

**4 OCTOBER 2018**

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**NOTICE OF MEETING**

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You are advised of the following meeting:

**THURSDAY 11 OCTOBER 2018.**

**City of Ryde Local Planning Panel Meeting No. 6/18**

**Council Chambers, Level 1A, 1 Pope Street, Ryde - 5.00pm**

## English

If you do not understand this letter, please come to the 1 Pope Street, Ryde (within Top Ryde Shopping Centre), Ryde, to discuss it with Council Staff who will arrange an interpreter service. Or you may ring the Translating & Interpreting Service on 131 450 to ask an interpreter to contact you. Council's phone number is 9952 8222. Council office hours are 8:30am to 5:00pm, Monday to Friday.

## Arabic

إذا لم تفهم محتوى هذه الرسالة، يرجى الحضور إلى 1 Pope Street، Ryde (في Top Ryde Shopping Centre)، Ryde، لمناقشتها مع موظفي المجلس الذين سوف يرتبون للاستعانة بمترجم شفهي. أو قد يمكنك الاتصال بخدمة الترجمة التحريرية والشفهية على الرقم 131 450 لتتطلب من المترجم الاتصال بك. رقم هاتف المجلس هو 9952 8222. ساعات عمل المجلس هي 8:30 صباحاً حتى 5:00 مساءً، من الاثنين إلى الجمعة.

## Armenian

Եթե դուք չեք հասկանում սույն նամակի բովանդակությունը, խնդրում ենք այցելել 1 Pope Street, Ryde (որը գտնվում է Top Ryde Shopping Centre-ի մեջ), Ryde, քննարկելու այն ֆաղաքային Խորհրդի անձնակազմի հետ, ովքեր ձեզ համար կապահովեն թարգմանչական ծառայություն: Կամ կարող եք զանգահարել Թարգմանչական Ծառայություն 131 450 հեռախոսահամարով և խնդրել, որ թարգմանիչը ձեզ զանգահարի: Խորհրդի հեռախոսահամարն է 9952 8222: Խորհրդի աշխատանքային ժամերն են առավոտյան ժամը 8:30-ից մինչև երեկոյան ժամը 5:00, երկուշաբթիից մինչև ուրբաթ:

## Chinese

如果你不明白这封信的内容，敬请前往1 Pope Street, Ryde（位于Top Ryde Shopping Centre内），向市政府工作人员咨询，他们会为您安排口译服务。此外，您也可以拨打131 450联络翻译和口译服务，要求口译员与您联系。市政府电话号码为9952 8222。市政府办公时间为周一至周五上午8:30至下午5:00。

## Farsi

لطفاً اگر نمی توانید مندرجات این نامه را درک کنید، به نشانی 1 Pope Street، Ryde (در Top Ryde Shopping Centre) مراجعه کنید تا با استفاده از یک مترجم در این باره با یکی از کارکنان شورای شهر گفتگو کنید. یا آنکه می توانید با خدمات ترجمه کتبی و شفاهی به شماره 131 450 تماس گرفته و بخواهید که به یک مترجم ارتباط داده شوید. شماره تماس شورای شهر 9952 8222 و ساعات کاری آن از 8:30 صبح تا 5:00 بعد از ظهر روزهای دوشنبه تا جمعه است.

## Italian

Se avete difficoltà a comprendere questa lettera, venite in 1 Pope Street, Ryde (dentro al Top Ryde Shopping Centre), Ryde, per discutere con il personale del Comune che organizzerà un servizio di interpretariato. Potete anche contattare il Servizio di Traduzione e Interpretariato al 131 450 per chiedere a un interprete di contattarvi. Il numero di telefono del Comune è il 9952 8222. Gli orari di ufficio del Comune sono dalle 8.30 alle 17 dal lunedì al venerdì.

## Korean

이 서신을 이해할 수 없을 경우, 1 Pope Street, Ryde (Top Ryde Shopping Centre 내)에 오셔서 통역사 서비스를 주선할 시의회 직원과 논의하십시오. 혹은 통번역서비스에 131 450으로 전화하셔서 통역사가 여러분에게 연락하도록 요청하십시오. 시의회의 전화번호는 9952 8222입니다. 시의회 사무실 업무시간은 월요일에서 금요일, 오전 8시 30분에서 오후 5시까지입니다.

**Meeting Date:** Thursday 11 October 2018  
**Location:** Council Chambers, Level 1A, 1 Pope Street, Ryde  
**Time:** 5.00pm

**NOTICE OF BUSINESS**

<b>Item</b>		<b>Page</b>
1	DECLARATIONS OF INTEREST	
2	78 EAST PARADE, DENISTONE - APPLICATION TO MODIFY THE CONSENT FOR ALTERATIONS AND ADDITIONS TO A DWELLING AS FOLLOWS: 1) REPLACE THE APPROVED HARD STAND TO THE NORTH BY A DECK; 2) REPLACE THE PAVED PATIO TO THE REAR WITH GRASS AREA AND PAVERS; 3) MODIFICATION TO RETAINING WALLS AND STORMWATER DRAINAGE.....	3
3	312-326 VICTORIA ROAD, GLADESVILLE - DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF A NEW PART 6 / PART 7 STOREY MIXED USE BUILDING COMPRISING 165m2 OF RETAIL TENANCIES ON THE GROUND FLOOR, 50 APARTMENTS AND 73 VEHICLE PARKING SPACES OVER TWO AND A HALF LEVELS OF BASEMENT PARKING. IT IS ALSO PROPOSED TO EXTEND GERARD LANE AT THE REAR OF THE SITE, THROUGH TO THE SITE'S NORTH WESTERN BOUNDARY - LDA2017/0312 .....	30

**ITEM 1 (continued)**

- 2 78 EAST PARADE, DENISTONE - APPLICATION TO MODIFY THE CONSENT FOR ALTERATIONS AND ADDITIONS TO A DWELLING AS FOLLOWS:**
- 1) REPLACE THE APPROVED HARD STAND TO THE NORTH BY A DECK;**
  - 2) REPLACE THE PAVED PATIO TO THE REAR WITH GRASS AREA AND PAVERS;**
  - 3) MODIFICATION TO RETAINING WALLS AND STORMWATER DRAINAGE.**

**Report prepared by:** Acting Senior Coordinator - Assessment

**Report approved by:** Manager - Development Assessment; Director - City Planning and Environment

**File Number:** GRP/09/6/12/1/2 - BP18/1090

**City of Ryde  
Local Planning Panel Report**

<b>DA Number</b>	MOD2018/0130
<b>Site Address &amp; Ward</b>	78 East Parade, Denistone
<b>Zoning</b>	R2 Low Density Residential
<b>Proposal</b>	<p>Alterations and additions to dwelling and replace existing garage.</p> <p>Application to modify consent which involves the following:</p> <ol style="list-style-type: none"> <li>1) Replace approved hard stand to the north by a deck.</li> <li>2) Replace paved patio to the rear with grass area and pavers.</li> <li>3) Modification to associated retaining walls and storm water drainage.</li> </ol>
<b>Property Owner</b>	Eliza M Purcell & Bernard A Purcell
<b>Applicant</b>	F Serra
<b>Report Author</b>	Tony Collier – Acting Senior Coordinator Development Assessment
<b>Lodgement Date</b>	14 May 2018

**ITEM 1 (continued)**

<b>No. of Submissions</b>	Nil
<b>Cost of Works</b>	Nil
<b>Reason for Referral to IHAP</b>	Conflict of Interest – The property is owned by a Councillor.
<b>Recommendation</b>	Approval
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Development consent (LDA2013/0521);</li> <li>2. Original approved plans; and</li> <li>3. Section 4.55 Plans</li> </ol>

**1. Executive Summary**

Application is made for alterations and additions to the rear courtyard area of an existing dwelling.

The development involves a modification to LDA2013/0521 for the following works:

- Replacement of approved hard stand to the north by a deck;
- Replacing a paved patio to the rear with grass and pavers; and
- Modification to associated retaining walls.

Note: Part of the above works involving the retaining wall has already been completed.

The rear half of the site includes an area within the rear half identified by Council's mapping system as including endangered species. However, Council's Consultant Landscape Architect advises that the development will not impact upon any trees on the site.

The notification of the application did not attract any submissions.

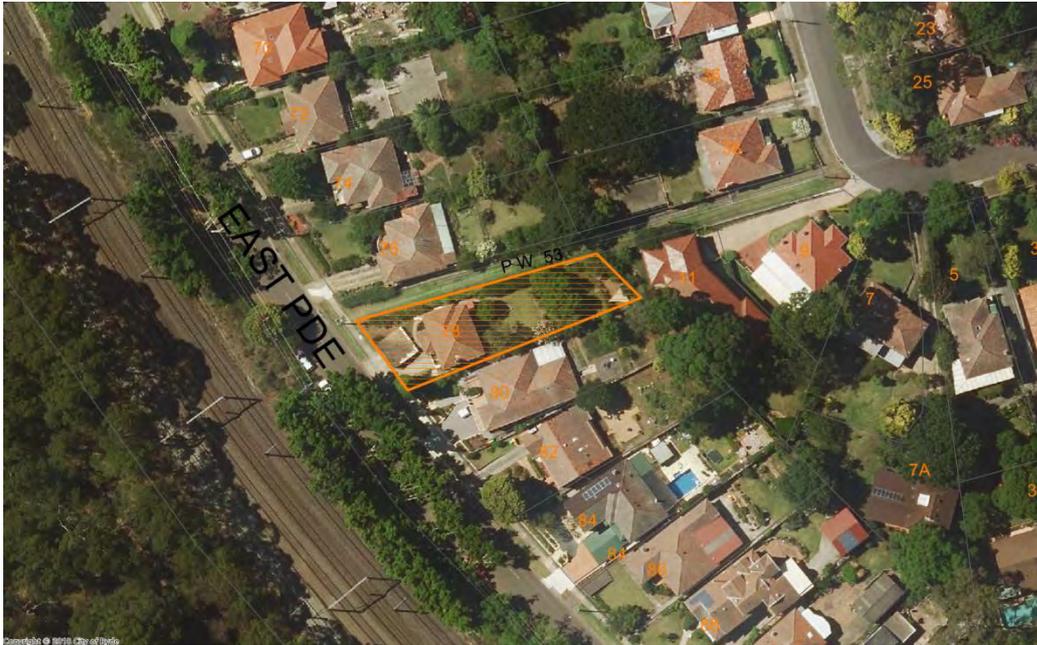
The development is considered to be minor and will not result in any adverse impact to neighbouring property.

The property is owned by a councillor and is therefore referred to the Ryde Local Planning Panel under the provisions of Schedule 1, Clause 1(b) of the Local Planning Panels Direction – Development Applications.

### ITEM 1 (continued)

Given the minor nature of the proposal and minimal environmental impact, the proposal is recommended for approval.

## 2. The Site and Locality



**Figure 1** - Aerial photograph of site in context.

The site is located on the western side of East Parade and is legally known as Lot 48 in DP 12367, No. 78 East Parade Denistone.

The site is irregular in shape and has an area of 706.2m<sup>2</sup>.

The site accommodates a detached dwelling house with associated outbuildings, including a detached garage adjacent to the front property boundary.

The site is surrounded to the north, south and east by detached dwellings of varying age and architectural style. A railway line is located to the west on the opposite side of East Parade.

Landscaping on the site includes a mix of exotic and native species within a domestic landscaped setting. The rear half of the site is located within an area which is identified by Council's mapping as including endangered species (see **Figure 4** later in this report).

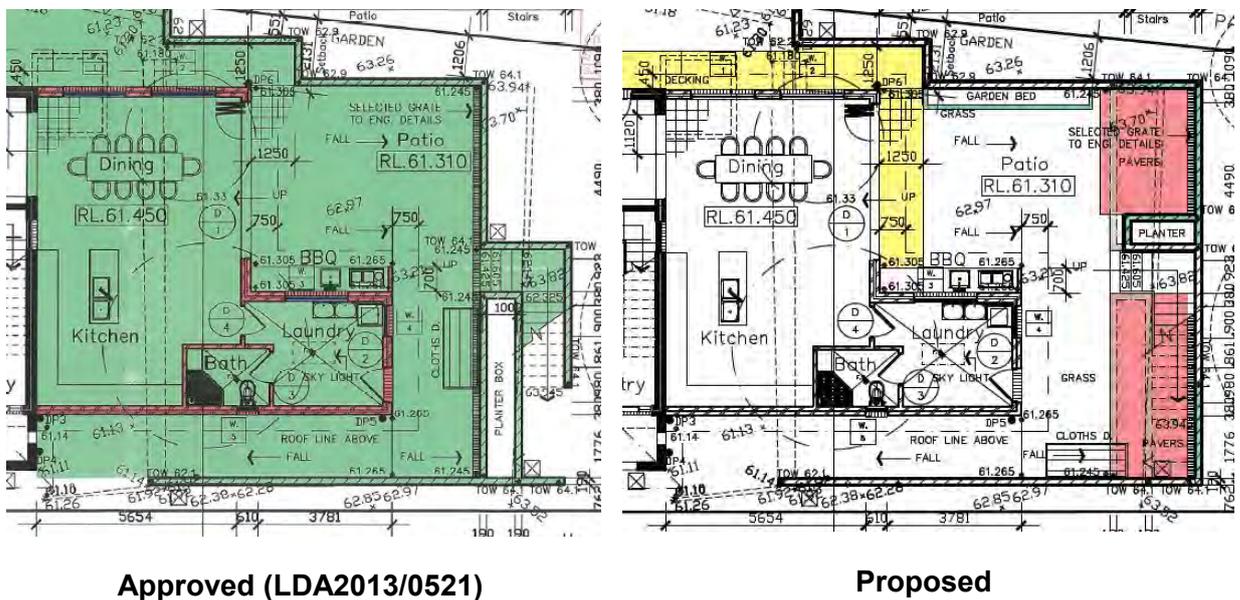
## 3. The Proposal

The proposal involves the modification of Local Development Application No. LDA2013/0521 issued on 28 February 2014 for alterations and additions to dwelling and replace existing garage.

**ITEM 1 (continued)**

**Figure 2** below provides a comparison between the approved plan and the proposed amendment with respect to the following:

- Replace approved hard stand to the north by a deck;
- Replace paved patio to the rear with grass and pavers; and
- Modification to associated retaining walls which will enlarge the paved area at the rear of the dwelling.



**Figure 2** – Plan of approved and proposed development (yellow: hard stand. Pink: pavers)

**Figure 3** below provides an elevational comparison to detail the proposed amendment.



**Approved plan (LDA2013/0521)**



**ITEM 1 (continued)**

The proposal is minor and has minimal environmental impact, is substantially the same as the approved development and has been notified in accordance with the regulations. No submissions were received in response to the notification.

In this regard, it is considered that the Section 4.55 Application satisfies the requirements of the above provisions.

*Section 4.55(3) requires the consent authority to consider relevant matters referred to in Section 4.15(1) in assessing and application for modification of development consent. The consent authority must also consider the reasons given for the grant of the consent that is sought to be modified.*

**5.2 State Environmental Planning Instruments****State Environmental Planning Policy (Building Sustainability Index BASIX) 2004**

The modifications are to the exterior of the building and involve changes to the rear courtyard, retaining walls and storm water drainage only.

Therefore, an amended BASIX Certificate is not required.

