



Department of Planning & Infrastructure
GPO Box 39
Sydney NSW 2001

Attn: Mark Schofield

30 September 2013

Re: S75W Application – Allengrove Crescent (MP10_0037)

Dear Mark,

I refer to your correspondence of 5 September 2013 requesting a response to the issues raised in the submissions from the public exhibition of the abovementioned application.

Attached is a response to each of the issues raised.

I trust that the information provided responds to the issues sufficiently and will enable the assessment and determination of the application.

Should you have any questions or wish to discuss any aspect of the information provided, please do not hesitate to contact me on (02) 9380 9911 or by email at mbaker@sjb.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Baker', written over the printed name.

Michael Baker
Associate Director

Attachment 1: Response to Submissions

Response to Submissions

1. Roads and Maritime Services Submission

Issue	Response
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| (1) RMS has reviewed the submitted documentation and raises no objection to the proposed modification. | Noted |
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2. Ryde Community Alliance Submission

Issue	Response
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| (1) The Ryde Community Alliance objects to the proposal for the reasons that it was originally refused by the PAC being: | Noted, however the reasons for refusal of the PAC were addressed as part of the appeal to the LEC and the subsequent Section 34 conference. |
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- (1) *It is not in the public interest to approve the proposed development because it would be inconsistent with the provisions of the Ryde Local Environmental Plan 2010 and would adversely impact on the orderly development of land in the City of Ryde;*

During the section 34 conference, substantial amendments were made to the Concept Application by the applicant, further reducing the height and scale of the development.

- (2) *The proposed development would be incompatible with the Ryde Local Environmental Plan 2010 R2 Low Density Residential zone objectives and out of character with the surrounding residential area;*

The reasons for refusal in the PAC determination have been addressed in the amendments to the Concept Plan undertaken in the s34 conference.

- (3) *The proposed development would give rise to traffic generation and access constraints that would detrimentally impact on existing and future residents, and the local road network; and*

In respect of the original reasons for refusal and the proposed amendments to the current modification application, the following is noted:

- (4) *The proposed development would adversely impact on the amenities of residents by way of noise and disturbance, traffic, overlooking and visual intrusion.*

- The proposed modifications are consistent with the Concept Approval and the development yield anticipated by the Concept Approval. The broader strategic merit of the residential flat development on the site and the associated increase in density was assessed and permitted in the approval of the Concept Plan;
- The issue of traffic generation has been addressed in the Traffic Impact Assessment submitted with the current modification application and was previously addressed as part of the Concept Approval; and
- The proposed modifications do not alter the approved building envelopes or resultant built form, such that it would result in any different or additional impacts on the amenity of the surrounding properties.

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| (2) This proposal should not be approved because it seeks to increase the number of dwellings in excess of the legitimate planning controls applying to this area | The proposed modifications are consistent with the development yield anticipated, assessed and approved under the Concept Approval. |
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(3) The proposal should not be approved because it is not justified by strategic planning studies for the whole area.	<p>The Concept Plan as originally submitted was supported by a range of consultant studies that considered the potential impacts of the proposed development.</p> <p>The Concept Plan has established that the site is suitable for a residential flat building development of the scale sought.</p> <p>Further strategic planning studies of the whole area are not required for the Concept Plan or the S75W Modification Application submitted.</p>
(4) Prior to approving any further development under old redundant Part 3A provisions, the PAC should consider under s79c the impact of 21,000 additional dwellings in the Ryde LGA	<p>The requirement for 21,000 additional dwellings within the Ryde LGA is a requirement of the Metropolitan Strategy i.e. a state government requirement.</p> <p>The broader strategic context was considered as part of the original assessment of the Concept Application.</p> <p>The proposed development goes toward meeting this target.</p>
(5) There is no provision for additional schools, community and recreation facilities, open space or other services to accommodate these people.	<p>The provision of public infrastructure and the capacity of public services and utilities to cater for the proposed development was considered in the assessment of the Concept Approval by the Department of Planning and Infrastructure, which concluded that there was adequate social infrastructure available to support the development.</p>

