

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No	2013SYE040
DA Number	MOD2013/0065
Local Government Area	City of Ryde
Proposed Development	Section 96(2) to amend the development consent for the erection of two residential buildings above the existing shopping centre podium in the south western portion of the site.
Street Address	4-6 Blaxland Road, RYDE
Applicant/Owner	Crown Top Ryde City Pty Ltd
Number of Submissions	34 submissions objecting to the Section 96(2) application
Recommendation	Approval with Conditions
Report by	Sandra Bailey, Team Leader Major Development

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

The following report is an assessment of a Section 96(2) application to amend Development Consent No. LDA2012/0285 for the construction of two residential buildings above the existing shopping centre podium in the south west portion of the site. The development application was approved on 2 May 2012 by the Sydney East Regional Planning Panel, subject to 85 conditions.

The consent authority for the subject Section 96(2) application is the Sydney East Region Joint Regional Planning Panel in accordance with Part 4 of State Environmental Planning Policy (State and Regional Development) 2011.

The buildings have been approved with Building A to contain 56 apartments and Building A1 to contain 90 apartments. The subject application proposes to amend the floor plan layout of each building. As a result of the amended floor plan, the total number of apartments will be increased from 146 to 164.

The Section 96(2) application has been publicly exhibited and notified from 22 May 2013 to 12 June 2013. During this time 34 submissions were received objecting to the application. The main issues raised in the submissions was the request for further improvements to be undertaken to the retail shopping centre, concerns with increased height and the number of people using the communal residential facilities. These issues can all be satisfactorily addressed.

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 development 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 is recommended for approval.

2. SITE DESCRIPTION

The site is known as 4-6 Blaxland Road, Ryde and the legal description of the land is Lots 6, 7 and 8 in SP1152688. The development is located on the podium in the south western corner of the existing shopping centre, extending northeast from Blaxland Road, between Devlin Street and the La Strada mall walkway. This location is demonstrated on Figure 1.

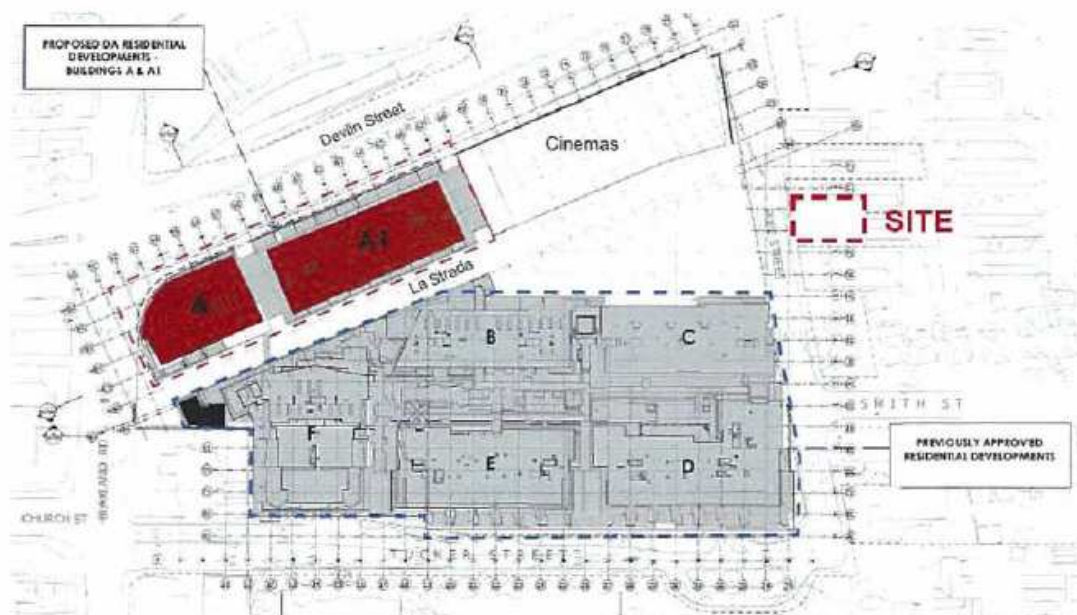


Figure 1. Location of Buildings A and A1.

3. BACKGROUND

Development consent 2006/0672 was granted by Council on 8 May 2001 for the following works:

- The construction of a mixed use development comprising retail, entertainment, civic and commercial uses with associated car parking, access and public domain works known as Stage 1.

- Building envelopes for the commercial and residential elements of the development above the Stage 1 podium levels of the development, comprising of five residential buildings (Buildings B, C, D, E and F) and two commercial buildings (commercial Buildings A and B).

On 15th September 2009, Council approved LDA2009/0169 for the construction of two four storey commercial buildings over the south west section of the Top Ryde Shopping Centre. These buildings have not been constructed.

Development consent was granted by the JRPP on 13 December 2012 for the construction of two residential flat buildings (known as Building A and A1). These buildings replaced the previously approved two commercial buildings. Approval was granted for 56 residential apartments in Building A and 90 residential apartments in Building A1.

The Section 96(2) was submitted to Council on 6 May 2013. Following an initial assessment of the Section 96(2), discussions occurred between the applicant and Council's Officers. These discussions were in respect of the following issues:

- Solar access to the apartments. Compliance with the RFDC requirements was significantly decreased as a result of the Section 96(2) application. The applicant was advised that the development should achieve the level of compliance as what was originally approved.
- The layout of unit 502 and above in Building A could not be supported due to the study having no access to any natural light or ventilation.
- Building A1 lacks the building articulation of the approved development and now results in balconies for the entire length of the Devlin Street and La Strada façade.
- As a result of the increase in the number of apartments, the number of adaptable apartments needs to be increased by 1.
- The development results in an increase number of residential apartments using the lift on each floor.

The applicant was advised that unless these issues were satisfactorily addressed, Council's Officers could not support the application.

The applicant provided amended plans and further information to address these issues on 14 June 2013. This report addresses the amended plans.