**State Environmental Planning Policy No. 55 – Remediation of Land**

SEPP 55 requires consideration of whether a site is potentially contaminated and whether any such contamination makes the site unsuitable for the proposed form of development or whether remediation works are required to make the site suitable for the form of development proposed.

Given the established residential use, the proposal is not likely to result in contamination and the site is suitable for the proposed development without need for remediation.

**5.3 Ryde Local Environmental Plan 2014 (RLEP 2014)**

The development does not include any changes which would otherwise require reassessment against the provisions of the RLEP 2014 that were not already considered under LDA2013/0521.

**Other Relevant Clauses**Clause 6.2 - Earthworks

Clause 6.2 requires consideration of the impact of earthworks in relation to environmental functions, processes, neighbouring uses, cultural and heritage items and features of the surrounding land.

**ITEM 1 (continued)**

The following matters are required to be considered:

- (a) *the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development.***

The site is not located within an overland flow area.

- (b) *the effect of the development on the likely future use or redevelopment of the land.***

The proposed excavation is to facilitate the extended outdoor entertaining area. The development will not impact upon the future use or redevelopment of the land.

- (c) *the quality of the fill or the soil to be excavated, or both.***

The site has been used continuously for residential purposes for an extended period of time and, as such, is not expected to contain any contaminants.

- (d) *the effect of the development on the existing and likely amenity of adjoining properties.***

The excavation occurs within the site and will not result in any adverse impact to the existing and likely amenity of neighbouring properties.

- (e) *the source of any fill material and the destination of any excavated material.***

The site has not been identified as contaminated. No information has been provided in regard to either the source of fill or the destination of excavated materials and conditions of any consent would be required to address these matters.

- (f) *the likelihood of disturbing relics.***

Given the location of the site and its continued residential development, it is considered unlikely that any relics would be disturbed.

- (g) *the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area.***

Subject to adequate sedimentation measures during construction, the proposal is unlikely to impact any waterway and it will not impact any drinking water catchment or environmentally sensitive area.

- (h) *any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.***

**ITEM 1 (continued)**

The original consent includes appropriate conditions which address sedimentation measures during construction.

**Clause 6.4 - Stormwater Management**

Clause 6.4 addresses Stormwater management and requires the following matters to be considered:

- (a) *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- (b) *includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- (c) *avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Council's Development Engineer has reviewed the application and does not raise any objection to the proposal subject to the amendment of **Condition 1(b)** and **Condition 58** which refer to updated Stormwater Management Plans.

**5.4 Draft Environmental Planning Instruments**

There are no draft environmental planning instruments of relevance to the assessment of the application.

**5.5 Development Control Plans****Ryde Development Control Plan 2014****Part 3.3 – Dwelling Houses and Dual Occupancy (Attached)**

The development is subject to the provisions of Part 3.3 – Dwelling Houses and Dual Occupancy (Attached) under the RDCP 2014.

With exception to Clause 2.6.2(c) – Topography and Excavation, the development does not include any changes which would otherwise require reassessment against the provisions of the RDCP 2014 that were not already considered under LDA2013/0521.

**Clause 2.6.2(c) – Topography and Excavation**

Clause 2.6.2(c) requires that:

- c. *Areas outside the dwelling footprint may be excavated and/or filled so long as:*

**ITEM 1 (continued)**

- i. the maximum height of retaining walls is no greater than 900mm;*
- ii. the depth of excavation is not more than 900mm;*
- iii. the height of fill is not more than 500mm;*
- iv. the excavated and filled areas do not have an adverse impact on the streetscape;*
- v. the filled areas do not have an adverse impact on the privacy of neighbours;*
- vi. the area between the adjacent side wall of the house and the side boundary is not filled;  
and*
- vii. the filled areas are not adjacent to side or rear boundaries.*

The development proposes excavation to a maximum depth of 2.59m. This includes the construction of new retaining walls of the same height to support the excavation around the perimeter of the expanded courtyard area.

The maximum variation sought is therefore 1.69m.

The excavated area is located at the rear of the existing dwelling and is therefore not visible from the street. Furthermore, given the site levels, the excavation will be below existing ground level and will not result in any adverse impact on the privacy of neighbours.

No fill is proposed for the development.

In this respect, the variation is supported as it is considered to have minimal impact and is reasonable in its context in providing an enhanced outdoor living area.

**5.6 Planning Agreements or Draft Planning Agreements**

The application is not the subject of any planning agreements or draft planning agreements.

**6. Section 7.11 Development Contributions Plan 2007 (Amendment 2010)**

The development is not subject to Section 7.11 contributions.

**7. Any matters prescribed by the regulations**

All matters prescribed by the regulations have been considered in the assessment of the application.

**8. The likely impacts of the development**Economic

**ITEM 1 (continued)**

The development will not result in any adverse economic impact.

Environmental

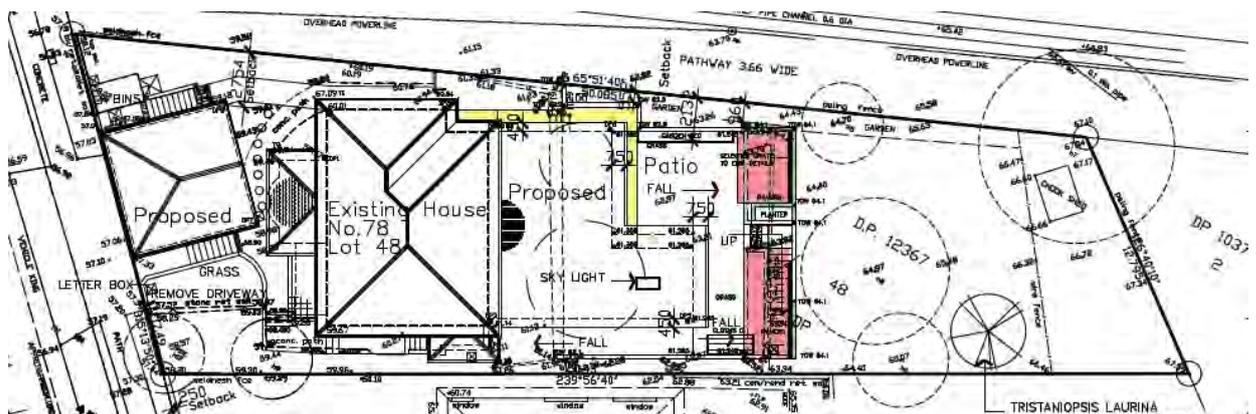
The site is located within an area which is identified by Council's mapping as including endangered species.

**Figure 4** below shows the location of the site and the mapping layer for endangered species (shaded green).



**Figure 4** – Overlay of the Endangered Species layer in Council's mapping system.

**Figure 5** below shows the development (coloured) in context to the location of trees on the site.



**Figure 5** – Proximity of trees to the proposed development.

Council's Consultant Landscape Architect (CPS) has reviewed the application and advises that it is unlikely that any additional trees are to be impacted as a result of the development.

**ITEM 1 (continued)****Social**

The development will not result in any adverse social impact.

**9. Suitability of the site for the development**

The site is considered to be suitable for the development.

**10. The Public Interest**

Given the above assessment, it is considered that approval of the application would be in the public interest.

**11. Submissions**

In accordance with the RDCP 2014 *Part 2.1 Notice of Development Applications*, the application was notified between 23 May 2018 and 8 June 2018.

No submissions were received in response.

**12. Referrals****Development Engineer**

The application was referred to Council's Development Engineer who has provided the following comments:

**“Stormwater Management**

*The proposed modifications encompass the removal of permeable pavers in the region of the patio at the rear of the site and having the area simply turfed. Whilst there is a slight increase in the patio area due to the relocation of the rear retaining wall, the modification presents a reduced level of stormwater discharge and therefore does not raise concern.*

**Recommendation**

*There are no objections to the proposed modification subject to the amendment of the following conditions;*

- *Condition 1, part (c) is no longer applicable and must be deleted (just this part).*
- *Condition 62, part (d) is no longer applicable and must be deleted (just this part).*

**ITEM 1 (continued)**

- *Condition 1 (b) and 58 must be amended to reference the new set of approved plans. This will require replacing;*

*“Inside Out Consultants (Refer to Project No. 1378 Dwgs 1 & 2 dated 12 October 2013)”*

*With*

*“Hydro Civil Engineers Pty Ltd. (Refer to Dwg No. EP78 Sheets 1 & 2 Rev B. dated 7 July 2017)”.*

**Consultant Heritage Officer**

Council’s Consultant Heritage Officer does not raise any objection to the application and does not impose any conditions of consent.

**Consultant Structural Engineer**

The application was referred to Consultant Structural Engineer who provided the following comments:

1. *“The subject site is indicated on Council’s maps as being at risk of slope instability, and Council’s normal policy for development on such blocks is to require the applicant to provide a geotechnical report that assesses slope instability risks both pre and post development, and that recommends construction procedures to appropriately minimise the identified risks.*
2. *This application is for the construction a new deck, replacement of the paved patio with a grass area and pavers and the modification to associated retaining walls and stormwater drainage.*

*The proposed retaining walls are of similar height and locations to those initially proposed.*

3. *Submitted with the original application was a geotechnical report by Kamen Engineering dated 15 December 2013 in which the risks of slope instability were assessed as low, provided that the recommendations in the report were fully implemented.*
4. *Submitted with the current application was a stormwater management and sediment control plan, Sheets 1 and 2, prepared by Hydro Civil Engineers and both are Issue B dated 4 July 2017. These drawings show that stormwater from the rear yard is to be collected by pits behind the major retaining wall behind the house, and adjacent to both side boundaries, and piped to discharge in the gutter in East Parade.*

**ITEM 1 (continued)**

*A rainwater tank with a capacity of 5000 litres is fed by two of the downpipes off the roof of the house.*

*All other downpipes and collection pits around the house are shown as being connected to the stormwater drainage pipework so that all water falling on impervious surfaces is piped to discharge in Council's gutter. An exemption for provision of O.S.D. is claimed on the stormwater drawing.*

5. *As the proposed changes will have minimal effect on the risks associated with slope instability, Cardno recommends that the current application be approved conditional on all design and construction works being conducted in full compliance with the recommendations as contained in the Kamen Engineering geotechnical report dated 15 December 2013."*

**Consultant Landscape Architect**

The application was referred to Consultant Landscape Architect who provided the following comments:

*"This assessment considers the impact on existing trees and landscaping as part of modifications to the approved alterations and additions to an existing single dwelling house under (LDA2013/0521) at the subject site being 78 East Parade, Denistone.*

*Recommendations for the retention and removal of trees on the subject site remains unchanged from those outlined in the previous Landscape Assessment completed by CPS for the now approved development LDA2013/0521. It is unlikely that any additional trees are to be impacted as a result of the proposed modifications.*

*Whilst noted that no Landscape Plan has been submitted (or is required) as part of this application, the Architectural Plans submitted are generally considered to be satisfactory with regards to overall layout, design and areas dedicated to private open space and deep soil.*

*Modifications to retaining wall and patio layout as well as stormwater design have been included as part of this submission. Concern has been raised in relation to a lack of fall protection measures provided between the proposed new patio level and the existing rear lawn level given up to 3m level difference occurs. In this regard it has been recommended that conditions imposed as part of any consent granted to ensure this issue is satisfactorily resolved."*

**13. Conclusion**

The development application is recommended for approval for the following reasons:

**ITEM 1 (continued)**

1. The development is excavated below the existing ground level and entirely internal to the site and will not result in any adverse impact to the streetscape or the amenity of neighbouring properties.
2. The development will not have any further impact to the natural environment to that approved under LDA2013/0521.
3. The development will formally improve the amenity of the occupants of the dwelling.
4. No submissions were received objecting to the proposal.
5. The development is considered to be in the public interest.

**14. Recommendation**

That the application for the modification of Local Development Application No. LDA2013/0521 be modified as follows:

**A. Amend Condition 1(b) to read as follows:**

**1(b) Stormwater Management.** To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted with the application for a Construction Certificate.

Stormwater runoff on the site shall be collected and piped by gravity flow to the kerb in East Parade, generally in accordance with the plans by Hydro Civil Engineers Pty Ltd. (Refer to Dwg No. EP78 Sheets 1 & 2 Rev B. dated 7 July 2017).

The detailed plans, documentation and certification of the system must be prepared by a chartered civil engineer with NPER registration with Engineers Australia and comply with the following;

- The certification must state that the submitted design (including any associated components such as pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of City of Ryde - DCP 2010 Part 8.2 (Stormwater Management).
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of

**ITEM 1 (continued)**

this consent.

**B. Delete Condition 1(c).****C. Add Condition 37A to read as follows:**

**37A. Fall Protection.** Permanent fall protection measures such as balustrades or handrails compliant with all relevant Australian Standards and Building Code of Australia (BCA) must be installed to all accessible areas with an attainable fall height of greater than one (1) metre. Details of compliance are to be shown on the plans for Construction Certificate.

**D. Amend Condition 58 to read as follows:**

**58. Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Hydro Civil Engineers Pty Ltd. (Refer to Dwg No. EP78 Sheets 1 & 2 Rev B. dated 7 July 2017).submitted in compliance to the condition labelled "Stormwater Management."

**E. Delete Condition 62(d).****ATTACHMENTS**

- 1 Development Consent - LDA2013/0521
- 2 Original approved plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 3 Section 4.55 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Tony Collier**  
**Acting Senior Coordinator - Assessment**

Report Approved By:

**Sandra Bailey**  
**Manager - Development Assessment**

**Liz Coad**  
**Director - City Planning and Environment**

**ITEM 1 (continued)**

**ATTACHMENT 1**

**FILE COPY**

City of Ryde  
Civic Centre, Devlin Street, Ryde  
Locked Bag 2069, North Ryde NSW 1670  
Facsimile 9952 8070  
Telephone 9952 8222



***Development Consent***

**Applicant:** F Serra  
2 Commissioners Road  
DENISTONE NSW 2114

**Consent No:** LDA2013/0521

**Consent Date:** 28 February 2014      **Valid until:** 28 February 2019

The City of Ryde, as the consent authority under the provisions of the Environmental Planning and Assessment Act, 1979 hereby consents to the development as follows:

**Property:** 78 East Parade Denistone      Lot 48 DP 12367

**Development:** Alterations and additions to dwelling and replace existing garage.

subject to the conditions 1 to 63 specified in this consent.

You are advised that failure to observe any condition of approval set out in the consent is an offence and legal proceedings may be instituted by Council.

This Consent does not guarantee compliance with the Disability Discrimination Act and you should, therefore, investigate your liability under the Act.

You are advised of your right of appeal to the Land and Environment Court under Section 97 of the Environmental Planning & Assessment Act and your right to request a review of the determination to Council under Section 82A of the Environmental Planning & Assessment Act within 6 months after you have received the Consent.

  
**Jane Tompsett**  
Assessment Officer - Building Surveyor

The fees quoted at the time of issue of this Consent may be subject to variation. Council's annual fees and charges are published in the Management Plan. To confirm fees please contact Customer Service on 9952-8222.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Conditions of Consent for LDA2013/0521 :-**

**GENERAL**

The following conditions of consent included in this Part identify the requirements, terms and limitations imposed on this development.