3. Name Withheld 1 Submission

Issue	Response
(1) Allowing the developers to change, extend and enlarge now would be a gross miscarriage of authority.	<p>The Concept Approval which approved:</p> <ul style="list-style-type: none"> • Use of the site for residential flat buildings; • Indicative building envelopes for seven (7) buildings to a maximum height of RL 89.25m AHD – i.e. buildings ranging in height between 2 to 5 storeys; • Road works to support the development; and • Landscaping areas throughout the site. <p>The proposed modifications make minor amendments to the approved building envelopes within the yields anticipated by these building envelopes. Such amendments will have a negligible impact on neighbouring or surrounding properties.</p>

4. Merrington Submission

Issue	Response
(1) Oppose the expansion of this project by 25 additional units and by 13 additional car spaces	<p>The Concept Approval did not grant consent to a fixed number of apartments or car parking spaces. The Concept Approval only granted consent to the use of the site and building envelopes that translate to a particular dwelling yield dependent on the size and mix of dwellings.</p> <p>The proposed modifications seek to make minor amendments to the approved building envelopes of the residential flat buildings, alter the floor layouts of the indicative concept plans to provide a more efficient floor layout. These amendments result in an increase in the number of units and associated car parking over that shown on the indicative floor plans submitted as part of the Concept Application.</p> <p>This increase is consistent with the building yield of the Concept Approval.</p>
(2) Any incremental expansion of this development simply future (sic) exacerbates the detrimental effects on the neighbouring community.	<p>The potential impacts of the changes have been considered and they do not result in further overshadowing, privacy or scale impacts for those considered as part of the Approval.</p> <p>The s75W report submitted with the application provides an assessment of the proposal and identifies that the amendments will not result in any significant impacts on the neighbouring community.</p>

5. Gilchrist Submission

Issue	Response
(1) PAC requirements should stand and the planning controls and design criteria established should remain and not subject to change simply for the developers benefit.	<p>Consent was granted for the Concept Approval for the use of the site for the purposes of a residential flat building and building envelopes across the site. These envelopes and building volumes anticipated a particular floor area of building.</p> <p>The proposed modification seeks to make minor amendments to the approved building envelopes to alter floor layouts and provide a more efficient floor layout.</p> <p>The proposed modifications are general consistent with the Concept Approval, meet the conditions and requirements of the Concept Approval, and have been designed to ensure that there is negligible impact on neighbouring properties.</p>

6. Lawson Submission

Issue	Response
(1) Developers wish to override decisions made by the Planning Assessment Commission to increase the numbers of apartments and basement parking levels that have been agreed to.	<p>The Concept Approval did not grant consent to a fixed number of apartments or car parking spaces, rather it granted consent to the use of the site for a residential flat building development and approved building envelopes.</p> <p>The s75W modification proposes to make minor amendments to the approved building envelopes of the residential flat buildings, alter the floor layouts of the indicative concept plans to provide a more efficient floor layout.</p>

7. Name Withheld Submission

Issue	Response
(1) Modifications being proposed to increase the number of units along with the number of parking spaces.	Addressed above in relation to Submission 4 Issue 1.

8. Burton Submission

Issue	Response
(1) Why has the PAC's original decision been reversed.	<p>After the PAC refused the Concept Plan on 3 May 2012, the applicant lodged an appeal to the Land and Environment Court of NSW.</p> <p>During the appeal process, substantial amendments were made by the applicant, reducing the height and scale of the proposed development.</p> <p>On 26 September 2012, the Land and Environment Court entered Consent Orders to allow the appeal in accordance with the parties' agreement.</p> <p>The Orders in summary provide for a residential flat development concept, including:</p> <ul style="list-style-type: none">• Use of the site for residential flat buildings;• Indicative building envelopes;• Road works to support the development; and• Landscaping areas throughout the site.