4. PROPOSAL

Development consent No. LDA2012/0285 was issued on 2 May 2012 for the following:

Construction of two residential flat buildings above the existing shopping centre podium in the south west portion of the site (to replace two previously approved commercial buildings). Consent was issued for the following:

- Building A (southern building) will comprise six levels and contain a total of 56 apartments.
- Building A1 (north of proposed Building A) will comprise five levels and contain a total of 90 apartments.
- Modification of the existing development consent (DA 2006/672) to delete reference to the two commercial buildings approved for construction in the southwest sector of the Top Ryde Shopping Centre.
- Increase the maximum number of apartments and maximum net useable floor area (NUFA) for residential purposes.
- Deletion of 51 car spaces at the southern end of the Level 4 car park and development of this space for seven apartments. This work includes pouring a second floor slab 500mm above the existing Level four slab, as the new first floor level of Building A.
- Construction of a pedestrian bridge to connect the western and eastern podium (at Level 5) to provide a walkway from proposed Buildings A and A1 to the communal facilities and open space.
- Use of 172 car spaces (previously allocated to the commercial towers) on car park levels three and four for residential parking for the proposed apartments.

The development consent is subject to 85 conditions. It is proposed to amend this consent via Section 96(2) of the EP&A Act, 1979 in the manner described below.

Changes to Building A

- The internal floor plan of units 402 and 403 and above and 504 and above, have been amended by enlarging the living area of the units. Part of the floor area has been extended towards Devlin Street. This is demonstrated on the following plan.

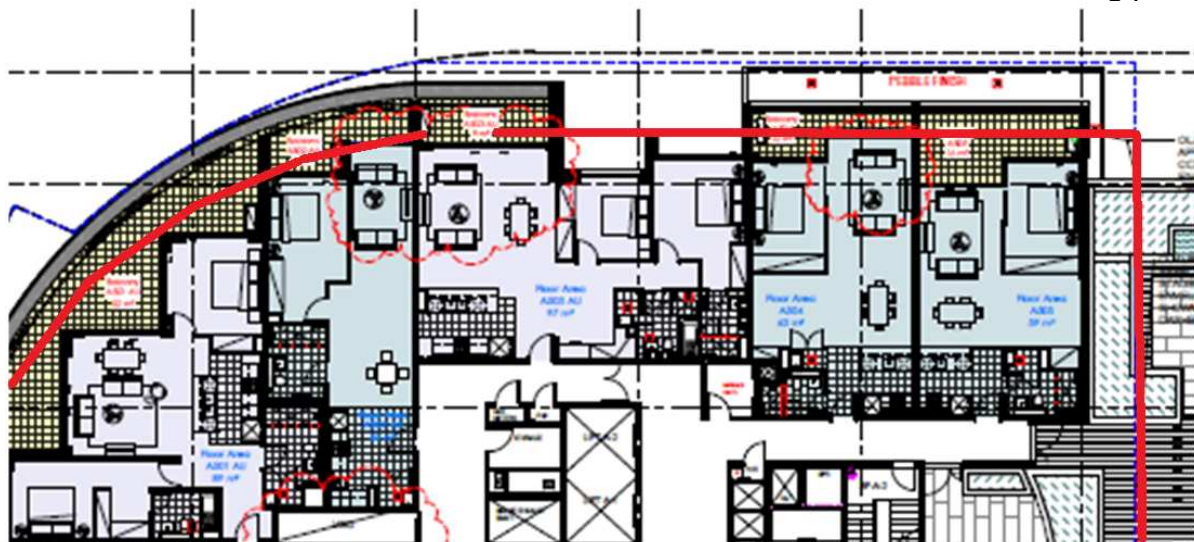


Figure 2. Typical level of Building A showing how the floor plan of these apartments has been enlarged. The red line illustrates the approved building line for these apartments.

- Apartments A8 and A9 (2 x 2 bedroom units) on levels 8 and 9 have been combined to form 1 x 3 bedroom unit on each level.
- A hot water plant room has been added to each level.
- The locations of two skylights have been slightly amended.

Changes to Building A1

- The floor plan on level 5 and above has been amended. As approved, each level contained 4x1 bedroom apartments and 14x2 bedroom apartments. The amended development proposes to increase the number of 1 bedroom apartments. Each level of the amended development will contain 20x1 bedroom apartments and 2x2 bedroom apartments. This represents an increase of 4 apartments on each level of the building.
- The fenestration of Building A1 has been amended to reflect the new layout. The amended development has retained the same amount of balcony to wall as the approved development as well as retaining the articulation along Devlin Street.
- The locations of the skylights have been slightly amended to reflect the new layout.
- The footprint of the approved development will not be changed with the exception of five balconies being enlarged on the La Strada elevation of the building. These balconies will be increased in size by 5600mm. This change is illustrated on figure 3.

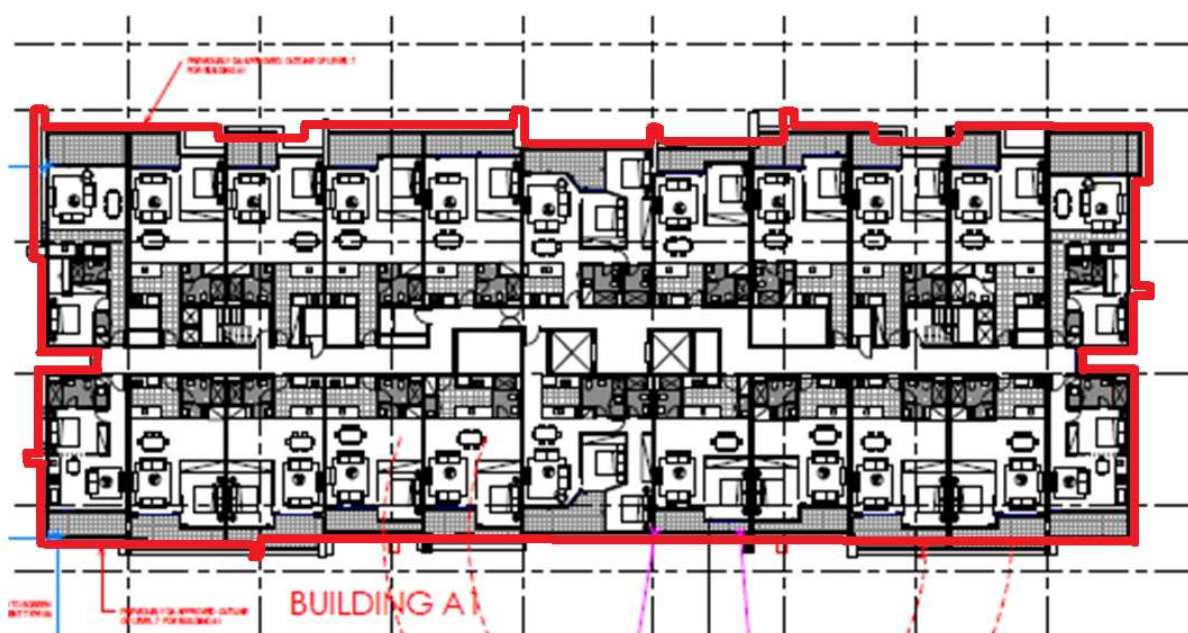


Figure 3. Typical floor level of Building A1. The approved floor plan is shown in a red line.

