional Planning Panel as the consent authority modify its development consent DA2011/0485 dated 15 March 2012 in respect of a mixed use development at 84-92 Talavera Road, Macquarie Park under the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979 subject to the following amendments:

- A. That conditions 32, 37, 41, 92 and 103 be deleted from the consent.
- B. That conditions 1, 1A, 3, 19, 29, 30, 48, 67(a), 80 and 102 be amended to read as follows:

- 1. **Approved Plans.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

Document Description	Date	Plan No/Reference
Plan Location	26/8/11	A-0002 Rev 01
Parking Level 1 – ARCH 200	25/6/12	A0010 Rev A
Plan Level G	12/9/12	A-0004 Rev 09
Plan Level 1	12/9/12	A-0005 Rev 07
Plan Level 2	12/9/12	A-0006 Rev 06
Plan Levels 3-6	12/9/12	A-0007 Rev 05
Plan Level 7	12/9/12	A-0008 Rev 05
Plan Level 8	12/9/12	A-0009 Rev 05
Plan Level 9	12/9/12	A-0010 Rev 05
Plan Roof Level	12/9/12	A-0011 Rev 05
	26/8/11	A-0140 Rev 01
	26/8/11	A-0141 Rev 01
Section AA Section BB	12/9/12	A-0040 Rev 05
Section CC Section DD	12/9/12	A-0041 Rev 05
Section EE	26/8/11	A-0042 Rev 01
Street Elevations	26/8/11	A-0181 Rev 01
Street Elevations	26/8/11	A-0182 Rev 01
Materials Elevation A	12/9/12	A-0130 Rev 02
Materials Elevation B	26/8/11	A-0131 Rev 01
Materials Elevations C	26/8/11	A-0132 Rev 01
Materials Elevation	12/9/12	A-0133 Rev 02

Elevations A	12/9/12	A-0030 Rev 05
Elevations B	26/8/11	A-0031 Rev 01
Elevations C	26/8/11	A-0032 Rev 01
Elevations D	12/9/12	A-0033 Rev 04
Cover Sheet	26/6/12	000 Issue F
Colour Landscape Plan	26/6/12	001 Issue F
Landscape Plan	26/6/12	101 Issue F
Landscape Details	26/12/12	501 Issue F
Excavation Plan	11/5/12	E-2000 REV 1

1A (a) The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of a construction certificate for each stage as follows:

Stage	Description of the Stage	Specific Condition
1A	Includes installation of shoring walls and associated works around the whole development site.	19, 21, 22, 23, 47, 51; 56
1AB	Controlled Activity Approvals. Includes installation of the shoring walls and associated works within a 40 metre radius of the natural creek	12, 110 to 123
1B	Includes ground preparation, piling and excavation over the whole development.	43, 44; 49; 50
2	Includes the construction of structures from basement to ground level.	8; 11; 26, 35, 42, 45, 46, 48
3	Includes the construction of structures above ground level.	36
4	Includes the construction of fit out works from basement to ground level.	38, 39, 51a
5	Includes construction fit out works above ground level.	3, 25; 27; 28; 29; 30, 31; 33; 34, 40, 51a

3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 389971M and 390049M both dated 25 August 2011.

The fittings, fixtures and materials installed in association with the development (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the Construction Certificate.

19. **Section 94 Contributions.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any Construction Certificate:

A – Contribution Type
Community & Cultural Facilities

B – Contribution Amount
\$660,260.53

Open Space & Recreation Facilities	\$1,653,217.51
Civic & Urban Improvements	\$461,610.85
Roads & Traffic Management Facilities	\$420,702.16
Cycleways	\$63,770.93
Stormwater Management Facilities	\$48,430.06
Plan Administration	\$17,148.08
The total contribution is	\$3,331,140.11

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 16 March 2011.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics (Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

29. **Energy Rating for the Serviced Apartment Buildings.** The serviced apartment buildings are to achieve the water ratings within BASIX, and the energy requirements are to comply with Part J of the Building Code of Australia. A report from an appropriately qualified person is to be submitted with the relevant Construction Certificate verifying that this can be achieved.
30. **Disabled Access.** Disabled access is to be provided to and within the development in accordance with the recommendations contained within the Access Review prepared by Morris-Goding Accessibility Consulting dated 28 June 2012. In particular the following recommendations are required to be implemented:
 - Provide an accessible path of travel from the pedestrian site boundary to the entry of the serviced apartments lobby compliant with AS1428.1:2009 and Ryde Access DCP.
 - Ensure all dual-hinged entry doors have a minimum 850mm clear width compliant with AS1428.1:2009 and Ryde Access DCP.
 - Provide 4 additional adaptable unit car bays, compliant with AS4299 and Ryde DCP.
 - Ensure adaptable unit car bays have a minimum 3800mm clear width compliant with AAS4299.

- Provide an additional 12 adaptable residential units in Building B and C in accordance with AS4299 and Ryde Council DCP.

Details indicating compliance with these recommendations plus any other recommendations in the above report are to be submitted to the Principal Certifying Authority (PCA) prior to the construction certificate being issued.

Prior to occupation of the development, a suitably qualified access consultant is to certify that the development complies with Australian Standard 1428 and the Building Code of Australia.

48. Stormwater Runoff. Stormwater runoff from site shall be collected and piped to Council's underground drainage/creek system via an On-site detention system designed in accordance with DCP 2010 part 8.2.

The OSD system shall be designed to incorporate, but not be limited to the following:

- a. The design shall be performed using a computer model like Drains, ILSAX or similar to determine the permissible site discharge (PSD) & Site Storage Requirement (SSR).
- b. The PSD & SSR shall be calculated by assuming the entire site is 100% pervious predevelopment.
- c. The design shall ensure post development discharge from the site equal the predevelopment values for all storms up to and including the 1 in 100 year storm event.
- d. The design shall ensure the outlet pipe from the OSD system will not be affected by backwater flow and an emergency overland flow path be made available to safely convey all surcharge flows downstream.
- e. All gutters, downpipes and pipeline conveying runoff to OSD system shall be sized for the 1 in 100 year, 5 minute storm event.

Detailed engineering plans including certification from a chartered civil engineer with NPER registration with Engineers Australia indicating compliance with this condition are to be submitted for approval with the Construction Certificate application.

67. CCTV. CCTV cameras are to be installed to monitor:

- (a) The ground floor of the serviced apartment buildings.

80. BASIX Commitments. The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 389971M and 390049M both dated 25 August 2011.

102. Off Street Car parking. 325 off-street car spaces being provided in accordance with the submitted plans. Such spaces to be paved, line marked and made freely available at all times during business hours of the site for staff and visitors. These spaces are to be allocated as follows:

- 100 spaces for the serviced apartments.
- 188 spaces for the residents of the residential buildings.
- 37 residential visitor spaces.

C. The following additional conditions be included on the consent:

109a. **Plan of Management.** A Plan of Management must be submitted and approved by Council prior to the issue of an Occupation Certificate for the serviced apartments. The use must always be operated/managed in accordance with the approved Plan of Management.

D. That the description of the development be amended to read as follows:

Construction of a mixed use development containing serviced apartments and residential uses.

Report prepared by:

Sandra Bailey
Team Leader Major Developments

Report approved (for JRPP consideration) by:

Liz Coad
Manager Assessment

Dominic Johnson
Group Manager – Environment and Planning