9. Zanelli Submission

Issue	Response
(1) I object to the process entered into by government whereby a development (sic), can brazenly seek to change the development once again in the proponents favour under the guise of a "Modification"	<p>Legislation provides a framework that allows consideration of changes to approved plans as part of the design development between a Concept Approval and the Detailed Construction plans.</p> <p>As part of the design development, minor amendments to approved building envelopes are sought to alter the floor layout and provide a more efficient floor layout. The detailed design development has enabled more units to be accommodated within the site than that shown on the indicative plans that accompanied the Concept Approval.</p> <p>The submission of an application to modify the existing Concept Approval is a valid and legitimate part of the planning system.</p>
(2) Where is your public consultation?	<p>The application has been notified to the surrounding residents by the Department of Planning and Infrastructure as part of their assessment of the application.</p> <p>Furthermore, the detailed DA lodged with City of Ryde Council will also be notified and advertised in accordance with the Council's notification policy.</p>
<p>(3) Technically, the modification needs to satisfy the conditions attached below:</p> <p>(1) <i>It is not in the public interest to approve the proposed development because it would be inconsistent with the provisions of the Ryde Local Environmental Plan 2010 and would adversely impact on the orderly development of land in the City of Ryde;</i></p> <p>(2) <i>The proposed development would be incompatible with the Ryde Local Environmental Plan 2010 R2 Low Density Residential zone objectives and out of character with the surrounding residential area;</i></p> <p>(3) <i>The proposed development would give rise to traffic generation and access constraints that would detrimentally impact on existing and future residents, and the local road network; and</i></p> <p>(4) <i>The proposed development would adversely impact on the amenities of residents by way of</i></p>	Refer to response to Submission No. 2.

noise and disturbance, traffic, overlooking and visual intrusion.

(4) The developer subsequently negotiated privately with the PAC and gained approval for a development of a slightly reduced scale. During which time the public was excluded from any involvement or notification that such discussions were being undertaken. An unprecedented and most unexpected event.	We are unable to comment on the approval process.
(5) Any incremental expansion of this development simply future (sic) exacerbates the detrimental effects on the neighbouring community	This has been addressed in response to the Submission No. 4 above.
(6) Future more (sic), if this request was to be approved, it would essentially mean the PACs original refusal and subsequent development approval with restrictions have been further watered down. The reasons given by the PAC for these previous decisions would now seem simply to be ignored by the PAC itself?	The reasons for refusal are no longer relevant, as a Concept Approval has been granted. The modification applications are consistent with the building envelopes and the resultant yield anticipated under the Concept Approval.
(7) If this expansion request is approved, it would reflect poorly on the independence and decision making ability of the PAC and further undermine any confidence the public has in the PACs ability to weigh up carefully developers desires versus the public's interests.	<p>Modification applications are a legitimate part of the planning system whether it be a s75W modification under the former Part 3a of the <i>EP&A Act 1979</i> or a s96 modification of a regular DA under Part 4 of the Act.</p> <p>The subject s75W modification application is required to be lodged with and assessed by the Department of Planning and Infrastructure, and will be determined by the PAC if outside of the Department's delegations.</p> <p>The Department (and PAC if required) will assess the proposed modifications on their merits and consider any likely impacts of the proposed amendments on the neighbouring properties and wider community, in their determination of the application.</p>

10. Name Withheld 3 Submission

Issue	Response
This submission is a copy of the Zanelli submission.	This submission has been addressed above – refer to Submission No. 9.

11. Veness Submission

Issue	Response
(1) This modification will serve to increase the	The issue of an increase in traffic and parking has

density on the site and therefore add to the traffic problems already envisaged by Council and local residents.

been addressed in the Traffic Impact Assessment submitted with the current modification application and was previously addressed as part of the Concept Approval.

The Traffic Impact Assessment has concluded that there is adequate capacity in the surrounding road network to cater for the traffic generated by the proposed development.

- (2) This modification seeks to take the power to approve changes to the density and parking away from Council, which has been granted by the PAC, and put into the hands of the DP&I. I believe strongly that this authority should remain with Ryde Council as deemed.

This application has been lodged with the DP&I based on the advice of Council that the application is not generally consistent with the Concept Approval.

The s75W application is required to be lodged with the DP&I.

- (3) The current concept plan has been approved by the independent body, the PAC. Any modification to this plan should be considered by the PAC and not the DP&I. The DP&I have shown themselves in the history of this DA to be far from independent in their decisions. Best practice, and to allay the concerns of the multitude of objectors, says that this decision should lie with an independent arbiter, and be delegated back to PAC for a decision.

This is a matter for the DP&I.

The application is required to be assessed by the Department of Planning and Infrastructure and only determined by the PAC if outside of the DP&I's delegations.