The proposed modifications to the development relate mainly to the alterations to the apartment mix in the two buildings. The overall number of apartments in Building A will be decreased from 56 apartments to 54 apartments while the overall apartment numbers in Building A1 will increase from 90 to 110. This results in the total number

of apartments being increased from 146 to 164. Tables 1 and 2 demonstrate the modified composition of apartment mix for both Buildings A and A1 as well as the entire residential component for the Top Ryde Shopping Centre site.

Apartments	Building A		Building A1		Total Proposed
	Approved	Proposed	Approved	Proposed	
1 bedroom	16	16	20	100	116
2 bedroom	40	36	70	10	46
3 bedroom	-	2	-	-	2
Total	56	54	90	110	164

Table 1. Apartment mix for Buildings A and A1.

Apartment	Building A	Building A1	Building B	Building C	Building D	Building E	Building F	
	Proposed		Approved					Total
1 bedroom	16	100	38	60	29	18	22	283
2 bedroom	36	10	52	62	56	51	53	320
3 bedroom	2	0	14	9	11	11	4	51
Total	54	110	104	131	96	80	79	654

Table 2. Overall apartment mix for TRSC.

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 ~~bold strike through~~ and words to be inserted as shown in ***bold italics*** in Table 3.

Condition Number	Proposed Wording of the Condition
1 Approved plans	This condition is proposed to be reworded to reflect the amended plans.
12 BASIX	<p>This condition is proposed to be reworded to reflect the new BASIX Certificate.</p> <p>BASIX. The development is to be carried out in compliance with BASIX Certificate No. 404810M <i>14730200</i> dated 26 June 2012 <i>27/6/13</i>.</p>

Table 3. Changes to the conditions of consent.

As part of this Section 96 application, it is also proposed to amend the wording of condition 317 of LDA2006/672. This condition was imposed as a requirement for Stage 2 of the original development in respect of the residential/commercial concept component. The amendments to this condition is shown below. Words proposed to be deleted are shown in ~~bold strike through~~ and words to be inserted are shown in ***bold italics***.

317. Consent is granted to the concept proposal for subsequent stages of the proposed development comprising:

- (a) Residential land uses;
- (b) A maximum of ~~10,500m²~~ **10,600m²** net useable floor area (NUFA) for the purposes of residential buildings accommodated within two buildings on the southwest portion of the site, fronting Devlin Street;
- (c) A maximum of 56,000m² NUFA for the purposes of residential flat buildings (a total of approximately 650 apartments) on the site;
- (d) Building envelopes to be generally as depicted on the plans accompanying the development application and as described in Section 6.0 of the *Staged Mixed use Development Statement of Environmental Effects* dated November 2006 prepared by JBA Urban Planning Pty Ltd, within which detailed building design will be developed and will be the subject of separate future development applications;
- (e) Car parking comprising two residential car parking levels (at Levels 3 and 4 of the development) to service the residential buildings.

5. APPLICABLE PLANNING CONTROLS

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

- Section 96(2) of the Environmental Planning and Assessment Act, 1979.
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Buildings (SEPP 65).
- State Environmental Planning Policy No. 55 – Remediation of Land.
- State Environmental Planning Policy (Building Sustainability Index: BASIX).
- State Environmental Planning Policy (Infrastructure) 2007.
- Ryde Local Environmental Plan 2010.
- Ryde Development Control Plan 2010.

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

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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 proposes changes to the layout of the two buildings which will result in an increase in the number of residential apartments from 146 to 164. This presents a 12% increase in apartment numbers. There will however be no changes to the use of the buildings as a result of the Section 96 application. The Section 96 will also result in a small increase in the NUFA as a result of minor changes to the building envelope. This increase in NUFA is equivalent to 1.2%. The additional floor space will not be readily visible.

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 two buildings, the buildings footprints, the location of pedestrian and vehicle ingress and egress points, the provision of open space and the use of the buildings still being residential remain essentially or materially the same as the original development.

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

(b) Concurrence Authority

In the assessment of the original development application, Roads and Maritime Services (RMS) required two conditions to be imposed on the development consent. These conditions required the submission of a Construction Management Plan and that any temporary or partial road closures would require a Road Occupancy License. Neither of these conditions are proposed to be amended as a result of this Section 96 application. As such, it was not necessary to consult with RMS.

(c) Advertising and Submissions

The Section 96 application was advertised in accordance with Council's notification requirements for a 21 day period between 22 May 2013 and 12 June 2013. During this time, Council received a total of 34 submissions. 31 of these submissions were in a pro forma format. The issue raised in the pro forma submissions were as follows:

Concerned about the increased demand on pedestrian and traffic management facilities at Top Ryde. The following improvements need to be considered in the Section 96 application:

- *Repairs and improvements for drainage and wet weather cover in the overpass pedestrian bridges. The drainage holes are not effective.*

Comment: The pedestrian bridges formed part of development consent LDA2006/0672. There is no nexus between this application and a requirement to improve the drainage and wet weather cover of the bridges. This is a matter for the current owner of the shopping centre.

- *Repairs and improvements to the stair wells on the Shopping Centre side of the pedestrian bridges. The walls and floor finishes are substandard.*

Comment: As with the point above, there is no nexus between the current application and the requirement to undertake repairs and maintenance to the stair wells next to the pedestrian bridge. This is a matter for the current owner of the shopping centre.

- *More regular high pressure water cleaning of the stairs and bridge walkways is required.*

Comment: This is a matter for the current owner of the shopping centre and has no direct relationship with the current Section 96 application.

- *Undercover bicycle parking should be improved as the ones currently installed are useless.*

Comment: As part of the development consent for the residential buildings, bicycle parking was approved. This is not proposed to change as a result of the Section 96. The submissions however, have raised bicycle parking associated with the retail component of the development. This has no direct relationship with the Section 96 application.

- *With increased number of residents, there should be more beautification to the green space next to the civic centre.*

Comment: The consent authority cannot require beautification works to the green space next to the Civic Centre as this is not part of the development site.

- *Movement call sensors should be installed in the lifts in the pedestrian overpass.*

Comment: This matter is not related to the proposed Section 96 application.