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

Document Description	Date	Plan No/Reference
Architectural Plans	15/11/2013	Drawing 130802 - Sheets 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 & 15 of 15.
Stormwater Concept Plans	12/10/2013	Inside Out Consultants (Refer to Project No. 1378 Dwgs 1 & 2.
[Specialist reports eg Geotechnical report, Plan of Management, etc]	15/12/2013	Geotechnical Assessment by Kamen Engineering

Prior to the issue of a **Construction Certificate**, the following amendments shall be made (as marked in red on the approved plans):

- (a) **Access & Parking.** All internal driveways, vehicle turning areas, garage opening widths and parking space dimensions must comply with AS 2890.1-2004.

With respect to this, the following revision(s) must be undertaken:

- (i) Clear sight clearance splays must be provided on both sides of the garage entry in accordance with Figure 3.3 of Section 3.2.4 of AS 2890.1, so as to permit adequate sight distances between pedestrians and drivers exiting the property. This will require modification to the side walls on either side of the garage entry to provide a window or void (with minimum 50% sight permeability), not less than 1.8m in height and no greater than 1m above ground level, to comply with the aforementioned standard.

These amendment(s) must be clearly marked on the plans submitted with the application for a Construction Certificate.

- (b) **Stormwater Management.** To ensure that stormwater runoff from the development is drained in an appropriate manner, without impact to neighbouring properties and downstream systems, a detailed plan and certification of the development's stormwater management system must be submitted with the application for a Construction Certificate.

Stormwater runoff on the site shall be collected and piped by gravity flow to the kerb in East Parade, generally in accordance with the plans by Inside Out Consultants (Refer to Project No. 1378 Dwgs 1 & 2 dated 12 October 2013).

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Conditions of Consent for LDA2013/0521 :-**

The detailed plans, documentation and certification of the system must be prepared by a chartered civil engineer with NPER registration with Engineers Australia and comply with the following:

- The certification must state that the submitted design (including any associated components such as pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of City of Ryde – DCP 2010 Part 8.2 (Stormwater Management).
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.

(c) All hard surface areas at ground levels are to be a permeable material (permeable pavers), as per the approved Stormwater Drainage plan by In Out Consultants, drawing 1378/2 dated 12 October 2013.

The Development must be carried out in accordance with the amended plans approved under this condition.

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered A170770, dated 17 November 2013.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - (a) Protect and support the adjoining premises from possible damage from the excavation, and
  - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
  - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
  - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

**ITEM 1 (continued)**

**ATTACHMENT 1**

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**Conditions of Consent for LDA2013/0521 :-**

7. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
8. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
9. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
10. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
11. **Roads Act.** Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 139 of the Roads Act 1993.
12. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements specified within Council's publication *Environmental Standards Development Criteria* and relevant Development Control Plans except otherwise as amended by conditions of this consent.
13. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
14. **Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.
15. **Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) required within the road reserve. No works shall be carried out on the footpath without this permit being paid and a copy kept on the site.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Conditions of Consent for LDA2013/0521 :-**

**Bushfire**

16. **Asset Protection Zones.** All grounds within the subject property not built upon be maintained as an Asset Protection Zone (Inner Protection Area) as detailed in the NSW Rural Fire Service's document 'Standards for Asset Protection Zones' and Appendix 2 of *Planning for Bush Fire Protection 2006*.
17. **Construction.** New construction to the dwelling shall comply with Section 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and Section A3.7 Addendum Appendix 3 of *Planning for Bush Fire Protection 2006*.
18. **Construction.** New construction to the garage shall comply with Section 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and Section A3.7 Addendum Appendix 3 of *Planning for Bush Fire Protection 2006*.
19. **Landscaping.** Landscaping is to comply with Appendix 5 'Landscaping and Property Maintenance' under *Planning for Bush Fire Protection 2006*.
20. **Utilities.** Electricity and gas are to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*.

**DEMOLITION CONDITIONS**

The following conditions are imposed to ensure compliance with relevant legislation and Australian Standards, and to ensure that the amenity of the neighbourhood is protected.

A Construction Certificate is not required for Demolition.

21. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).
22. **Excavation**
  - (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
  - (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with the Work Cover Authority, in accordance with AS 2601-2001; *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.
23. **Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Conditions of Consent for LDA2013/0521 :-**

24. **Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.
25. **Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.
26. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

**PRIOR TO CONSTRUCTION CERTIFICATE**

A Construction Certificate must be obtained from a Principal Certifying Authority to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifying Authority.

27. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.
28. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.
29. **Security deposit.** The Council must be provided with security for the purposes of section 80A(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (dwelling houses with delivery of bricks or concrete or machine excavation).
30. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:
  - (a) Infrastructure Restoration and Administration Fee
  - (b) Enforcement Levy

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Conditions of Consent for LDA2013/0521 :-**

31. **Alignment Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific alignment levels by Council prior to the issue of the **Construction Certificate**.
32. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.
33. **Sydney Water – quick check.** The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre, prior to the release of the **Construction Certificate**, to determine whether the development will affect any Sydney Water assets, sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met. Plans will be appropriately stamped.

Please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au) for:

- Quick Check agents details - see Building, Developing and Plumbing then Quick Check; and
- Guidelines for Building Over/Adjacent to Sydney Water assets - see Building, Development and Plumbing then Building and Renovating.

Or telephone 13 20 92.

34. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.
35. **Trees.** Tree 1 Callistemon viminalis; tree 2 Citrus sp. & tree 3 Acer negundo 'Box Elder' are to be removed in accordance with NSW Workcover Code of Practice (2007) and undertaken by an Arborist with minimum AQF Level 2 qualifications. One (1) compensatory endemic tree planting such as Tristaniopsis laurina (Water Gum), Waterhousia floribunda, or Elaeocarpus reticulatus (Blueberry Ash) is to be planted in a suitable location within the rear yard. Details are to be submitted to and approved by the Principal Certifying Authority prior to the issue of a **Construction Certificate**.
36. **Boundary Levels.** The levels of the street alignment shall be obtained from Council. These levels shall be incorporated into the design of the internal driveway, carparking areas, landscaping and stormwater drainage plans and must be obtained prior to the issue of the construction certificate.
37. **Driveway Crossing.** Concrete driveway crossovers must be constructed at approved vehicle access locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The crossing(s) must be constructed in plain reinforced concrete with location, design and construction shall conform to Council requirements and AS 2890.1 – 2004 (Offstreet Parking). Accordingly, prior to issue of Construction Certificate an application shall be made to Council's Public Works division for driveway crossing alignment levels. These issued levels are to be

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Conditions of Consent for LDA2013/0521 :-**

incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application.

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

**38. Site Sign**

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work;
  - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**39. Residential building work – insurance.** In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

**40. Residential building work – provision of information.** Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the PCA has given the Council written notice of the following information:

- (a) in the case of work for which a principal contractor is required to be appointed:
- (i) the name and licence number of the principal contractor; and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act;
- (b) in the case of work to be done by an owner-builder:
- (i) the name of the owner-builder; and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If any of the above arrangements are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the PCA for the development to which the work relates has given the Council written notice of the updated information (if Council is not the PCA).

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Conditions of Consent for LDA2013/0521 :-**

- 41. **Excavation adjacent to adjoining land**
  - (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
  - (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
  - (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.
- 42. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
- 43. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.
- 44. **Property above/below Footpath Level.** Where the ground level adjacent the property alignment is above/below the ultimate footpath level, as set by Council, adequate measures are to be taken (either by means of constructing approved retaining structures or batters entirely on the subject property) to support the subject land/footpath. An approved fence shall be erected along the boundary for public safety.

**DURING CONSTRUCTION**

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

- 45. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
- 46. **Construction noise.** The L<sub>10</sub> noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.
- 47. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Conditions of Consent for LDA2013/0521 :-**

48. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
49. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (a) Fill is allowed under this consent;
  - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
  - (c) the material is reused only to the extent that fill is allowed by the consent.
50. **Construction materials.** All materials associated with construction must be retained within the site.
51. **Site Facilities**  
The following facilities must be provided on the site:
- (a) toilet facilities in accordance with WorkCover NSW requirements, at a ratio of one toilet per every 20 employees, and;
  - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
52. **Site maintenance**  
The applicant must ensure that:
- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
  - (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
  - (c) the site is clear of waste and debris at the completion of the works.
53. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".
54. **Tree protection – no unauthorised removal.** This consent does not authorise the removal of trees unless specifically permitted by a condition of this consent or otherwise necessary as a result of construction works approved by this consent.
55. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.
56. **Drop-edge beams.** Perimeters of slabs are not to be visible and are to have face brickwork from the natural ground level.
57. **Erosion and Sediment Control.** The applicant shall install erosion and sediment control measures in accordance with the approved plan at the commencement of works on the site. Suitable erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction. Where construction works deviate from the plan, soil erosion and sediment control measures are to be implemented in accordance with the above referenced document.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Conditions of Consent for LDA2013/0521 :-**

58. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Inside Out Consultants (Refer to Project No. 1378 Dwgs 1 & 2 dated 12 October 2013) submitted in compliance to the condition labelled "Stormwater Management".

**PRIOR TO OCCUPATION CERTIFICATE**

An Occupation Certificate must be obtained from a Principal Certifying Authority prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to Issue, the Principal Certifying Authority must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifying Authority is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifying Authority.

59. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s).
60. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.
61. **Redundant Driveway Crossover.** The section of existing driveway crossover fronting the approved vehicle access point must be removed. The applicant must remove the existing driveway crossover and access ramp to the boundary alignment and restore verge and footway to match the existing adjoining sections. All new levels must be flush and consistent with adjoining and all costs are to be borne by the applicant. The works must be completed to Council's satisfaction, prior to the issue of the Final Occupation certificate.
62. **Compliance Certificates – Engineering.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.

**ITEM 1 (continued)**

**ATTACHMENT 1**

**Conditions of Consent for LDA2013/0521 :-**

- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and the City of Ryde DCP 2010, Part 9.3 "Car Parking".
- b) Confirming that the sites Stormwater Management system (including any ancillary components such as onsite detention) servicing the development complies with the City of Ryde DCP 2010, Part 8.2, "Stormwater Management" and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
- c) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.
- d) Confirming all hard surface areas at ground levels are to be a permeable material (permeable pavers), as per the approved Stormwater Drainage plan by In Out Consultants, drawing 1378/2 dated 12 October 2013.

**OPERATIONAL CONDITIONS**

- 63. **Single dwelling only.** The dwelling is not to be used or adapted for use as two separate domiciles or a boarding house.

**End of consent.**

- 3 312-326 VICTORIA ROAD, GLADESVILLE - DEMOLITION OF EXISTING BUILDING AND CONSTRUCTION OF A NEW PART 6 / PART 7 STOREY MIXED USE BUILDING COMPRISING 165m<sup>2</sup> OF RETAIL TENANCIES ON THE GROUND FLOOR, 50 APARTMENTS AND 73 VEHICLE PARKING SPACES OVER TWO AND A HALF LEVELS OF BASEMENT PARKING. IT IS ALSO PROPOSED TO EXTEND GERARD LANE AT THE REAR OF THE SITE, THROUGH TO THE SITE'S NORTH WESTERN BOUNDARY - LDA2017/0312**

**Report prepared by:** Acting Senior Coordinator - Major Development

**Report approved by:** Manager - Development Assessment; Director - City Planning and Environment

**File Number:** GRP/09/6/12/1/2 - BP18/1089

### City of Ryde Local Planning Panel Report

<b>DA Number</b>	LDA2017/0312
<b>Site Address &amp; Ward</b>	312 Victoria Road, Gladesville East Ward
<b>Zoning</b>	B4 Mixed Uses under RLEP 2014
<b>Proposal</b>	Demolition of existing building and construction of a part 6 / part 7 storey mixed used building comprising 165m <sup>2</sup> of retail tenancies on the ground floor, 50 apartments and 73 vehicle parking spaces over two and half levels of basement parking. It is also proposed to extend Gerard Lane at the rear of the site, through to the site's north western boundary.
<b>Property Owner</b>	Buildex Gladesville P/L
<b>Applicant</b>	Buildex Gladesville P/L
<b>Report Author</b>	Sandra McCarry Senior Town Planner
<b>Lodgement Date</b>	21 August 2017
<b>No. of Submission</b>	<p><u>Notification 1:</u> 30 August 2017 to 20 September 2017 (original submitted plans)</p> <ul style="list-style-type: none"> <li>16 submissions received objecting to the proposal.</li> </ul>

**ITEM 2 (continued)**

	<p><u>Notification 2</u> 22 March 2018 to 9 April 2018 (amended plans):</p> <ul style="list-style-type: none"> <li>• 13 submissions received objecting to the proposal.</li> </ul> <p><u>Notification 3</u> The offer to enter into a Voluntary Planning Agreement was notified from 1 May 2018 to 17 May 2017.</p> <ul style="list-style-type: none"> <li>• 4 submissions were received.</li> </ul>
<b>Cost of Works</b>	\$14,211,967.00
<b>Reason for Referral to IHAP</b>	<ul style="list-style-type: none"> <li>– Sensitive Development – Development to which State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development applies.</li> <li>– Development applications seeking to depart by more than 10% from a development standard.</li> <li>– Development which received more than 10 submissions.</li> </ul>
<b>Recommendation</b>	Deferred Commencement Approval subject to conditions
<b>Attachments</b>	<ol style="list-style-type: none"> <li>1. Conditions.</li> <li>2. Clause 4.6 written variation in respect to height</li> <li>3. Amended Plans</li> </ol>

**1. Executive Summary**

The following report is an assessment of a development application for the demolition of the existing buildings and the construction of a mixed use development containing commercial/retail and residential uses at 312 Victoria Road, Gladesville. The overall height of the building is part 6/part 7 storeys and the development will contain 50 apartments and two commercial/retail tenancies on the ground floor totalling 165m<sup>2</sup>. Parking for 73 vehicles will be provided over two and half levels of basement parking.

**ITEM 2 (continued)**

It is also proposed to widen and extend Gerard Lane through to the north western site boundary to enable a future connection with the Right of Way (for public access) at 328 Victoria Road (the Dan Murphy site). The levels will not be achievable until the Dan Murphy site redevelops.

The proposal also includes the provision of a publicly accessible turning bay within the site to allow vehicles to enter and exit the laneway in a forward direction. The turning bay provides an interim traffic solution until such a time that the Gerard Lane extension is completed through to Osgathorpe Road.

During the notification period (30 August 2017 to 20 September 2017) for the original proposal, Council received 16 individual submissions raising concerns about the proposed development.

Amended plans were received on 21 March 2018 which included the widening and extension of Gerard Lane and amendments to the design as recommended by the Urban Design Review Panel. The amended plans were re-notified for the period of 22 March 2018 to 9 April 2018. The amended plans received 13 submissions.

The 1<sup>st</sup> round and 2<sup>nd</sup> round of submissions raise various concerns including non compliance with the height limit, decreased privacy, overshadowing, insufficient infrastructures and overdevelopment within Gladesville. All of the issues raised have been discussed and addressed in the report.

A Letter of Offer to enter into a Voluntary Planning Agreement with Council was submitted with the amended plans. The VPA proposed the widening of Gerard Lane as well as the extension of Gerard Lane through the site to the north western boundary and construction works in Gerard Lane. This was notified and Council received 4 submissions raising concerns that the VPA does not allay their concerns about the development.