The DP&I (and PAC if required) will assess the proposed modifications on their merits and consider any likely impacts of the proposed amendments on the neighbouring properties and wider community, in their determination of the application.

- (4) Any decision to approve this modification and increase the density on this site will confirm to all developers that local Council planning restrictions, and the independent decision of the PAC, are a joke, and that DP&I can be relied upon to help them to bypass them. This is a tactic currently being used by developments with this and other transitional Part 3A applications and is completely contrary to the rhetoric and the promises of the O'Farrell government.

As identified in relation to a number of other submissions, the Concept Approval granted for the site did not approve a fixed number of units or car parking spaces.

The Concept Approval granted consent to the use of the site for residential flat buildings and approved a series of building envelopes across the site.

The application seeks to make minor modifications to the Concept Approval which are part of the detailed design development for the project and are a legitimate process in the development of a project from the Concept Approval stage.

Modification Applications are a legitimate part of the planning process under both Part 3A and Part 4 of the *EP&A Act 1979*.

The impacts of the proposed modification application are the same as those considered and assessed as part of the Concept Approval.

12. Pedersen Submission

Issue	Response
(1) I wish to indicate my strongest objections to the proposition that a PAC determination that this development was not consistent with Local Council Zoning and was inappropriate in size and scale has been overturned. For them to then be forced into mediation with the developer is an insult to their professionalism and the Ryde Council and people of North Ryde to whom they were rightly listening.	Noted – not a planning issue relevant to the assessment of the s75W application.
(2) For a developer to then be able to sell the concept plan to a builder who can apply directly to your department to attempt to restore its original size and scale is an absolute travesty.	The application does not propose to restore the development to its original scale.
(3) It makes a mockery of the PAC commissioners efforts to reflect the valid objections of the Local Council & community.	Noted – not a planning issue relevant to the assessment of the s75W application.
(4) The O'Farrell government was elected with a promise to abolish Part 3A and hand back planning powers to the Local Council. Clearly this core promise has been abandoned and I must say I am exceptionally disappointed in the Liberal government with what appears to be an approach to planning which favours the developers and builders and has scant regard for the impact on local communities such as North Ryde. I fear exactly the same shameful process may well apply to the Whiteside project which the PAC commissioners have also modified as a result of the very serious and valid objections of all council members, The Liberal MP John Dominello and members of the local community. Not a single supporter to be found.	Noted – not a planning issue relevant to the assessment of the s75W application.
(5) Surely it shouldn't be developers/ builders first and the local community last or is it all just about the money.	Noted – not a planning issue relevant to the assessment of the s75W application.
(6) We after all have to live with the shocking traffic congestion which is already gridlock in peak hour, rat runners trying to avoid the main roads and back streets chocked with transient parkers working in Macquarie Park.	Refer to Submission 11 Issue 1.
(7) Please at the very worst don't undermine PAC by reversing the thoroughly thought out limits they are placing on these Concept Plans.	The proposed modifications are consistent with the Concept Approval and the development yield anticipated by the Concept Approval.

13. McConnell Submission

Issue	Response
(1) Firstly, my opposition to this proposal is the increase of units from 154 to 179 with the suggestion that there would not be any increase to local traffic. Surely, it would be obvious that 25 more units would at the very least add 25 more cars to the area requiring parking spaces and increase to local traffic.	Refer to Submission 11 Issue 1.
(2) Secondly, the increase in density of housing to the development will increase the need for local infrastructure to be upgraded, such as, transportation and sanitary services provided by the Ryde Council. Has this been factored in to the proposal.	<p>The site is appropriately located within walking distance of the Macquarie Park Railway Station, which will provide suitable transportation access for future residents.</p> <p>Otherwise, the provision of services and infrastructure for the development was assessed by the Department of Planning and Infrastructure in their assessment of the Concept Application.</p>
(3) Lastly, it seems that this modification has not been approved by Ryde Council and this is of major concern to local residents who rely on the Council to make appropriate decisions regarding the developments in this area to be in keeping with the expectations of residents in this area, such as myself.	In accordance with the provisions of the <i>EP&A Act 1979</i> the s75W Modification Application is required to be submitted to the Department of Planning and Infrastructure.