- *Improved access to Ryde Park either being through the school or a raised pedestrian priority crossing at the corner of Tucker and Blaxland Roads.*

Comment: This matter is not related to the proposed Section 96 application.

- *A marked bicycle lane needs to be installed from the eastern side of Devlin Street to Parkes Street.*

Comment: This matter is not related to the proposed Section 96 application.

- *Please explore the opening and completing of the access tunnel under the Civic Centre.*

Comment: This matter is not related to the proposed Section 96 application.

The issues raised in the three remaining submissions was as follows:

- *This application will add extra burden to the common areas and facilities within the complex.*

Comment: The Section 96 application results in an increase of 18 apartments due to the replacement of 2 bedroom apartments with 1 bedroom apartments. Council's Section 94 Contribution Plan contains occupancy rates for 1, 2 and 3 bedroom apartments. If these rates are applied, the Section 96 will result in an occupancy rate of 289 people for Buildings A and A1. This represents an increase of 11 people from the approved development.

Council's controls and the RFDC does not specify a requirement for the amount of open space required per person. The RFDC however, recommends at least 25% of the site be provided as communal open space. The development provides 29% of the site area as communal open space. As the development exceeds the RFDC requirements, it is the opinion of the Assessment Officer that the existing facilities will be able to accommodate the increase in residents as a result of the Section 96 application.

- *People bought based on these buildings being commercial. If approved, the new residents should have no access to the common facilities. It is also unfair to change the number of apartments and possibly increase the height of the building.*

Comment: The issue of the buildings previously being commercial when people bought into the development was addressed in the previous report to the JRPP. Restricting new residents to the communal open spaces and facilities within the entire residential development is not a matter for Council. As a result of this Section

96 application, the height of the buildings will not be changed. Section 96 does allow for changes to be made to the approved development with the consent of the consent authority.

- *Increased height will affect views of other residents.*

Comment: The height of the building will not be altered as a result of this Section 96 application. Accordingly, the Section 96 will have no further impact on views of other residents.

- *Concerned that the lift overrun may breach RL91. If it does, this will breach the LEP.*

Comment: No changes are proposed to the lift overruns. The lift overruns will not breach RL 91.

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:

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
Scale / Built Form Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings. Good design achieves an appropriate built form for a site and the building's	The changes to the external building walls and overall building envelopes will be minor in comparison to the development scale. The resultant streetscape presentation and building character will not vary greatly to that approved. There will be no change to	Yes

purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.	the height, bulk, scale and character of the approved development.	
Resource, energy and water efficiency Good design makes efficient use of natural resources, energy and water throughout its life cycle, including construction. Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts, and built form, passive solar design principals, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.	The amended development will meet the minimum BASIX targets for thermal comfort, energy and water efficiency.	Yes
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(2) 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, landscaped areas, 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 provisions 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. New developments should address housing affordability by optimising the provision of economic housing	The Section 96(2) will significantly increase the number of 1 bedroom apartments and decrease the number of two bedroom apartments. However when considered with the other residential development within the TRSC site, there is a satisfactory balance between 1, 2 and 3 bedroom apartments. The mix of apartments within the entire site will provide for a range of housing which would attract singles, couples and possibly family occupants alike as well as contributing towards housing affordability.	Yes

choices and providing a mix of housing types to cater for different budgets and housing needs.	The number of adaptable apartments will be increased from 16 to 17.	
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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(2) application.

Primary Development Control and Guidelines	Comments	Comply
Building Height Test heights against the number of storeys and the minimum ceiling heights required for the desired building use.	The building height will not be changed from the original approval.	Yes
Building Depth In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose wider than 18m must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	The building depth of Building A will not be changed from the approved development. As approved, the building depth of Building A1 ranged from 25m to 26.4m. The Section 96(2) application has increased the depth of the building from 25.5m to 26.9m. The building footprint along the Devlin Street façade has remained the same as approved but the footprint has increased towards the La Strada in the vicinity of 5 of the balconies. Despite this minor change, the development will still provide satisfactory daylight access and ventilation.	No. Variation acceptable.
Building Separation Building separation for buildings up to 4 storeys should be: -12m between habitable rooms / balconies -9m between habitable / balconies and non-habitable rooms -6m between non-habitable rooms. Developments that propose	The development is required to provide a minimum separation of 18m. No changes are proposed from the approved development to the separation distances between Buildings A and A1 and Buildings A and F. The Section 96(2) application will result in part of the building depth of Building A1 being increased. This will affect the separation distance between Building A1 and B. The development however will still maintain a minimum separation distance of 18m.	Yes

less distance must demonstrate that adequate daylight access, urban form and visual and acoustic privacy has been achieved.		
Open Space The area of communal open space required should generally be at least between 25% and 30% of the site area. Where developments are unable to achieve the recommended communal open space, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space. The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park is 25m ² .	As detailed in the original report the development provides 5,788m ² or 29% of the podium level as communal open space. This is not proposed to be changed as a result of the Section 96(2). The number of apartments that will have access to this area will be increased from the original approval as this application proposes an additional 18 apartments. SEPP 65 or the RFDC does not give specifics in terms of the number of occupants or apartments that are able to access the communal open space provided within a development. As the open space is not being decreased, the Section 96(2) is acceptable.	Yes
Parking Determine the appropriate car parking numbers. Where possible underground car parking should be provided.	The location of the car parking will not be changed as a result of the Section 96(2). The amended development will provide parking in accordance with Council's DCP requirements. See discussion below under DCP – Car parking.	Yes
Apartment Layout Single aspect apartments should be limited in depth to 8m from a window. The minimum sizes of the apartments should achieve the following; 1 bedroom – 50m ² 2 bedroom – 70m ² 3 bedroom – 95m ²	All of the apartments exceed the minimum sizes specified in the RFDC. No changes are proposed from the development consent to the building depth for the apartments in Building A. In terms of Building A1, none of the single aspect apartments comply with the 8m depth to a window in Building A1. The depth of these apartments range from 8.7m to 10m. The rooms that are located in the area that exceeds the requirement are either bathrooms or the back of the kitchens. Similar variations have already been supported by the JRPP in	Yes