The VPA has been reported to Council at its meeting held on 25<sup>th</sup> September 2018. At this meeting, Council resolved to accept the letter of offer dated 1 March 2018 from Buildex Gladesville Pty Ltd, to exhibit the VPA in accordance with the relevant provisions of the Environmental Planning and Assessment Act 1979 and subsequently enter into the VPA.

The development has been assessed in respect of the relevant planning instruments and the application is non-compliant with the following:

- Building height. A variation to the height control of 3.05 to 3.65m along the Victoria Road elevation, (variation of 16% to 19.2%).
- Building depth and rear building separation at the ground floor between UG01 and 8 Gerard Lane

**ITEM 2 (continued)**

- 20m setback
- Common Open Space
- Deep soil zone
- Width of living room for 1 and 2 bedroom apartments and
- Common circulation area.

A variation under Clause 4.6 of the LEP in respect to building height has been submitted. The variation to height control is supported as the applicant's Clause 4.6 written variation satisfies the provisions of the clause. The additional height is not a consequence of additional floor space, provides amenity to the occupants of the building and will not result in any adverse impacts to the character or amenity of the area.

The non compliance in the building separation is relatively minor and has been conditioned to comply, see General **Condition 1(a)**. The non-compliances in rear setback between ground floor UG01 and 8 Gerard Lane, deep soil zone, common open space, apartment width and common circulation area are considered to be acceptable in the context of the development as discussed in the body of the report. The development fully complies with the floor space ratio and provides adequate amenity to future residents whilst maintaining amenity to the adjoining residential properties to the south and west.

Assessment of the amended application against the relevant planning framework, and consideration of various design matters by Council's Technical Departments have not identified any fundamental issues of concern. The proposal has been amended in accordance with the Urban Design Review Panel (UDRP) recommendations and consequently this report concludes the application is sound in terms of its design, function, and relationship with its neighbours.

This report recommends a deferred commencement consent be granted to this application, in accordance with conditions provided at **Attachment 1**.

**2. The Site and Locality**

The development site comprises of one allotment and is legally described as Lot 100 in DP 771721. The site has a street frontage of 46m to Victoria Road and a secondary frontage of 26m to Gerard Lane at the rear of the site. Gerard Lane is a public no-through road which ends at the rear of the site. The site has an area of 1,778.4m<sup>2</sup> and slopes downwards in a south west direction towards Gerard Lane.

Currently existing on site is a carwash and a car and truck rental business which accommodates two hardstand areas at the northern and southern ends of the site for car washing and parking purposes. A two storey building through the centre and along the western edge of the site accommodates car washing bays, a café and administrative uses. Vehicular access to the site is currently provided from two driveway crossings from Victoria Road.

## ITEM 2 (continued)

The site is immediately surrounded by the following:

- To the north is a Dan Murphy's store on a corner allotment with frontages to Victoria Road and Osgathorpe Road (328 Victoria Road)
- To the south is a single storey heritage development used for business purposes and a two storey residential dwelling house facing Gerard Lane (310 Victoria Road).
- To the west is Gerard Lane. On the opposite side of Gerard Lane are lower density residential properties.
- To the east is Victoria Road. On the opposite side of Victoria Road are takeaway food and drink premises.



**Figure 1: Aerial photo of the site and surrounding area.**

**ITEM 2 (continued)**



**Figure 2: Existing carwash business on site, as viewed from Victoria Road. To be demolish.**



**Figure 3: The rear of the site as viewed from Gerard Lane.**

**ITEM 2 (continued)**



**Figure 4: To the north of the site, 328 Victoria Road – Dan Murphy store.**



**Figure 5: To the south of the site is a heritage listed building – 310 Victoria Road.**

**ITEM 2 (continued)**



**Figure 6: Looking north up at Gerard Lane with the subject site located at the rear and low density properties located opposite, to the west.**

**3. The Proposal**

It is proposed to demolish the existing buildings and construct a mixed use building comprising of two commercial/retail tenancies on the ground floor, fifty (50) residential apartments comprising 10 x 1 bedroom units, 38 x 2 bedroom units and 2 x 3 bedrooms units. The building is part 6/part 7 storeys with two and half levels of basement car parking for 73 vehicles. Vehicular access will be from the rear of the site, off Gerard Lane.

**Voluntary Planning Agreement**

Council has received a letter of offer, dated 1 March 2018, to enter into a Voluntary Planning Agreement (VPA) with Buildex Gladesville Pty Ltd (Applicant) in Association with this Development Application.

Matters proposed by the proponent to be delivered as part of the VPA are as follows:

- Construction of part of Gerard Lane, including widening of Gerard Lane, public domain upgrade, street signage and stormwater works.
- Dedication of Land to Council for Part of Gerard Lane.
- The offer by the Applicant does not exclude the payment of Council's Section 7.11 Contributions. 7.11 Contributions will be payable at the usual time, being prior to issue of the relevant Construction Certificate;

Figures 7 & 8 below demonstrate photomontages of the development as viewed from Victoria Road and Gerard Lane.

**ITEM 2 (continued)**

Figure 9 below illustrate the area to be dedicated to Council and the road widening.

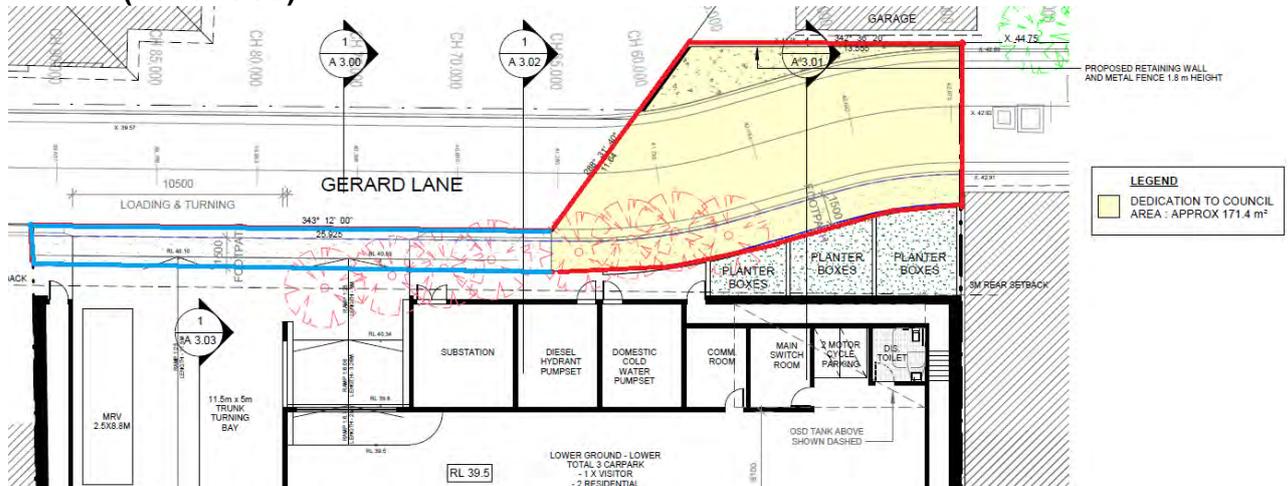


**Figure 7: Proposed development as viewed from Victoria Road.**



**Figure 8: Proposed development as viewed from Gerard Lane.**

**ITEM 2 (continued)**



**Figure 9: Rear of the site – area to be dedicated to Council for future laneway connection, shown in yellow and footpath/road widening outlined in blue.**

**4. Background**

**Relevant Background for the Current Development Application**

A prelodgement meeting was held on 26 July 2016 with the Urban Design Review Panel and Council’s Officers. The UDRP raised concerns about the communal open space at the rear ground floor, the location of the building services along the main frontage, the corridors and layout of the kitchens. Council’s Officers also raised the matter of Gerard Lane being widened and extended to enable connection with the existing Right of Way over the Dan Murphy site at 328 Victoria Road, in the hope of providing a link to Osgathorpe Road, as required in Development Control Plan 2014 Part 4.6 – Gladesville Town Centre and Victoria Road Corridor.

LDA2017/0312 was lodged with Council on 21 August 2017. The DA was placed on public exhibition from 24 August 2017 to 20 September 2017, during which 16 formal submissions were received. On 25 October 2017, Council wrote to the applicant highlighting a number of areas for further design refinement and consideration including building height, the heritage interface and the widening and extension of Gerard Lane.

On 1 November 2017, a further UDRP meeting was held and Council advised that the DA is to include the widening and construction of the Gerard Lane extension through the subject site. The applicant advised on 8 November 2017 that they will do design changes as recommended by UDRP comments and will provide a letter of Offer to Council for the preparation of a Voluntary Planning Agreement to widen, construct and dedicate to Council the extension of Gerard Lane.

**ITEM 2 (continued)**

Amended plans were received on 21 March 2018. These plans proposed the following amendments:

- The development now proposed widening of Gerard Lane and extension of Gerard Lane through to the site north western boundary.
- Along the front southern elevation, a 4m setback from Victoria Road is provided as required by Council's Heritage Officer. This ensured a consistent building setback with the adjoining heritage item at 310 Victoria Road.
- Apartments along the southern boundary at levels 5 and 6 have been removed to allow for an upper level setback of 4.3 – 7.7m from the southern boundary.
- Glass bricks and a varied materials pallet have been incorporated to provide visual interest and to soften the appearance of the southern façade.
- Provision of an awning along Victoria Road frontage.
- Some internal changes to allow cross ventilation.
- The upper two levels (Levels 5 & 6) have provided a minimum 4m setback from Victoria Road.
- The residential lobby has been redesigned and the ground floor communal open space area deleted. Communal open space has now been provided on the roof top terrace area.

In addition to the amended plans, a Letter of Offer to enter into a Voluntary Planning Agreement was submitted to Council. This was considered at Council's meeting on 25 September 2018.

The amendments to the plans were renotified and the 2<sup>nd</sup> round of notification received 13 submissions. The Letter of Offer to enter into a VPA was also notified and 4 submissions were received.

A desktop review of the amended plans of 21 March 2018 was conducted by the UDRP on 3 May 2018. The UDRP supported the revised plans which had significantly improved from earlier iterations. The UDRP recommended some minor modifications and revised plans received 19<sup>th</sup> June 2018 responded to the UDRP comments. It was not necessary to readvertise these plans because the changes were improvements to the rear laneway interface, front entry area and reduction in overshadowing by reduction of the roof terrace overhang.

**5. Planning Assessment**

An assessment of the development in respect to Section 4.15 of the Environmental Planning and Assessment Act is detailed below.

**5.1 State Environmental Planning Instruments**

State Environmental Planning Policy (Building Sustainability Index: BASIX)

**ITEM 2 (continued)**

The development is identified under the *Environmental Planning and Assessment Regulation 2000* as a BASIX Affected Building. As such, a BASIX Certificate has been prepared for the development (No 816262M\_03 dated 18 June 2018) which provides the development with a satisfactory target rating.

Appropriate conditions will be imposed requiring compliance with the BASIX commitments detailed within the Certificate. See **Conditions 4 & 136**.

State Environmental Planning Policy No 55 – Remediation of Land

The requirements of State Planning Policy No. 55 – Remediation of Land apply to the subject site. In accordance with Clause 7 of SEPP 55, Council must consider if the land is contaminated. If it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

A Detailed Site Investigation report prepared by Aargus Australia dated 30 March 2017 has been submitted with the application. The report made the following conclusion:

*Based on the results of this investigation it is considered that the risks to human health and the environment associated with soil and groundwater contamination at the site are low within the context of the proposed use of the site for a mixed use development. The site is therefore considered to be rendered suitable for the proposed use, subject to the following:*

- *An appropriate remedial / management strategy is developed, culminating in preparation of a Remedial Action Plan (RAP) in accordance with EPA guidelines, in regards to the potential USTs and associated structures, and the groundwater quality beneath the site.*
- *Any soils requiring removal from the site, as part of future site works, should be classified in accordance with the “Waste Classification Guidelines, Part 1: Classifying Waste” NSW EPA (2014).*

Council’s Environmental Health Officer has raised no objections to the report and has advised that the RAP will be required to be prepared and submitted to Council before the issuing of the Construction Certificate. See **Conditions 53 to 56**.

State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP applies to the subject site given its location adjacent to a classified road, being Victoria Road. The following provisions of the Infrastructure SEPP are applicable to this DA:

**ITEM 2 (continued)**

Infrastructure SEPP	Comments	Comply
<p><b>Clause 101 Development with frontage to a classified road</b></p> <p>(1) The objectives of this clause are:</p> <p>(a) To ensure that new development does not compromise the effective and ongoing operation and function of classified roads; and</p> <p>(b) To prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.</p> <p>(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:</p> <p>(a) Where practicable, vehicular access to the land is provided by a road, other than a classified road; and</p> <p>(b) The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:</p> <p>i. The design of vehicular access to the land, or</p> <p>ii. The emission of smoke or dust from the development, or</p> <p>iii. The nature, volume or frequency of vehicles using the classified road to gain access to the land.</p> <p>(c) The development is of a type that is not sensitive to traffic noise or vehicle emissions, or 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.</p>	<p>The subject site will have a 44m frontage to Victoria Road. The proposal will have no vehicular access from Victoria Road with all vehicular access from Gerard Lane. The proposal was referred to Roads &amp; Maritime Services (RMS) who granted concurrence under Section 138 of the Roads Act subject to Conditions. See <b>Conditions 21, 52, 58,63, 99 &amp; 100.</b></p> <p>Vehicular access is from Gerard Lane which is not a classified road. Council's Traffic Engineer and Senior Development Engineer have not raised any objections to the proposed access and have advised that the proposal is considered satisfactory in terms of traffic impact.</p> <p>A Noise Impact Assessment prepared by Acoustic Logic dated 17/02/2017 has been submitted with the application. The assessment measured external noise impacts and operational noise emission. The report concludes that: <i>Traffic noise intrusion assessment has been carried out for residential / commercial mixed use development at 312 Victoria Road, Gladesville. Provided acoustic treatments in Section 4.3 the internal noise levels will satisfy the requirements of Ryde City Council Development Control Plan (DCP), Development Near Rail Corridors and Busy Roads – Interim Guideline, the SEPP (Infrastructure) 2007, and Australian Standard AS2107:2016. External noise emission criteria have been setup in Section 5 based on the requirements of NSW EPA Industrial Noise Policy and Ryde City Council DCP. Loading dock noise levels are found comply with the requirements</i></p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

**ITEM 2 (continued)**

Infrastructure SEPP	Comments	Comply
	<p><i>above while plant service the project building shall be acoustically designed at CC stage to make sure no adverse impact onto noise receivers around project site.</i></p> <p>The recommendations contained in the report have been imposed as a condition. See <b>Condition 70</b>.</p>	
<p><b>Clause 102 Impact of road noise or vibration on non-road development</b></p> <p>1. This clause applies to development for any of the following purposes that is on land in or adjacent to the road corridor for a freeway, a tollway or a transit way or any other road with an annual average daily traffic volume of more than 40,000 vehicles (based on the traffic volume data published on the website of the RTA) and that the consent authority considers likely to be adversely affected by road noise or vibration:</p> <p style="padding-left: 40px;">(a) Residential accommodation</p> <p>2. Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette.</p> <p>3. If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq measures are not exceeded:</p>	<p>Victoria Road is a State Classified Road and an Acoustic Report has been submitted as part of the Development Application. As detailed above this report has concluded that the development will comply with the requirements of the SEPP.</p> <p>See comments above and <b>Conditions 70 &amp; 71</b>.</p>	<p>Yes</p>

**ITEM 2 (continued)**

Infrastructure SEPP	Comments	Comply
(a) In any bedroom in the building – 35 dB(A) at any time between 10pm and 7am  (b) Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40dB(A) at any time.		

