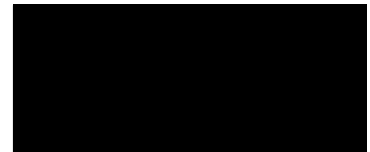


6 August 2013



General Manager  
Ryde City Council  
2 Devlin Street  
Ryde NSW 2112

Dear Sir/Madam

**RE: 600-640 Victoria Road, Ryde4  
Local Development Application No. LDA2013/0165**

I convey that the proposed DA does not comply with the Ryde LEP 2010 Part.3 sub paragraph 2A (b) and the applicant's theory to apply the "law of averages" by changing FSR to increase the height, bulk and scale in the built known as Stage 1, Phase 1, Ref: LDA2012/0471 and the subject proposal known as Stage 1, Phase 2A/3A (2A-1, 2A-2 and 3A) in the current stage, should not be permissible as it is fundamentally contrary to the approved Concept Plan 2006 and DCP 2006.

The Concept Plan 2006, restricted height to the built form is 6 storeys and the DCP 2006 approved setback at 19 metres from the Victoria Road frontage for visual impact and other factors.

The modification to the Concept Plan under S75W of the Act and updated on 8 March 2013 is "generally consistent" with unethical practice when taking into consideration there was no public consultation undertaken.

The Modification Plan [MP 05\_0001 MOD 1], was approved in March 2013, does not comply with the following:

The approved Concept Plan 2006:

- \* The approved Development Control Plan 2006 - Royal Rehabilitation Centre Sydney - [Victoria Road Frontage]
- \* The Ryde Local Environmental Plan 2010,
- \* Part 4.5D Density Controls for Royal Rehabilitation Centre Sydney,
- \* Part 4.3 Height of buildings,

\* (1) (a) to maintain desired character and proportions of a street within areas,

\* (1) (b) to minimise overshadowing and ensure a desired level of solar access to all properties.

This statement is applicable to ALL effected properties including neighbouring property at the boundary; in this case the north western part of the Site of Victoria Road adjoining "Dalton Gardens" i.e. retirement village. No overshadowing statement was performed by the applicant.

\* (1) (c) to enable the built form in denser area to create spatial systems that relate to human scale and topography,

This statement requires the residential flat buildings to conform to the definition of "low to medium" density as was approved in 2006 and maintain natural topography and catchment areas, corridors designed in the built form as thoroughfare into open space.

(1) (e) to reinforce important road frontages in specific centres.

The SEPP 65 - i.e. landscape, aesthetics, context, street setbacks, the typography of land integration is under utilised to the design of built form, and storm water management (north western boundary) to community titles open space is inadequate, as per The Ryde Local Environmental Plan 2010.

The setback from the north western boundary and the Victoria Road frontage should be increased for the purpose of reducing the scale and density of the number of dwellings at Stage 1, Phase 2A/3A and to redistribute the FST to a future Stage and Phase. The proposed storm water management has no correlation to the protection and management of the Buffalo Creek catchment area.

For instance, the proposed three residential flat buildings called 2A-1, 2A-2 & 3A, ALL encroach the catchment area known as the Buffalo Creek, eliminating and destroying all flora and fauna, and obstructing the natural flow of river through to the Parramatta River. The Applicant's proposal regarding the environmental impact statement does not address the destruction of the "natural" catchment area. Nor does the Development Application propose a design that protects the "natural" catchment area.

\* Part (2) The height of a building on any land is not to exceed the maximum height restriction, as per the land on the Height of Buildings Map - i.e. 21.5 metres (by definition, if the proposed ceiling heights are equal to, the minimum set in the Residential Flat Design Code).

With reference to Stage 1 Phase 2A/3A and specifically to the built form known as 3A is contrary to the Height of Building Maps schedule and therefore the height must be reduced to 21.5 metres to comply with the Ryde planning code.

\* and, at grade to Victoria Road, in accordance to The Design Code applies to residential flat development. It uses the definition of residential flat building in SEPP 65, that is a

building comprising: (a) three or more storeys (not including levels below ground level provided for car parking or storage, or both, that do not protrude more than 1.2 metres above ground level.

The proposed underground car parking basement envelope and its parameters should be setback and/or reduced to protect the catchment area.

The catchment area was intact and protected under the approved Concept Plan determined in 2006. The determination of the Modification Plan [MP 05\_0001 MOD 1] contravenes the planning strategy and principles applied in the approved Concept Plan 2006 and the DCP 2006 and the community input and as a 'key stakeholder' participated in the development application's public consultation process throughout.

The proposed DA does not conform to the approved Concept Plan 2006 and the Development Control Plan 2006 and does not strictly adhere to the planning code of the subject site's zone R1 - General Residential - the definition of low to medium residential flat building density. The definition of low to medium residential flat building density does not permit built form above 5 storeys. As it currently stands and after the fact, the approval of Stage 1, Phase 1 is contrary to Ryde's planning instruments and codes.

The determination of the FSR is incorrect as the Buffalo Creek Catchment area (of heritage and historical value) was not deducted from the gross total areas of Lot 1 & part Lot 2 of the subject site i.e. 10,685sqm.

With reference to the approved Stage 1, Phase 1 on 26 June 2013 with Conditions of Approval listed in Schedule 2 a precedent in the general sense was set. However the precedent in the 'general sense' should not equate to a certainty when administering the merits of the application for State 1 Phase 2A/3A at 600 Victoria Road Development Application. But rather seen as, "a" stage by stage solely determined by merit and whether it complies to the Ryde planning codes and other historical approvals specific to the site.