	other buildings within the TRSC. The variation is acceptable in this instance.	
Apartment Mix The development should provide a variety of types.	The approved development proposed 25% 1 bedroom apartments and 75% 2 bedroom apartments. The amended development will modify this mix to contain 71% 1 bedroom apartments, 28% 2 bedroom apartments and 1% 3 bedroom apartments. If the apartment mix is considered for the overall residential development within the TRSC, then the entire development provides 43% 1 bedroom apartments, 49% 2 bedroom apartments and 8% 3 bedroom apartments. The amended development in light of the entire residential development provides an acceptable mix of apartments.	Yes
Balconies Where private open space is not provided, primary balconies with a minimum depth of 2 metres should be provided.	The amended development complies with this requirement.	Yes
Internal Circulation In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed: <ul style="list-style-type: none"> • for adaptive re-use buildings • where developments can demonstrate the achievement of the desired streetscape character and entry response • where developments can demonstrate a high level of amenity for common lobbies, corridors and units. 	No changes are proposed to the internal circulation for Building A. The approved development for Building A1 proposed 18 apartments on each floor that would be serviced by 2 lifts. The amended layout will result in 22 apartments being serviced by the 2 lifts. The amended development has not incorporated any improvements to the lift lobby or corridors. While this is not considered to be a desirable outcome, it is not considered to be adequate grounds for the refusal of the Section 96(2) application.	No. Variation acceptable.
Storage In addition to kitchen cupboards and bedroom wardrobes, provide accessible	The storage space in the approved development is equivalent to 1485m ² . This is not proposed to be changed as a result of the Section 96(2) application. The amended	Yes

<p>storage facilities at the following rates:</p> <ul style="list-style-type: none"> • studio apartments - 6.0m³ • one-bedroom apartments - 6.0m³ • two-bedroom apartments - 8.0m³ • three plus bedroom apartments -10m³ <p>50% of the above areas may allocated within each respective apartment while the remaining 50% is to be located within the car parking area.</p>	<p>development requires 1084m² of storage area. The Section 96(2) provides more storage than required by the RFDC.</p> <p>Condition 36 was imposed on the original consent to ensure that the storage area is divided so that it is in accordance with the requirements of the RFDC. This condition only made reference to 1 and 2 bedroom apartments. As the development now incorporates 3 bedroom apartments, the condition needs to be amended to include this requirement. Subject to this change, no objection is raised to the Section 96(2) application.</p>	
<p>Acoustic Privacy</p> <p>Apartments within a development are to be arranged to minimise noise transitions.</p>	<p>The amended layout has incorporated busy and noisy areas next to each other and quieter areas next to each other. The amended development is satisfactory in this respect.</p>	Yes
<p>Daylight Access</p> <p>Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid winter. In dense urban areas a minimum of two hours may be acceptable.</p> <p>Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed.</p> <p>Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed.</p>	<p>The previous report to Council concluded that in this location a minimum of 2 hours sunlight is acceptable. The report stated that 60% of the apartments would receive at least 2 hours of sunlight on 21 June. The applicant has advised that this figure was actually based on the hours between 8am and 4pm rather than 9am and 3pm. The applicant advised that the as approved development would only achieve 2 hours of direct solar access to 29% of the apartments and 60% of apartments would achieve adequate solar access to the private open space.</p> <p>The applicant provided figures to demonstrate that the amended development as originally submitted would achieve the same compliance rate as the approved DA. The applicant was advised that this rate was unacceptable and that the development would need to be amended to achieve at least 60% of apartments receiving 2 hours of direct sunlight to the living room and private open space.</p> <p>As a result of the amended layout, for the</p>	No. Variation acceptable.

	<p>hours between 9am and 3pm, the development will now achieve the following:</p> <ul style="list-style-type: none"> • 61% of the apartments (100 out of 164) achieve at least 2 hours of direct solar access to the windows of the living area. • 60% of the apartments (98 out of 164) achieve at least 2 hours of direct solar access to the floor slab of the private open space. <p>As part of the amended information submitted to Council, the applicant included a peer review of the revised solar access report. The peer review has reviewed the methodology and findings of the report and has raised no issues with the report and concluded that this report forms a suitable basis for the relevant authority to make the required determination to mandated solar access.</p> <p>As the revised development is achieving at least 60% of the apartments receiving the required solar access, which is consistent with the original decision of the JRPP, no objection is raised to the Section 96(2) on solar access grounds.</p> <p>The Section 96 application will also alter the number of single aspect apartments with a southerly aspect. In Building A, as approved there were 16 apartments (28%) with the southerly aspect. This will be increased to 21 apartments (38%). In Building A1, as approved there were 35 (34%) single aspect apartments. This has now been increased to 50 (45%) of apartments.</p> <p>The number of single aspect apartments is due to the orientation of the buildings which was determined as part of the development consent for LDA2006/672 as well as the applicant trying to take advantage of views to the south and west. The number of single aspect apartments is comparable with what has previously been approved in Building C</p>	
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	(39%), Building D (42%), and Building E (44%). For these reasons, the variation is considered to be acceptable.	
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.	The applicant has submitted a detailed Natural Ventilation Study in respect of the amended development. The results of the study demonstrate that 63% (103 out of 164) of the apartments will satisfy the requirements for natural ventilation. This exceeds the RFDC requirement. The approved development did not achieve compliance with the requirement for 25% of kitchens to have access to natural ventilation. The amended development also fails to comply. This however is not considered to be adequate grounds to warrant the refusal of the Section 96(2) application.	Yes

State Environmental Planning Policy No. 55 – Remediation of Land

The amended development does not raise any additional issues with respect to the suitability of the site in comparison to the approved development.

State Environmental Planning Policy (Building Sustainability Index: BASIX)

The amended development retains its classification as a 'BASIX Affected Development' under the *Environmental Planning and Assessment Regulation 2000*. The applicant has provided an amended BASIX Certificate which indicates that the development will achieve the required target scores for water efficiency, thermal comfort and energy efficiency. No objection is raised to amending the wording of condition 12 to reflect the amended BASIX certificate.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 – Development with frontage to a classified road

The site has a frontage to Devlin Street which is defined as a classified road. Clause 101 of this SEPP requires that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied of the following:

1. *Where practicable, vehicular access is to be provided by a road other than the classified road.*

The vehicular access was approved as part of LDA2006/672. The Section 96(2) application will not change any of these access points.

2. *The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of the design of vehicular access to the land, or the emission of smoke or dust from the development, or the nature, volume or frequency of vehicles using the classified road to gain access to the land.*

The amended development will have minimal impact on the classified road in comparison to that approved. Council's Traffic Engineer has confirmed that the additional traffic generation would be minimal.