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

This policy aims to improve the design quality of residential apartment development in NSW. It recognises that the design quality of residential apartment developments is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

The proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- Urban Design Review Panel;
- The 9 SEPP 65 Design Quality Principles; and
- The NSW Residential Apartment Design Code guidelines.

Urban Design Review Panel (UDRP)

The proposal has been reviewed by the Urban Design Review Panel on several occasions, first time on 26 July 2016 prior to lodgement of the DA and again on 1 November 2017 after the DA was lodged. Amended plans were received on 21 March 2018 and these plans were reviewed on 3 May 2018.

Below details the UDRP's comments in respect of the amended plans received 21 March 2018:

*The Panel's view is that the revised proposal has improved significantly from earlier iterations. This is particularly evident in the adjustments made to the building form to set it back from the side boundary (adjacent to the heritage item), and the reduction of the extent of the upper-most floor to minimise offsite overshadowing. We also support the establishment of the laneway connection in this particular context.*

*Our view is that the additional building height is supportable from a design perspective because of the success of the building form, the establishment of the*

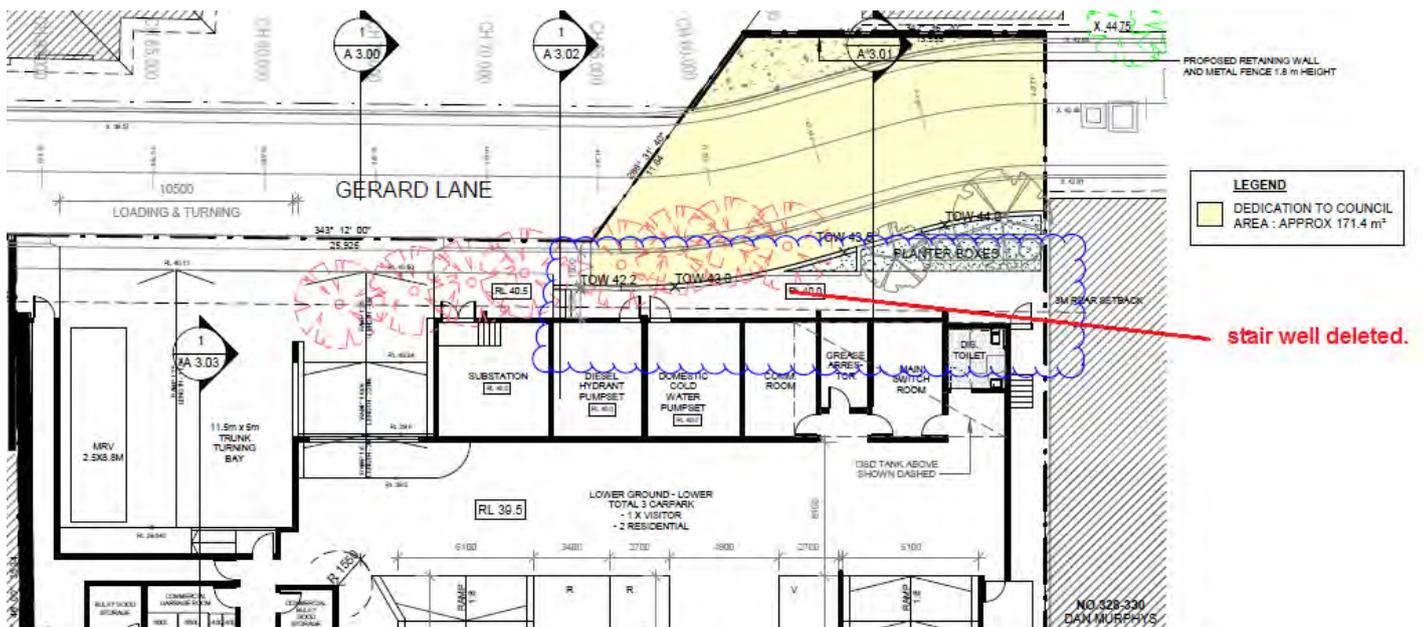
**ITEM 2 (continued)**

laneway connection, and importantly - because the additional shadowing impacts derived from the height non-compliance are negligible.

There remain four minor areas in the proposal that warrant further refinement:

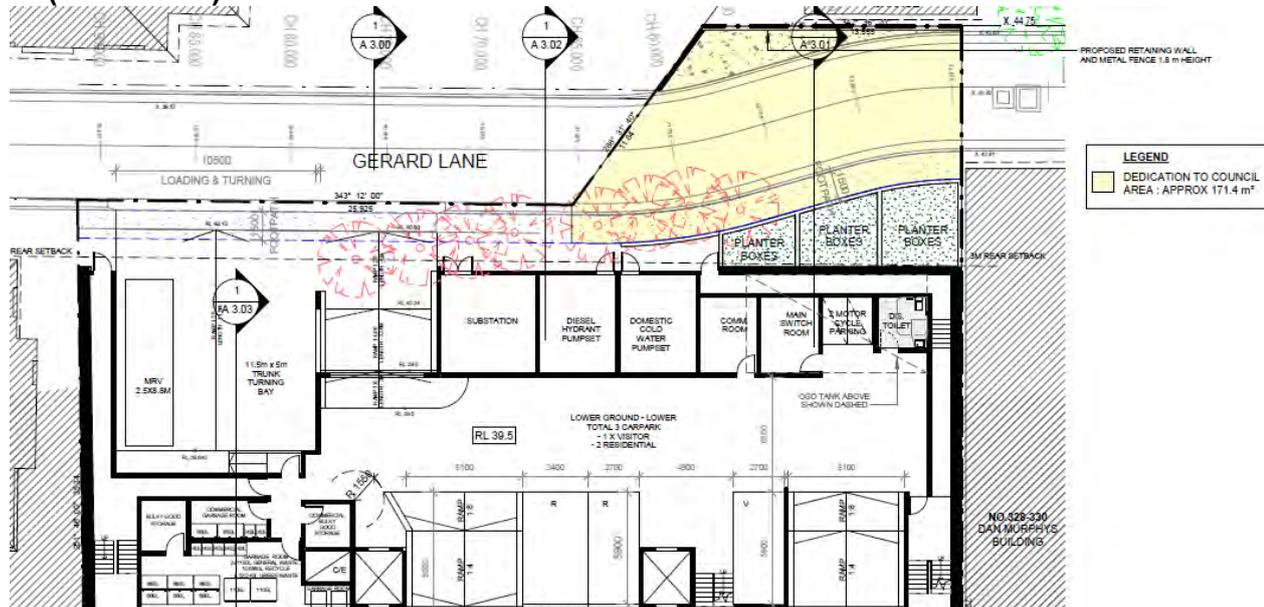
- The lower building level to laneway interface - the levels necessary to connect the laneway currently create a sunken pathway to access a basement egress point - this appears unsafe and a potential concealment opportunity. The Panel recommends a minor refinement of this arrangement to eliminate the sunken pathway - perhaps by extending the egress corridor along the basement perimeter and allowing the landscape planting to envelope the corridor. There may be other acceptable solutions - the objective is to eliminate the sunken pathway condition altogether.

The location of the sunken pathway is shown in Figure 10 below with Figure 11 illustrating the amended proposal with the sunken pathway deleted.



**Figure 10 – the sunken pathway as shown highlighted in blue has been deleted.**

**ITEM 2 (continued)**

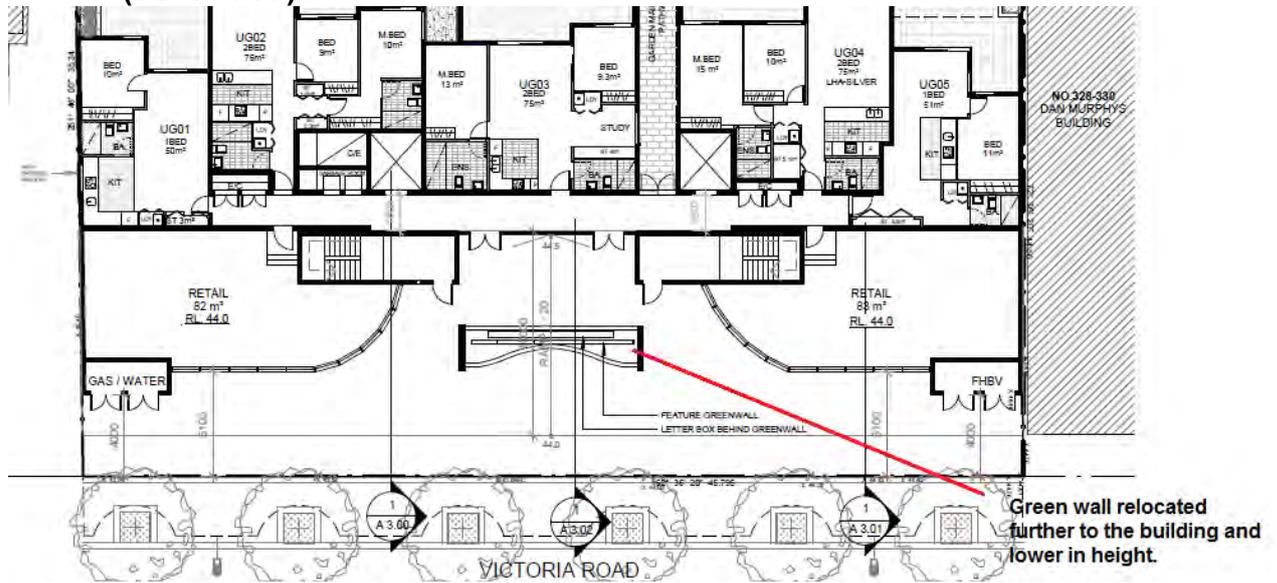


**Figure 11- amended proposal with pathway deleted with internal stairs.**

- *The primary building address to Victoria Road establishes a foyer space partly concealed by letterboxes and a vegetated screen. The Panel is concerned that the secure entry, intercom and arrival point is situated in a manner that is partly concealed from the street and is potential unsafe or a concealment opportunity. The Panel recommends a modification of this arrangement to locate the secure entry, intercom and primary arrival point in a visible location, easily surveilled from the public domain. Any reconfiguration of this area may also address earlier comments of the Panel regarding the nature of the ambiguous undercroft space either side of the retail tenancies addressing Victoria Road. The objective of any reconfiguration is to make clear the demarcation between the public and private realms and to make entry points safe and well surveilled.*

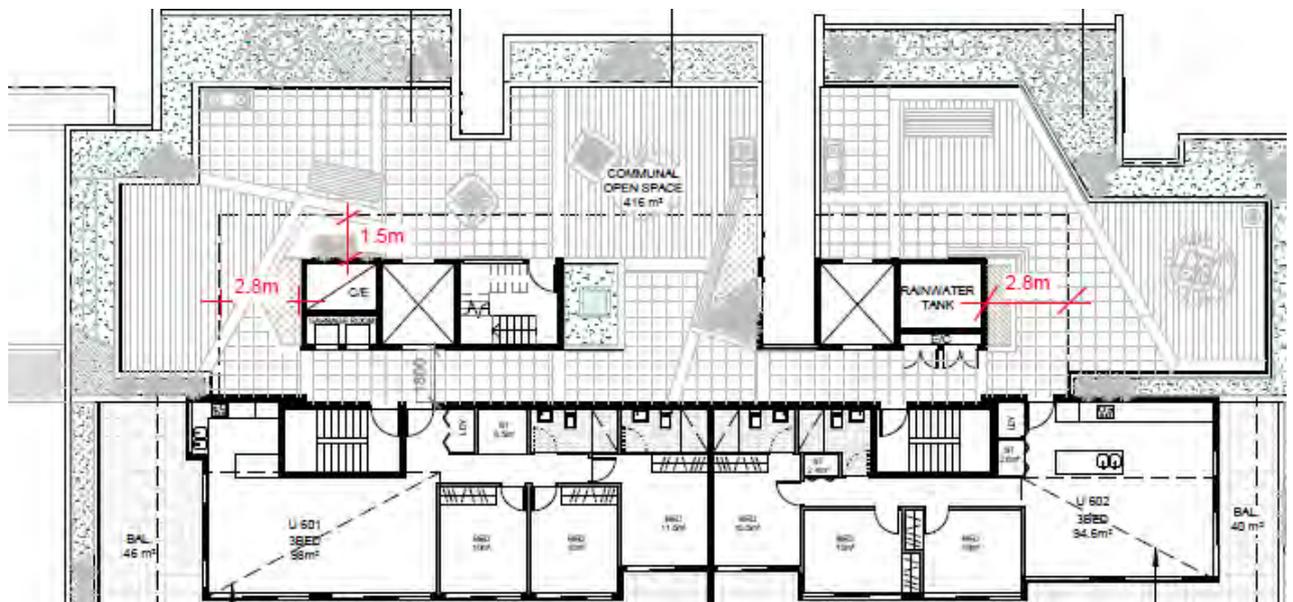
To address this issue, the green wall located at the front of the building has been amended to be closer to the building entry and lower in height (max height 1.5m).

**ITEM 2 (continued)**



**Figure 12: The green wall in front of the building has been lowered and relocated further in towards the building.**

- Closer examination of the additional overshadowing created by the building height non-compliance may suggest some opportunities to reduce the extent additional offsite shadowing. The Panel notes the extent of pergola to the eastern end of the upper most floor may be one such opportunity.



**Figure 13: Original roof overhang of 2.8m and 1.5m. The roof overhang has been reduced, with the western end reduced from 1.5m to 0.8m and along the southern end from 2.8m to 1.5m so as to reduce overshadowing.**

- The Panel supports the imagery of the building provided in the 3D renderings. One of the attributes for the success of the design is its material

**ITEM 2 (continued)**

*quality - established through the use of a timber-like material on the soffits of balconies. Given the importance of this material to the overall impression of the building's quality, the Panel recommends that details and samples of the proposed material be submitted, and if of acceptable quality, its use be a condition of consent (should this be granted).*

*With the satisfactory resolution of these issues, the Panel supports the proposal and is satisfied it represents acceptable design quality.*

The amended plans submitted on 19 June 2018, address these issues.

In regard to the issue raised by the Panel in respect to finishes, a sample of the timber like soffit material was submitted to Council and is considered satisfactory. However, to ensure that the finishes and material nominated are used, a condition has been imposed requiring such. See **Condition 137**.