The build form is not sympathetic to the surrounding character of neighbouring property Dalton Gardens and its residency of elderly have had quiet enjoyment and solar access over the years. The height of the built form should not negatively impact on their homes and their privacy. The bulk, scale and height of the built form should be staggered downwards facing the north western boundary reducing the height closest to the boundary.

I object to the density of the Stage 1, Phase 2A/3A consisting of 218 dwellings and 305 underground car parking spaces dominating the natural catchment area is grossly overbuilt to say the least. The protection of flora and fauna within the catchment area is non-existent in the subject Development Application and the proposed bulk and scale of the built form is contrary to good management planning for the conservation of the natural topography and rivers. The subject Development Application lacks a mitigation program relating to issues such as flooding and water proofing of underground basement parking. Water ponding at the north western part of the Site of Victoria Road is a well

known fact due to poor drainage caused by natural design. The Applicant has failed to address the *River to River Wildlife Corridor*, this being the Buffalo Creek Catchment areas controlled by the *Sydney Metropolitan Catchment Management Authority (SMCMA)*.

It is government authorities responsibility to mitigate the destruction of natural forms and to protect catchment areas and good governance should proceed with this in mind when determining the merits of the Applicant's proposed large scale built form such as this. The number of built form (being three residential flat buildings) should be reduced in scale, for example two residential flat building as a suggestion, to eliminate the built form known as 3A, increase the setback from the north western boundary to permit the natural flora and fauna to proliferate and protect the catchment area as well as increase the setback from the frontage of Victoria Road - being at the lowest grade of the site and flood prone.

I propose the number of dwellings for the built form 2A-1 and 3A to be decreased in bulk and scale by half. The height of the residential flat building to comply with the Height of Buildings Map i.e. limited to 21.5 metres (not greater than).

Without prejudice, I propose any loss of FSR to be transferred to another Stage and Phase of the site – there is ample site. The reason is of great importance to the community and governing authorities should be made aware of the following. The “public” open space that Fraser Property Group professes to belong to the community is a myth.

Strata laws permits the Body Corporate to isolate “public” open spaces (called common property) by registering the “Exclusive Use” By Law instrument on the Strata Title permits sole use by those residents living in the residential flat building, for further information please refer to:

**“STRATA SCHEMES MANAGEMENT ACT 1996 - SECT 158**

**Order with respect to by-laws conferring exclusive rights or privileges over common property”**

Fraser Property Group would be fully aware of the rules and regulations of Strata laws and any promise of “public” open space granted to the community is a gross misrepresentation. Should Ryde Council and its administration have determined the FSR based on the developer's Section 94 Contribution on which it was based on the Ryde Section 94 Development Contributions scheme then a revision is most imminent to correct the error for the subject Development Application and beyond.

May I put my advise to Ryde City Council that the only method to control the use of the “public” open space would be to lodge a caveat on the Title of each Lot and/or authorise a condition of consent that the lodgement of a registered instrument on the Strata Title be administered by the developer clearly stating the By Law and the survey plan of the “public” open space declaring it a non exclusive use status.

With this disclosure I propose the reduction of the FSR of Stage 1, Phase 2A/3A and thereafter all releases of land to compensate the community for the gross misrepresentation.

For your information, building defects are not necessarily met by the builder but in reality

is passed onto the Body Corporate for works of rectification should the builder fail to meet its obligations or enter into voluntary liquidation or bankruptcy.

I wish to reiterate my proposal, as follows:

- The Buffalo Creek Catchment area has not been considered under the Environmental Impact Statement nor has Ryde Council made any determination based on the protection of natural topography and rivers.
- The overall FSR to be decreased to half of the proposed 218 dwellings and 305 underground basement car parking and increase the setback from the boundary and frontage to a minimum of 18.5 metres either side, refer to Part 3, "Residential Flat Building", Ryde planning instrument.
- To reduce the number of built forms on the subject site so as to reduce the bulk and scale for density controls.
- To conform to the approved low to medium density criteria pertaining to the overall site.
- The Height of the residential flat building to be limited to 21.5 metres.
- To recalculate the FSR as the alleged theory of "public" open space contribution to the community being it is a gross misrepresentation.
- To revise the Section 94 Contribution by the developer.
- The developer to address the water management of the Buffalo Creek Catchment area in relation to the water proofing of the built form, the water management of the site, and the regeneration of the flora and fauna on the catchment area to the Parramatta River.
- The singular long built form is unappealing and promotes institutionalised design and living.
- To reduce the noise emission close to the north western boundary to maintain quiet enjoyment of the neighbouring properties – retirement village.
- To create integrated corridors from either side of the built form to permit access to community "open" space from various road and pathways.
- The former Development Application lodged by the Royal Ryde Rehabilitation Centre, this being, the Conference, Hotel and Restaurant permitted 220 rooms and approximately 230 car parking spaces on site was approved with conditions. The current Development Application (DA) has exceeded the limits of the former approval (1999). The current DA proposal before Council has exceeded the community's expectation. The subject site is a gross over development of built form, traffic movement, loss of privacy and solar access, amenities, quiet

enjoyment, a balance of open space to built form integrated at human scale and more.

- The built form creates overshadowing for most part of the day due to the height, bulk and scale.

All else the same with regards to the approval of LDA2012/0471 the issues raised in the proposal was not addressed sufficiently in the Applicants proposal known as LDA2013/0165.

Thank you for the opportunity to forward my submission.

With anticipation I await for Council's determination of the subject site and its impact to the local community hoping for a fair and reasonable outcome.

Yours faithfully

A solid black rectangular box used to redact the signature of the sender.