3. *The consent authority must be satisfied that the development is of a type that is not sensitive to traffic noise or vehicle emissions, it is appropriately located and designed, or includes measures to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

As part of the original application, the applicant provided an acoustic report which identified that sections of the development were likely to be affected by road noise primarily as a result of noise transfer through windows and doors. The report recommended various design measures that would be required to be implemented to ensure that noise levels would be acceptable. Condition 63 of the development consent requires that the recommendations of this report are to be incorporated into the development and demonstrated on the Construction Certificate plans. The recommendations are generic and will apply to the additional units. This condition is not proposed to be amended as part of the Section 96(2) application. Subject to compliance with condition 63, the amended development will not be adversely affected by traffic noise or vehicle emissions.

Clause 102 – Impact on road noise or vibration on non-road development

Clause 102 of the SEPP specifies various noise levels which are not to be exceeded within a residential development that is adjacent to a road with an annual average daily traffic volume of more than 40,000 vehicles. As discussed above, the amended development will achieve an acceptable level of internal residential amenity.

Clause 104 – Traffic Generating Development

The approved development was identified within Schedule 3 of this SEPP and in accordance with Clause 104 was referred to RMS for comment. RMS provided comments and recommended two conditions to be included on the consent. The amended development will not result in any changes to these conditions.

Ryde Local Environmental Plan 2010

The following is an assessment of the Section 96(2) application 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 RLEP 2010. The amended development is a permitted use subject to consent of the consent authority.

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives of 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 maximise public transport patronage and encourage walking and cycling.*
- *To create vibrant, active and safe communities and economically sound employment centres.*
- *To create safe and attractive environments for pedestrians.*
- *To recognise topography, landscape setting and unique location in design and land-use.*

The amended development will satisfy the zone objectives.

Clause 4.3 Height of Buildings

The Section 96 will not change the height of the approved development.

Clause 4.4(2) Floor Space Ratio

The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The Floor Space Ratio Map provides no FSR restrictions for the site subject to the net useable floor limitations under Clause 6.7 (detailed below).

Clause 6.7 Planning Controls for Ryde Town Centre

Development consent is not to be granted for development on land in a precinct shown on the Ryde Town Centre Precincts Map unless the consent authority is

satisfied the development complies with the planning controls for the precinct set out in Schedule 6.

The site is located in Precinct 2. The requirement stipulated within Schedule 6 is that the total net useable floor area in Precinct 2 must not exceed 150,000m² and must have the following land use mix:

- a) A minimum 15% being residential development;*
- b) A maximum 45% being development for the purpose of shops;*
- c) The reminder, if any, being uses permitted on land in Precinct 2.*

As approved the entire Top Ryde Shopping Centre including residential development has a NUFA of 131,637m². The Section 96 modifications will slightly increase the NUFA of Buildings A and A1 from 10,387.25m² to 10,517.5m². This will result in the overall NUFA being increased to 131,767.25m². This is well under the maximum 150,000m² of NUFA permitted for the site.

As a result of the Section 96, the total residential NUFA will be increased to 52,425.7m². This represents 40% of total floor space. The Section 96 complies with the required minimum 15% of total NUFA that must be residential.

There is no change to the NUFA provided for the shops.

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 4.4 of DCP 2010 – Ryde Town Centre

The aim of this part of the DCP is to facilitate the revitalisation of Ryde Town Centre as a vibrant, attractive and safe urban environment with a diverse mix of retail, commercial, residential and leisure opportunities. Many of the controls relate to the already approved ground level and shopping centre component of the development and were discussed in detail in the assessment of LDA2006/672. The following table provides an assessment against the applicable sections of the DCP.

Control	Comments	Compliance
Architectural and Design Quality 1. Balconies may not be	The original plans submitted for the Section 96 resulted in the Devlin	No. Variation

continuous along the whole length of the building facades.	<p>Street and La Strada façade of Building A1 containing a balcony along the entire length of the façades. This resulted in the loss of articulation to the Devlin Street façade of Building A1.</p> <p>As part of the amended plans, the application has reduced the extent of balconies on the Devlin Street façade so that it is comparable with the approved development. This change has also ensured that articulation to the façade will be retained.</p> <p>The façade facing La Strada of Building A1 however, still contains balconies for the entire length of the façade. As this façade is not seen from any public places and no objections were raised to this amendment, no objection is raised to this variation.</p>	acceptable.
Environmental Management A. New development is required to submit an Energy Efficiency Performance Report to indicate overall environmental performance and management in relation to solar access, energy efficiency, hot water usage and water recycling.	The applicant has submitted a BASIX Certificate for the amended development. This certificate demonstrates that the amended development will achieve the required target scores for water efficiency, thermal comfort and energy efficiency. It is proposed to amend condition 12 to reflect the new BASIX Certificate.	Yes
Housing Choice 1. Development is to provide a diverse mix of dwelling sizes generally within the following ranges: 3 bedroom – 5-35% 2 bedroom – 40-80% 1bedroom/studio – 5-35%	The amended development will not comply with this mix. As proposed the development will provide 1% of the apartments as three bedroom apartments, 28% as two bedroom apartment and 71% as one bedroom apartments. If this apartment mix is considered for the entire residential component of the TRSC, the development will result in 8% of apartments as three bedroom apartments, 49% as two bedroom apartments and 43% as three	Yes

	bedroom apartments. The overall residential component complies with the DCP requirements.	
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Part 9.2 Access for People with Disabilities

The DCP requires that for a residential development it is necessary to provide an accessible path of travel from the street to and through the front door to all units on each level of the building. Also 10% of the units are to be adaptable to terms of AS4299.

The Section 96 application will not alter the accessible path of travel. However as the apartment numbers has increased from 146 to 164, the number of adaptable apartments will also be required to increase. The original development proposed 16 adaptable apartments. This will be increased to 17 as a result of the Section 96(2). The applicant has confirmed that 17 adaptable apartments will be provided.

Condition 32 requires that a minimum of 15 adaptable apartments are to be provided as well as the development complying with the recommendations contained in the original Access Report. The wording of this condition will be amended as a result of this Section 96(2) application to refer to 17 adaptable apartments as well as compliance with the originally submitted Access Report and the letter provided by the Access Consultant for this Section 96(2) application.

Part 9.3 Car Parking

Condition 11 of the development consent requires at least 168 car parking spaces to be provided for the approved development. The applicant has advised that a total of 172 car parking spaces on existing levels 3 and 4 have been allocated to the proposed development.