The 9 SEPP 65 Design Quality Principles

<p><i>Principle 1: Context and Neighbourhood Character</i></p> <p><i>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions”</i></p> <p><i>Responding to context involves identifying the desirable elements of an area’s existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</i></p> <p><i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i></p>	<p>The subject site is currently a car wash surrounded by predominantly one storey shops, food and drink premises and dwelling houses. The desired future character for the precinct is identified in Part 4.5 of DCP 2014 – Gladesville Town Centre and Victoria Road Corridor. This area is currently undergoing a transition and this development is consistent with the future desired character of this area.</p> <p>The proposal is a mixed use development with shops on the ground floor and residential units on both ground floor and levels above. The development facilitates the revitalization of Gladesville and will help shape the character of the area to create an attractive and accessible place to live and work. The development provides retail opportunities and new homes for the local community.</p> <p>The proposal has been amended with regard to the provision of the laneway and the architectural plans amended to ensure that the development will have an appropriate contextual fit with surrounding properties. Council’s UDRP</p>
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**ITEM 2 (continued)**

	<p>support the building form and design. Design changes were made to minimise impact to the adjoining heritage building and Council's Heritage Officer has supported this outcome.</p>
<p><i>Principle 2: Built Form and Scale</i></p> <p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</i></p> <p><i>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</i></p>	<p>The proposed design is considered suitable for the site. The proposal complies with the desired future character of the locality and complies with the floor space control applicable to the site. Whilst the proposal is higher than what is envisaged for the site, the bulk and scale of the building is acceptable. The upper level where it is over the height is stepped in and the additional shadowing impacts derived from the height non-compliance are negligible.</p> <p>The building is setback on the ground floor, 4m to 5.1m from Victoria Road, with the minimum 4m setback in line with the adjoining heritage property at 310 Victoria Road, as required by Council's Heritage Officer.</p> <p>Levels 1 to 5 are setback a minimum 2m to 4m and 5m on Level 6. Accordingly, the built form of the development is well articulated. The development will contribute positively to the existing and emerging character of the surrounding streetscape. The proposed built form is also considered to be acceptable given that the development achieves suitable compliance with the objectives contained in the Apartment Design Guide (ADG).</p>
<p><i>Principle 3: Density</i></p> <p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population.</i></p>	<p>The proposal complies with the LEP 2014 FSR control and conforms to the desired density and scale of development for this location. The massing of the building is appropriate and follows the future scale of the area.</p> <p>The proposed design achieves a high level of amenity for residents and suitably complies with the ADG objectives in this</p>

**ITEM 2 (continued)**

<p><i>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>regard.</p>
<p><i>Principle 4: Sustainability</i></p> <p><i>Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</i></p>	<p>The applicant has provided a BASIX Certificate which indicates that the development will meet the energy and water use targets set by the BASIX SEPP.</p> <p>The design maximises solar access and cross ventilation to apartments.</p> <p>The building orientates to the east &amp; west resulting in the development capturing sun from both aspects which ensures good daylight access. 35 residential units (70%) achieve a minimum of 3 hours direct sunlight between 9am and 3pm in mid winters and 30 residential units (60%) are naturally cross ventilated. The development complies with the ADG with respect of natural cross ventilation and solar access.</p>
<p><i>Principle 5: Landscape</i></p> <p><i>Good design recognizes that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</i></p> <p><i>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, micro-climate, tree canopy, habitat values and preserving green networks.</i></p>	<p>The development complies with the numeric indicators for private open space and the development has provided a roof terrace communal open space of 416m<sup>2</sup>, with active and passive areas which offer high amenity with good solar access.</p> <p>Council's Consultant Landscape Architect has advised that the landscaping on site is generally considered to be suitable with the proposed communal open spaces providing a high level of amenity for recreation in accordance with aims and objectives of the Apartment Design Guide. It should be noted that general condition, <b>Condition 1(b)</b> has been imposed requiring the outdoor cooking facilities to be under cover (to be relocated to be under the roof area). This</p>

**ITEM 2 (continued)**

<p><i>Good landscape design optimizes useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</i></p>	<p>will ensure useability and longevity of the facilities.</p>
<p><i>Principle 6: Amenity</i></p> <p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident wellbeing. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</i></p>	<p>The proposal has taken the Panel's comments on board and design amendments have been incorporated. These include relocating the communal open space to the roof and improved internal layout.</p> <p>Each apartment meets the minimum internal areas specified above with an additional 5sq.m provided where 2 bathrooms are proposed. Storage is provided within all apartments with additional storage spaces provided within the basements. At least 50% of the prescribed storage areas is provided within the units.</p>
<p><i>Principle 7: Safety</i></p> <p><i>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and visible areas that are easily maintained and appropriate to the location and purpose.</i></p>	<p>The development has clearly defined the public and private spaces within the development. The proposal has been designed to allow for living spaces and balconies to directly address the street frontages, allowing for passive surveillance the public domain. In addition, conditions have been imposed requiring security systems and surveillance cameras to be provided. The development also provides secure access points to the site and car park entry. See <b>Conditions 167 to 173</b>.</p>
<p><i>Principle 8: Housing Diversity and Social Interaction</i></p> <p><i>Good design achieves a mix of apartment sizes, providing housing choice for</i></p>	<p>The development proposal provides a mix of 10 x one bedroom residential units (20%), 38 x two bedroom residential units (76%) and 2 x three bedroom units (4%). 5 adaptable units are included in the</p>

**ITEM 2 (continued)**

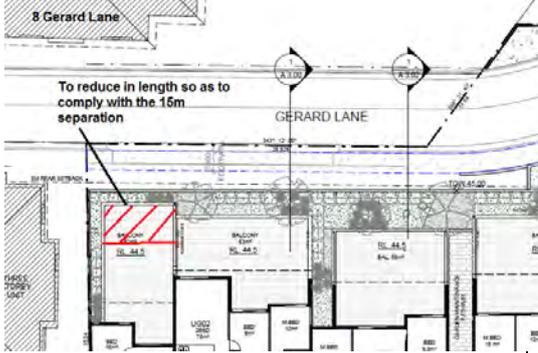
<p><i>different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p><i>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</i></p>	<p>proposal. Social sustainability is promoted through a range of unit types, from one to three bedrooms. This accommodation will meet the demands of many different types of occupants across the multiple price range.</p>
<p><b>Principle 9: Aesthetics</b></p> <p><i>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</i></p>	<p>The building facades are strongly articulated with the use of balconies and privacy screening. Recessed and expressed building elements, decorative features, highlighted building entry point and a mix of building materials and finishes have been suitably incorporated in the design. The UDRP supports the proposal and is satisfied it represents acceptable design quality.</p>

**Apartment Design Guide**

The SEPP also requires the Consent Authority to take into consideration the requirements of the Apartment Design Guide with regard to the proposed residential apartment building. The following table addresses the relevant matters.

<b>Apartment Design Guide Requirement</b>	<b>Proposal</b>	<b>Complies</b>
<b>Part 2 Development Controls</b>		
<p><b>Building Depth</b>            Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.</p>	<p>The building has a maximum depth of 18m to 23m.</p> <p>Notwithstanding the proposed depth variation to 23m, the proposal provides for acceptable amenity as the building has been designed to have greater modulation and articulation, and ensures</p>	<p>No – variation acceptable.</p>

**ITEM 2 (continued)**

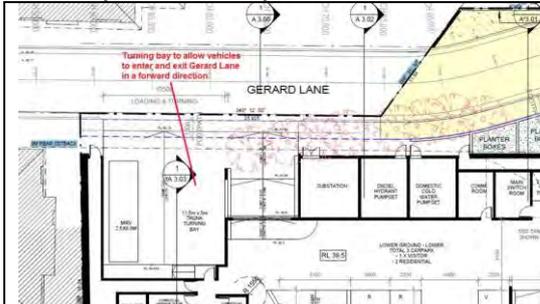
	<p>that the indicative layouts will achieve acceptable amenity and apartment depths. The greater building depth is also acceptable given that the building faces east-west allowing the capture of sun from both aspects. Also the UDRP have raised no concerns in this regard, the proposed design is considered reasonable in the circumstances.</p>	
<p><b>Building Separation</b> Minimum separation distances for buildings are:</p> <p><i>up to 4 storeys should be:</i> -12m between habitable rooms / balconies -9m between habitable / balconies and non-habitable rooms -6m between non-habitable rooms.</p> <p><i>Five to eight storeys (approx. 25m):</i> - 18m between habitable rooms/balconies - 12m between habitable and non-habitable rooms - 9m between non-habitable rooms.</p> <p>At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m.</p> 	<p>The development provides a zero setback to the northern and southern side boundaries. This form of development is envisaged by the DCP controls and is appropriate for the site.</p> <p>The ADG recommends that at a boundary between a change in zone from apartment buildings to a lower density area, the building setback from the boundary should be increased by 3m. This is applicable to this site. This results in the development requiring a separation distance of 15m for up to the fourth storey and 21m for Levels 5 &amp; 6. The separation distance is achieved with the exception of the ground floor rear balcony of Unit UG01. The building separation between the ground floor units of UG01 &amp; UG02 and the single storey dwelling at 8 Gerard Lane is 12m to 15m on the ground floor, respectively. However Unit UG01 rear balcony can be reduced in size so as to comply with the separation requirement. General conditions, <b>Condition 1(a)</b> has been imposed requiring the rear balcony of UG01 being reduce in length by 3m so that the setback between the balcony and the dwelling is 15m as required under the ADG.</p>	<p>Yes</p> <p>No – <b>Condition 1(a)</b> imposed requiring compliance.</p>
<p><b>Street Setbacks</b> Determine street setback controls relative to the desired streetscape and building forms.</p>	<p>Council's DCP require: 2m along Victoria Road and 3m setback along rear Lane. The rear setback has been complied with. Along Victoria Road the development has proposed a 4m setback. This takes into consideration the adjoining heritage item.</p>	<p>Yes</p>



**ITEM 2 (continued)**

	<p>deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.</p> <p>Council's Senior Development Engineer has raised no objections to the proposed stormwater management. As detailed above the development has incorporated an acceptable communal open space area on the roof of the building. This area provides appropriate plantings.</p>													
<p><b>3F Visual Privacy</b>                  Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="276 1025 794 1435"> <thead> <tr> <th>Building Height</th> <th>Habitable rooms &amp; balconies</th> <th>Non habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m(4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m(4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<p>See discussion under Building Separation.</p>	<p>Yes.</p>
Building Height	Habitable rooms & balconies	Non habitable rooms												
Up to 12m(4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<p><b>3G Pedestrian Access &amp; entries</b>                  Pedestrian access, entries and pathways are accessible and easy to identify.</p>	<p>The development proposes a main entry to the building from Victoria Road. This entry has been amended so that the foyer is not concealed and will be easily identifiable as well as accessible.</p>	<p>Yes</p>												
<p><b>3H Vehicle Access.</b>                  Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p>	<p>The vehicle entry is from Gerard Lane at the rear of the site as no vehicular access is permitted from Victoria Road. The proposal includes an accessible turning bay at Gerard Lane to allow vehicles to turn in Gerald lane until the full lane connection to Osgathorpe Street (at 328 Victoria Road, Gladesville) is realised. The turning bay will enable vehicles to enter and exit Gerard Lane in a forward direction.</p>	<p>Yes</p>												

**ITEM 2 (continued)**

	<p>There will be minimal conflict with pedestrians and vehicles as the subject site is at the end of Gerard Lane with minimal pedestrian movements.</p>	
<p><b>3J Parking Provisions.</b> Car parking: For development on sites that are within 800m of a railway station, the minimum parking for residents and visitors to be as per RMS Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less. Bicycle Parking Provide adequate motorbike, scooter and bicycle parking space (undercover).</p>	<p>The site is not within 800m of a railway station. Accordingly, Council's DCP 2014 car parking requirements apply. The proposal provides for 73 parking spaces which is compliant with Council's DCP requirements. See full discussion further in the report.</p> <p>8 spaces are required for bicycle parking under Council's DCP. The development has proposed space to accommodate 19 bicycles.</p> <p>The DCP does not propose any requirements for motorbikes or scooter parking. However given that the proposal has provided more than the minimum car parking spaces and bicycle spaces there are sufficient area to accommodate motor bike parking. <b>Condition 184</b> has been imposed requiring two motorbikes spaces being provided.</p>	<p>Yes</p>
<p><b>Part 4 Designing the building</b></p>		
<p><b>4A Solar &amp; daylight access</b> Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter. No more than 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. Design should incorporate shading and glare control, particularly for warmer months</p>	<p>A total of 70% (35) of the apartments will receive 2 hours of direct sunlight between 9am and 3pm midwinter.</p> <p>10% (or 5) of the apartments will receive no sunlight.</p> <p>The BASIX Certificate demonstrates that the proposal achieves the required thermal comfort levels. Materials and finishes which incorporate shading and glare control measures including external louvres and awnings are proposed.</p>	<p>Yes</p>
<p><b>4B Natural Ventilation</b> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater</p>	<p>30 of the 50 apartments will be cross ventilated. This equates to 60%.</p>	<p>Yes</p>



**ITEM 2 (continued)**

<p><b>balconies</b> All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="300 421 793 732"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Min. depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m<sup>2</sup></td> <td>N/A</td> </tr> <tr> <td>1 bedroom</td> <td>8m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m<sup>2</sup></td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12m<sup>2</sup></td> <td>2.4m</td> </tr> <tr> <td>Ground or podium</td> <td>15m<sup>2</sup></td> <td>3m</td> </tr> </tbody> </table>	Dwelling type	Minimum area	Min. depth	Studio apartments	4m <sup>2</sup>	N/A	1 bedroom	8m <sup>2</sup>	2m	2 bedroom	10m <sup>2</sup>	2m	3+ bedroom	12m <sup>2</sup>	2.4m	Ground or podium	15m <sup>2</sup>	3m	All of the balconies comply with minimum size and depth requirements.	Yes
Dwelling type	Minimum area	Min. depth																		
Studio apartments	4m <sup>2</sup>	N/A																		
1 bedroom	8m <sup>2</sup>	2m																		
2 bedroom	10m <sup>2</sup>	2m																		
3+ bedroom	12m <sup>2</sup>	2.4m																		
Ground or podium	15m <sup>2</sup>	3m																		
<p><b>4F Common circulation and spaces.</b> The maximum number of apartments off a circulation core on a single level is 8. Where the above criteria is not achieved, no more than 12 apartments should be provided off a circulation core on a single level.</p> <p>Daylight and natural ventilation should be provided to all common circulation space above ground. Windows should be provided at the end wall of the corridor.</p>	<p>The development proposes a maximum of 9 apartments to be accessed from the circulation space.</p> <p>While the proposal does not comply with the design criteria the ADG recognises that the full achievement may not be possible. In these cases there should be a high level of amenity for the corridors and apartments. The proposed variation is considered acceptable having regard to the following ADG design guidance:</p> <ul style="list-style-type: none"> <li>• A ventilated louvers system has been provided to the corridor to allow for light and ventilation access.</li> <li>• The proposal is for 9 apartments off a single corridor however there are two separate lift servicing each floor.</li> <li>• Primary living area or bedroom windows do not open directly onto the corridor.</li> </ul> <p>In addition, the UDRP has reviewed the layout and have raised no objections to the corridor core.</p>	No – variation acceptable.																		
<p><b>4G Storage</b> In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:</p> <table border="1" data-bbox="276 1720 793 1933"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m<sup>3</sup></td> </tr> <tr> <td>1 bedroom apt</td> <td>6m<sup>3</sup></td> </tr> <tr> <td>2 bedroom apt</td> <td>8m<sup>3</sup></td> </tr> <tr> <td>3 + bedroom apt</td> <td>10m<sup>3</sup></td> </tr> </tbody> </table> <p>At least 50% of the required storage is</p>	Dwelling type	Storage size volume	Studio	4m <sup>3</sup>	1 bedroom apt	6m <sup>3</sup>	2 bedroom apt	8m <sup>3</sup>	3 + bedroom apt	10m <sup>3</sup>	All of the apartments provide adequate storage.	Yes								
Dwelling type	Storage size volume																			
Studio	4m <sup>3</sup>																			
1 bedroom apt	6m <sup>3</sup>																			
2 bedroom apt	8m <sup>3</sup>																			
3 + bedroom apt	10m <sup>3</sup>																			

**ITEM 2 (continued)**

to be located within the apartment.		
<b>4H Acoustic privacy</b> Noise transfer is minimised through the siting of buildings, building layout, and acoustic treatments. Plant rooms, services and communal open space and the like to be located at least 3m away from the bedrooms. Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	Appropriate acoustic privacy will be provided for each apartment.	Yes
<b>4K Apartment mix</b> A range of apartment types with different number of bedrooms (1bed, 2 bed, 3 bed etc) should be provided.	The development has incorporated a range of apartment types and sizes. The development has proposed 10 x 1 bedroom, 38 x 2 bedroom and 2 x 3 bedroom apartments.	Yes
<b>4M Facades</b> Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents. Building facades are expressed by the façade.	See discussion under “Heritage”. The building facades are strongly articulated with the use of balconies and privacy screens. The façade adjacent to the heritage item has been amended to provide an acceptable contextual fit with the surrounding development.	Yes
<b>4N Roof design</b> Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use the roof space for residential accommodation and open space are maximised. Roof design incorporates sustainability features.	The development has proposed a flat roof which is integrated with the overall development.	Yes
<b>4O Landscape design</b> Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable	The proposal includes a landscape plan. Council’s Consultant Landscape Architect has reviewed the plan and has advised that the plan generally is of a quality landscape design with appropriate species.	Yes
<b>4P Planting on structures</b> Appropriate soil profiles are provided.	The development will comply with the minimum soil depth as specified in the ADG. <b>Condition 77</b> has also been imposed to ensure compliance.	Yes
<b>4Q Universal design</b> Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments	5 adaptable units plus 5 “silver” units (Livable Housing Guidelines) <sup>*1</sup> are proposed, which provide flexible housing stock. The development complies with	Yes

**ITEM 2 (continued)**

with adaptable designs are to be provided.	these requirements.	
<b>4U Energy efficiency</b> Development incorporates passive environmental design measures – solar design, natural ventilation etc.	The development complies with these requirements complying with the solar and natural ventilation requirement.	Yes

\*1 Livable Housing Guidelines (LHD Guidelines) provides design guidelines to help make home more versatile, easier access and cost effective to better meet the changing needs of occupants over their lifetimes.

Three levels of performance are detailed in the LHD Guidelines, Silver Level, Gold Level and Platinum Level. The Silver Level provides for 7 core design elements which provide home occupants with the opportunity to reduce or avoid costs associated with retrofitting a home to improve access in future, should it be required.

Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

This Plan applies to the whole of the Ryde local government area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal.

## 5.2 Ryde LEP 2014

The following is an assessment of the proposed development against the applicable provisions from the Ryde Local Environmental Plan 2014.

### Clause 2.3 Zone Objectives and Land Use Table

The site is zoned '*B4 Mixed Use*' under the provisions of the LEP 2014. The proposed mixed use development is permitted in this zoning.

The objectives of the zone include the following:

- *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.*

## ITEM 2 (continued)

- To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.
- To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.

The proposal complies with the above objectives. The proposed development provides a mix of commercial/retail and residential uses that are appropriate for the site, the Gladesville Town Centre and the Victoria Road Corridor. The site is located within an accessible area within close proximity to north and south bound bus services along Victoria Road. North bound services travel to Macquarie Park, Ryde and West Ryde. South bound services travel to the Sydney CBD.

The development will respond appropriately to the desired future character of the surrounding precinct by introducing a mixed use building consisting of residential and commercial/retail use. The massing and scale of the development is appropriate in terms of the transitioning future built environment and the built form will not impact adversely on the character of the area.

### Clause 4.3 Height of Buildings

Two height controls apply across the site – 19m and 12m. The 19m height is effectively over the majority of the site (Victoria Road frontage) with the 12m height limit at the rear (Gerard Lane frontage) to provide a transition to the low density properties opposite, as shown in Figure 14 below.



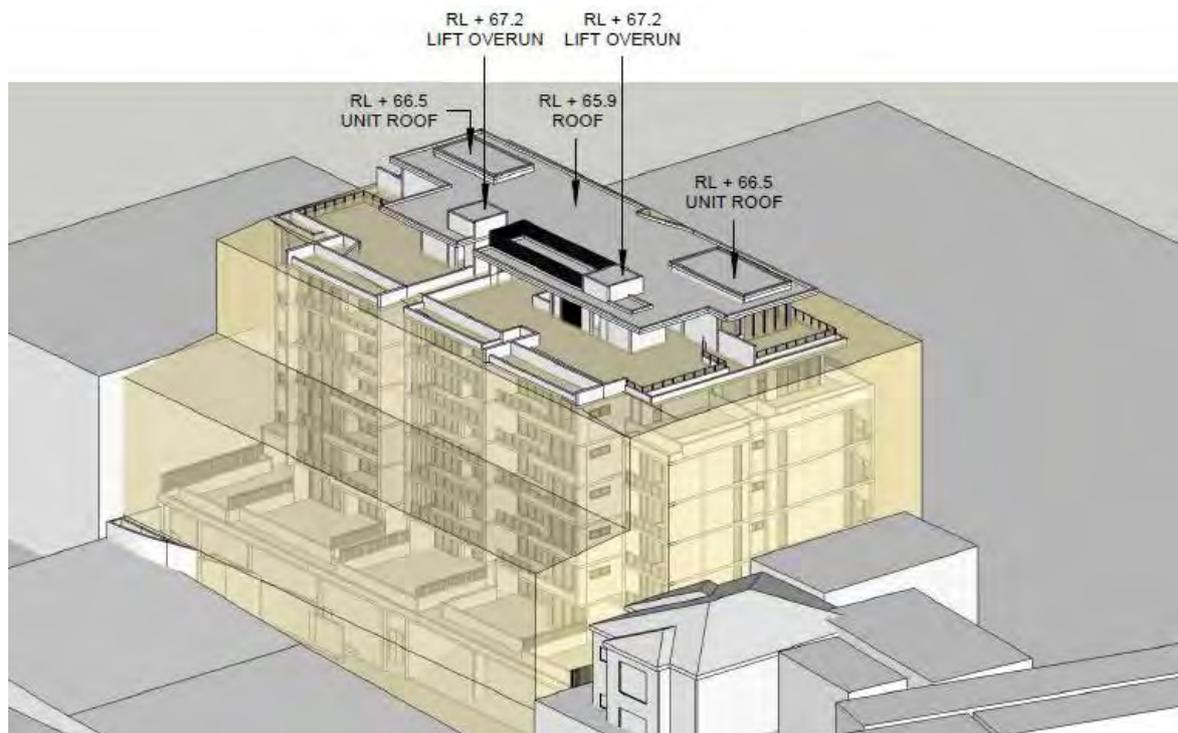
**Figure 14: Height map – subject site with two height controls.**

**ITEM 2 (continued)**

Building height is defined in this planning instrument as meaning the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

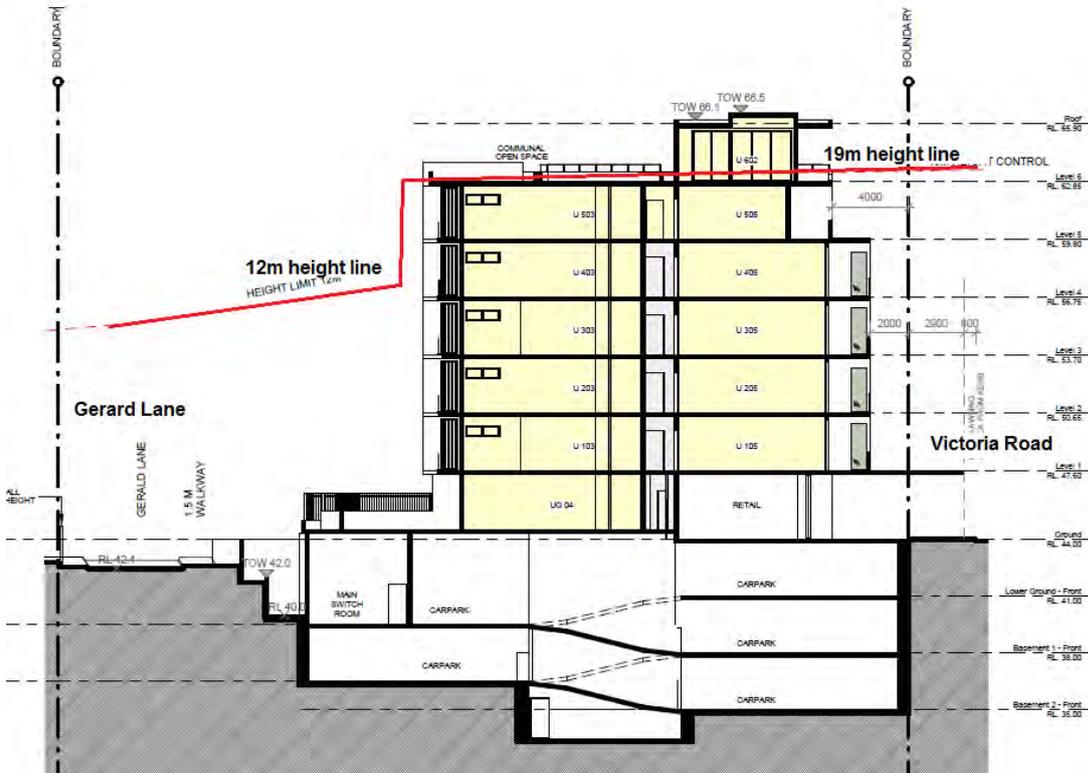
The proposal is compliant with the 12m height control applying to the Gerard Lane frontage, however is non-compliant with the 19m height control fronting Victoria Road. The proposal has a maximum height of 23.3m for the top of the lifts overrun as illustrated in Figures 15 to 18 below. The height non-compliance relates to Level 6 of the proposed development and the rooftop plant and lift overrun. Level 6 includes a rooftop terrace which provides landscaped communal open space and two residential apartments orientated towards Victoria Road. The proposed variation to the standard ranges from 0.5m at the balcony balustrades, to 4.3m at the lift overrun.

A Clause 4.6 request to vary the standard has been provided which is considered below.



**Figure 15: Height plan across the site, as view from Gerard Lane.**

**ITEM 2 (continued)**



**Figure 16: Cross Section east – west (north)**



**Figure 17: Cross Section east – west (middle section)**

**ITEM 2 (continued)**



**Figure 18: Height variation as viewed from Victoria Road.**

**Clause 4.6 Exceptions to development standards**

The applicant has provided a written request seeking to justify the variation to the development standard contained in Clause 4.3. A revised Clause 4.6 statement accompanied the amended plans.

Of relevance in considering Clause 4.6 are the following judgements of the Land and Environment Court:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46
- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 ('Four2Five No 1')
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 ('Four2Five No 2')
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 ('Four2Five No 3')

These decisions identify the following key questions for Clause 4.6 Variations and which have been addressed below.

**1. "Is the planning control in question a development standard?"**

The proposal seeks to vary the Maximum Building Height permitted under the RLEP 2014 which is considered to be a development standard.

**2. "What is the underlying objective or purpose of the development standard?"**

**ITEM 2 (continued)**

Clause 4.6(4)(a)(ii) of RLEP 2014 requires a variation request to demonstrate that the proposed development is in the public interest and it is consistent with the objectives of the particular standard.

The objectives Clause 4.3 Building Height are considered below.

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.

The applicant has provided the following comments:

*The height of the proposal is contextually appropriate and is consistent with the emerging character of the area. Victoria Road is transitioning into a mixed-used corridor and there are a number of recent developments (constructed, approved or under assessment) of a similar scale. Developments approved of a similar and scale and similar variation to the height of buildings control include:*

- *Approved five (5) storey mixed-use development at 265 Victoria Road, Gladesville (LDA2016/0023);*
- *Approved six (6) storey mixed-use development at 717 Victoria Road, Gladesville (LDA2015/0472); and*
- *Approved seven (7) storey mixed-use development at 723-731 Victoria Road, Gladesville (LDA/2015/0654).*
- *Approved 5 & 9 storey mixed-use development at 39 - 41 Devlin St, Ryde (LDA2016/0359).*

*The proposal includes two commercial tenancies fronting Victoria Road to provide activation at the ground plane as required under RDCP 2014. Levels 5 and 6 are setback from Victoria Road and incorporate the use of planter boxes and different materials and finishes to distinguish the upper element from the strong street edge created at the lower levels.*

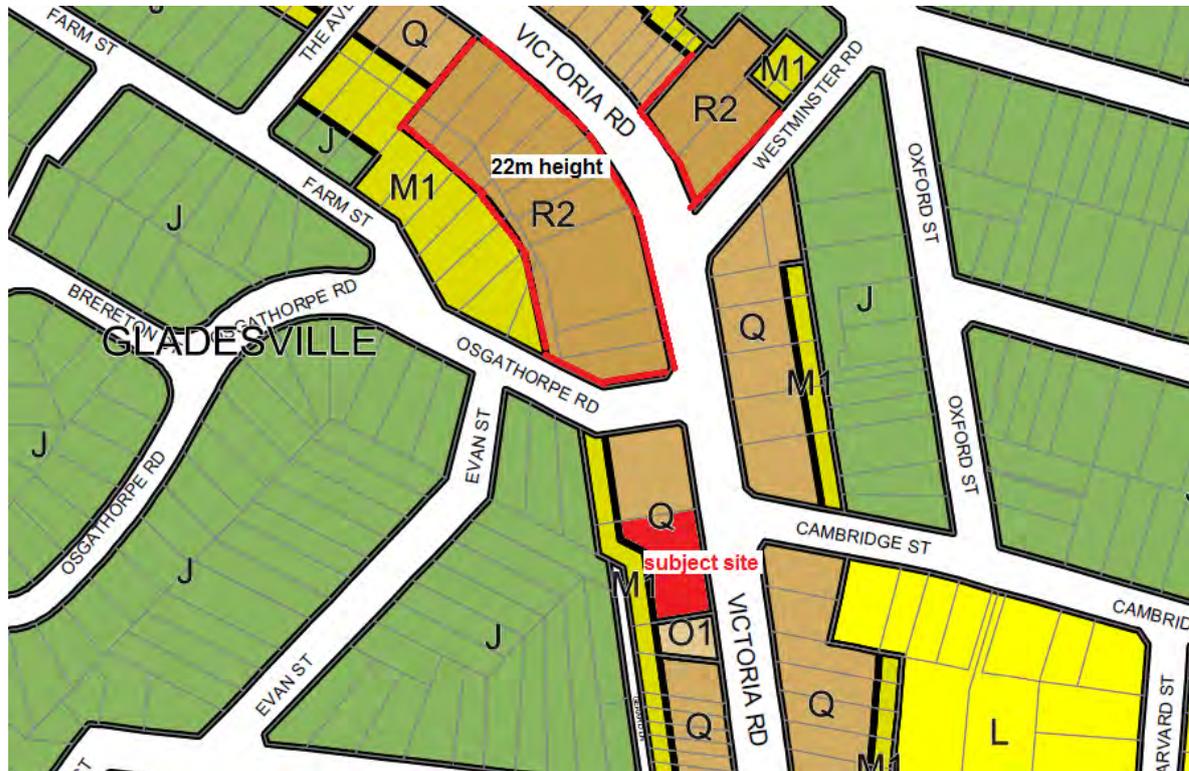
**Planner's comment**

The Victoria Road corridor is changing from lower scaled buildings into mixed used high rise buildings of up to 6 storeys in the Gladesville precinct. The proposed development along the Victoria Road frontage will be 7 storeys which is an additional storey above what is permissible and what have been approved around Gladesville. Note: The last three LDAs quoted above are located in Ryde Town Centre and the planning controls applicable to these sites allow additional height subject to certain criteria, which the sites satisfied. These are not considered to be good examples as the planning controls for the two centres are very different.