Council's car parking rate is as follows:

- 0.6 to 1 resident car parking space per 1 bedroom unit
- 0.9 to 1.2 resident car parking space per 2 bedroom unit
- 1.4 to 1.6 resident car parking space per 3 bedroom unit
- 1 visitor space per 5 units.

The amended development will contain 116 x 1 bedroom units, 46 x 2 bedroom units and 2 x 3 bedroom units. This will result in the amended development being required

to provide between 114 and 175 resident parking spaces. As 172 spaces are allocated on levels 3 and 4, this can be achieved.

Total car parking for the entire Top Ryde Shopping Centre development was approved under LDA2006/0672. As part of this LDA, visitor parking for the residential component was to be located within the retail parking area. The original approval of Buildings A and A1 generated the need for 29 visitor parking spaces. The development did not approve any visitor parking spaces and visitors would be required to utilise the existing retail car parking. The increase number of apartments would result in the development being required to provide 33 visitor spaces, an increase in 4 spaces. Consistent with the original approval, no visitor spaces will be allocated as a result of the Section 96(2) application and visitors will utilise the retail car parking.

The original approval however, only envisaged 450 residential apartments. This number has increased significantly and as a result of this Section 96 application the total number of residential apartments will be increased to 654 apartments. This is imposing increased demand for the retail car parking and the applicant has not submitted any information to verify that there is sufficient car parking to accommodate the increased visitor cars. Council's Section 94 Contribution Plan does allow a consent authority to accept or require the payment of a parking contribution in lieu of the provision of off street parking in centres. In these circumstances, it is considered appropriate to require a Section 94 Contribution for the shortfall of the 4 visitor car parking spaces. (See condition number 82).

Condition 11 currently states:

- 11. Car parking.** *At least 168 car parking spaces must be provided on the site for the proposed residential development. Each apartment must be allocated a minimum of one car parking space. A total of 15 car parking spaces shall be provided as accessible parking spaces and allocated to the adaptable apartments. Details are to be submitted on the relevant Construction Certificate plans.*

It is proposed to amend this condition to refer to 172 car parking spaces rather than the 168 parking spaces and to require 17 car parking spaces to be provided as accessible parking spaces. This condition will now read as follows:

- 11. Car parking.** *172 car parking spaces must be provided on the site for the proposed residential development. Each apartment must be allocated a minimum of one car parking space. A total of 17 car parking spaces shall be provided as*

accessible parking spaces and allocated to the adaptable apartments. Details are to be submitted on the relevant Construction Certificate plans.

Section 94 Development Contributions Plan 2007 (Amendment 2007)

A Voluntary Planning Agreement (VPA) between Ryde City Council and Bevillesta Pty Ltd was signed on 14 May 2007. The VPA has been registered against the title of the property. The terms of the VPA commits the developer to contributions which included the design, construction and commissioning of the City of Ryde Centre, the public domain works and plaza at the cost of the developer.

Schedule 2 - *Public Benefits Offer versus Section 94 Contributions*, in the VPA identified the residential component of the Top Ryde City development as including a total yield of 450 apartments at a project value of \$3,862,350.00.

Approval of Buildings C, D & E has already exceeded the above threshold. The Section 96 application will result in the total number of residential apartments in the entire development being 654, that is, 204 apartments more than what was considered in the original VPA. Clause 15 of the VPA (as amended in 2008) specifies that if the development exceeds 450 apartments, Section 94 contributions may apply. However, in relation to the time of payment of S94 contribution, the VPA specifies that the:

- *Developer will only be obliged to pay additional Contributions under clause 15.1(b)(i) if after completion of Stage 2 of the Development the net effect of all Section 96 Modifications is that the number of apartments in the residential component of the Development exceeds 450 apartments.*

In the past, after approval of each building, various Section 96 Applications have been approved for reduction in the number of apartments via amalgamation of 2 units to make a single larger unit. As the final number of units is not yet known (or could change) the Section 94 contribution cannot be accurately determined. S94 contribution will be worked out at the time of payment after completion of Stage 2 of the development as provided for under the terms of the VPA. Condition No. 82 was imposed on the original consent which ensured that this matter is noted by the developer.

As discussed under the heading of car parking, it is proposed to impose a Section 94 Contribution for the shortfall of the 4 car parking spaces. Due to the VPA, however this cannot be imposed until the completion of Stage 2. It is proposed to amend condition 82 to advise the applicant of the issue of the payment of Section 94

Contributions for the increase in apartments over 450 as well as the shortfall of the 4 visitor car parking spaces. (See condition number 82).

7. PROPOSED AMENDMENTS TO THE CONDITIONS OF CONSENT

As part of the Section 96(2) application, the applicant has requested variations to two conditions of consent. In addition, as a result of the Section 96(2) application, 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 2 Amendments to Stage 1 Consent

LDA2006/0672 was approved with condition 317 which referred to the approval of the concept proposal for the subsequent stages of the development. This Section 96 proposes to adjust the wording of this condition to increase the floor space for the two buildings. This is a minor change and the additional floor space will not be readily visible from a public area. No objection is raised to this change.

Condition 11 Car Parking

Condition 11 will be amended to reflect the number of car parking spaces available for the two buildings. It will also be amended to ensure that 17 spaces shall be provided as accessible parking spaces.

Condition 12 BASIX

As part of the Section 96 application, the applicant was required to submit a new BASIX Certificate. It is proposed to amend the wording of this condition to refer to the new BASIX Certificate.

Condition 32 Disabled Access and Adaptable Units

This condition required 15 adaptable apartments. It is proposed to increase this to 17 adaptable apartments which will reflect Council's requirements.

Condition 36 Storage Facilities

This condition requires that each apartment must be provided with sufficient storage space as required by the Residential Flat Design Code. As the original approval only contained 1 and 2 bedroom units, the condition did not detail any requirements for 3 bedroom apartments. The Section 96(2) application now contains 2 x 3 bedroom apartments. It is proposed to amend the condition to include reference to the storage space required for the 3 bedroom apartments.

Condition 82 Section 94 Payments

This condition requires that the applicant and the owner must pay Section 94 contributions for any development over 450 apartments in accordance with the Voluntary Planning Agreement. As the development proposes a shortfall of 4 visitor car parking spaces, this condition is to be amended to advise the applicant that Section 94 contributions will also be applicable.

8. 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.

9. RECOMMENDATIONS

That the Sydney East Region Joint Regional Planning Panel as the consent authority modify its development consent LDA2012/0285 dated 2 May 2012 in respect of a residential development at 4-6 Blaxland Road, Ryde under the provisions of Section 96 of the Environmental Planning and Assessment Act, 1979 subject to the following amendments:

1. That conditions 1, 2, 11, 12, 32, 39 and 82 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 stamped approved plans (referenced below) and supporting documents submitted with the application.

Plan Title and Number	Description	Date	Issue
Comprehensive Plans			
DA-A-A1 50/C	Entry Location (A & A1)	24.10.12	C
DA-A-A1-100/1	Car park and storage	24.10.12	1
DA-A-A1-101/3	Level 4 (A & A1)	29/5/12	3
DA-A-A1-102/3	Level 5 (A & A1)	29/5/12	3
DA-A-A1-103/3	Level 6 (A & A1)	29/5/12	3
DA-A-A1-104/3	Level 7 (A & A1)	29/5/12	3
DA-A-A1-105/3	Level 8 (A & A1)	29/5/12	3
DA-A-A1-106/3	Level 9 (A & A1)	29/5/12	3
DA-A-A1-107/3	Roof Level (A & A1)	29/5/12	3
DA-A-A1-111/4	Elevations	29/5/12	4

Plan Title and Number	Description	Date	Issue
DA-A-A1-112/3	Elevations	29/5/12	4
DA-A-A1-115/3	Building Separation	29/5/13	3
DA-A-A1-119	Sections	24.10.12	1
DA-A-A1-201/1	Adaptable Unit Layout	24.10.12	1
DA-A-A1-202/1	Adaptable Unit Layout	24.10.12	1
DA-A-A1-203/3	Adaptable Unit Layout	29.5.13	1
DA-A-A1-250/C	Level 3 Loading & Garbage Rooms	24.10.12	C
DA-A-A1-901	Site Plan showing location of A & A1	24.10.12	1
DA-A-A1-902/1	Perspective	25.5.2012	1
DA-A&A1-950	External Finishes	25.10.12	2
LA01	Landscape Plan (by Taylor Brammer)	24.04.2012	B
LA02	Landscape Plan (by Taylor Brammer)	24.04.2012	B
Building A Plans			
DA-A-101/1	Level3 with Pedestrian Ramp	24.10.2012	1
DA-A-102/3	Level 4 – Floor	29.5.13	3
DA-A-103/3	Level 5 – Floor	29/5/13	3
DA-A-104/3	Level 6 – Floor	29/5/13	3
DA-A-105/3	Level 7 - Floor	29/5/13	3
DA-A-106/3	Level 8 – Floor	29/5/13	3
DA-A-107/3	Level 9 – Floor	29/5/13	3
DA-A-108/3	Roof Plan	29/5/13	3
DA-A-112/4	Elevations	29/5/12	4
DA-A-113/4	Elevations	29/5/12	4
DA-A-115/1	Sections	24.10.2012	1
Building A1 Plans			
DA-A1-101/1	Level 3 (Parking & Storage)	24.10.2012	1
DA-A1-102/3	Level 4 (Parking & Storage)	29/5/12	3
DA-A1-103/5	Level 5 Apartment layout	29/5/12	5
DA-A1-104/5	Level 6 Apartment layout	29/5/12	5
DA-A1-105/5	Level 7 Apartment Layout	29/5/12	5
DA-A1-106/5	Level 8 Apartment layout	29/5/12	5
DA-A1-107/5	Level 9 Apartment Layout	29/5/12	5
DA-A1-108/4	Roof Plan	29/5/12	4
DA-A1-110/3	Elevations	30/5/13	3
DA-A1-111/2	Elevations	30/5/13	2
DA-A1-115/1	Sections	24.10.2012	1

2. **Amendments to Stage 1 Consent:** In accordance with Clause 80A(1)(c) of the EP&A Act, 1979, Condition 317 of the Development Consent No. 2006/672 is

modified to remove reference to commercial development. The modified condition will read as follows:

317. Consent is granted to the concept proposal for subsequent stages of the proposed development comprising:

- (a) Residential land uses;
- (b) A maximum of 10,600m² net useable floor area (NUFA) for the purposes of residential buildings accommodated within two buildings on the southwest portion of the site, fronting Devlin Street;
- (c) A maximum of 56,000m² NUFA for the purposes of residential flat buildings (a total of approximately 650 apartments) on the site;
- (d) Building envelopes to be generally as depicted on the plans accompanying the development application and as described in Section 6.0 of the *Staged Mixed use Development Statement of Environmental Effects* dated November 2006 prepared by JBA Urban Planning Pty Ltd, within which detailed building design will be developed and will be the subject of separate future development applications;
- (e) Car parking comprising two residential car parking levels (at Levels 3 and 4 of the development) to service the residential buildings.

11. **Car parking.** At least 172 car parking spaces must be provided on the site for the proposed residential development. Each apartment must be allocated a minimum of one car parking space. A total of 17 car parking spaces shall be provided as accessible parking spaces and allocated to the adaptable apartments. Details are to be submitted on the relevant Construction Certificate plans.

12. **BASIX:** The development is to be carried out in compliance with BASIX Certificate No. 404810M 04 and 404779M 04 both dated 27 June 2013.

32. **Disabled Access & Adaptable Units:** Disabled access is to be provided within the development in accordance with the recommendations contained in the Access Review Report prepared by Morris-Goding Accessibility Consulting dated 25 July 2012. Details indicating compliance with the AS1428 & AS4299, Building Code of Australia and the recommendations contained in the above Report are to be submitted to the Principal Certifying Authority (PCA) prior to the relevant Construction Certificate being issued. A minimum of 17 adaptable apartments must be provided. Accessible parking spaces are to be allocated to the adaptable units and shown on the strata plan.

36. **Storage Facility:** All residential units must be provided with sufficient secure storage facility (other than the kitchen cupboard areas) at the following rates:

- At least one-bedroom apartments 6m³

- At least two-bedroom apartments 8m³
- At least three bedroom apartments 10m³

Storage facility must be lockable and allocated to individual units.

82. Section 94 Payments: Prior to the issue of any Occupation Certificate, the applicant and the owner must ensure compliance in relation to the Section 94 contributions payable to Council for the increase in the number of apartments over 450 apartments and the shortfall of 4 visitor car parking spaces in accordance with Clause 15 of the VPA (as amended by the Deed of Variation of Voluntary Planning Agreement executed on 6 November 2008) registered against the title, to the satisfaction of Council.