The emerging character of the Gladesville area is for development of 6 to 7 storeys, however, the proposed development, whilst greater in height is not considered to be out of character with future redevelopment of the area. The site is located in close

**ITEM 2 (continued)**

proximity to other areas along Victoria Road that permit a maximum height of 22m, similar to what is proposed on this site. See Figure 19 below where 22m height limit is permissible.



**Figure 19: R2 represents where 22m height limit is permissible. The site is located in close proximity to the R2 height limit.**

The extra height is located along Victoria Road frontage and is setback from the building, allowing for breaks in the elevation. The increased setback on the top floor helps to minimise apparent bulk of this element when viewed from the street. Levels 5 and 6 of the development have been setback from the southern boundary to provide visual relief from the neighbouring heritage cottage.

Planning principles have established that in order for a development to be compatible it does not necessarily need to be the same (*Project Ventures v Pittwater Council*). The streetscape character is enhanced due to the redevelopment of this site and due to the increased setback on the upper levels, there is no potential for this development to have a jarring effect in the streetscape. The design, layout and form of the proposed development break down the scale of the facades as does the use of the proposed external building materials, colours and finishes. The proposal was reviewed by the Urban Design Review Panel who advised that *“the additional building height is supportable from a design perspective because of the success of the building form, the establishment of the laneway connection, and importantly - because the additional shadowing impacts derived from the height non-compliance are negligible”*.

**ITEM 2 (continued)**

- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area.

The applicant has provided the following comments:

*MoMA Architects have undertaken an overshadowing analysis which is submitted at Appendix B of the SEE. As evident in the analysis and further discussed in Section 6.2 below, the proposed variation to the 19m height of buildings control results in minimal additional shadowing impacts on neighbouring properties, when compared to a height complaint scheme.*

*The proposal is for a contemporary mixed-use development which is compatible with the future character of the Victoria Road Corridor. The proposal includes the construction and dedication of an extension of Gerard Lane (carriageway and footpath) through the site to the north-western boundary. While this work is nominated in RDCP 2014 as an objective, there is no statutory requirement for acquisition.*

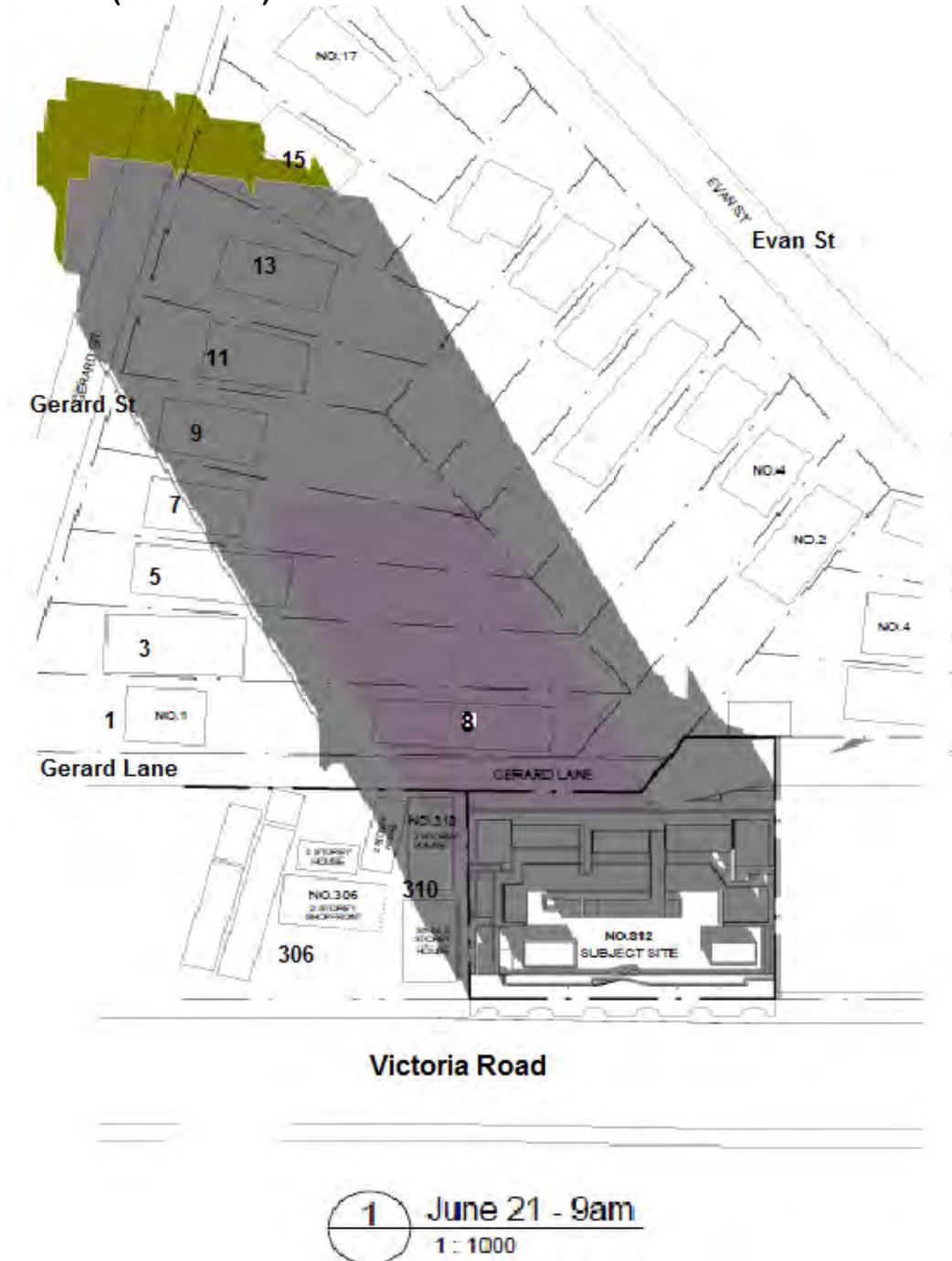
*The proposal includes other public domain improvements such as new paving, footpath upgrades and street tree planting and street lighting to both the Victoria Road and Gerard Lane frontages.*

**Planner's Comment**

Agreed - The proposed building will generally improve the appearance of the area as it will result in the significant redevelopment of the site.

As illustrated in the overshadowing diagrams, Figures 20 to 22 below and discussed in full further in the report, the additional overshadowing from the variation is minimal and will not adversely impact on any adjoining properties.

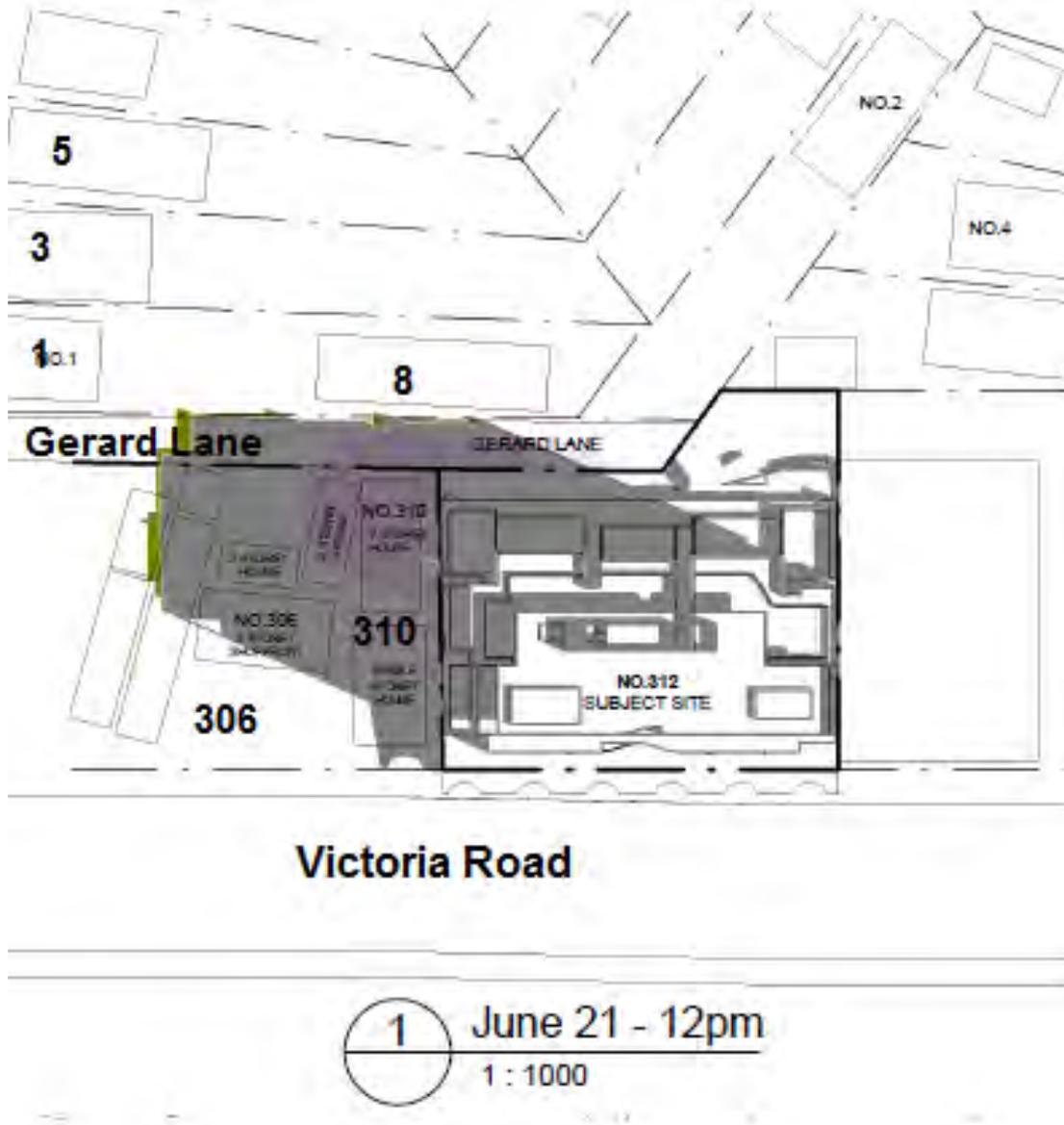
**ITEM 2 (continued)**



**LEGEND:**  
 ADDITIONAL SHADOW IMPACT OF LEVEL 6  
 EXISTING BUILDING SHADOW

**Figure 20: Shadow at 9.00 am on 21 June. The pink outline is the exiting building shadow, the grey outline is a compliant development and the olive outline is the additional height.**

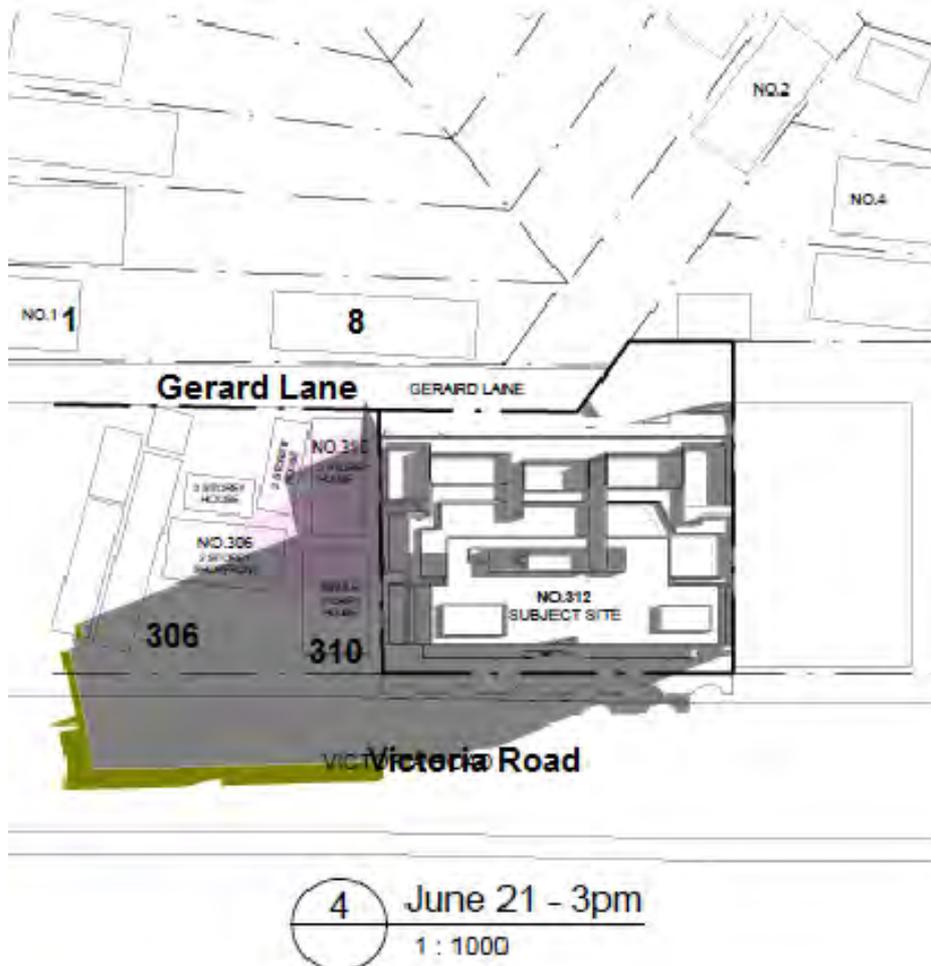
**ITEM 2 (continued)**



**LEGEND:**  
 ADDITIONAL SHADOW IMPACT OF LEVEL 6  
 EXISTING BUILDING SHADOW

**Figure 21: Shadow at 12 noon on 21 June. The pink outline is the exiting building shadow, the grey outline is a compliant development and the olive outline is the additional height.**

**ITEM 2 (continued)**



**LEGEND:**

-  ADDITIONAL SHADOW IMPACT OF LEVEL 6
-  EXISTING BUILDING SHADOW

**Figure 22: Shadow at 12 noon on 21 June. The pink outline is the exiting building shadow, the grey outline is a compliant development and the olive outline is the additional height.**

The additional shadowing impacts derived from the height non-compliance are negligible.

- (c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure.

The applicant has provided the following comments:

*The proposal is located within the Victoria Road Corridor which is identified for urban renewal under Council's adopted controls and policies.*

**ITEM 2 (continued)**

*The proposal includes the construction and dedication of the Gerard Lane extension through the site to the north-western site boundary as envisaged under RDCP 2014. The construction and dedication of the roadway is a public benefit which will serve residents of the site, but importantly, will deliver a missing connection that will benefit the broader community and will adhere to Council's objectives.*

*The proposal includes the removal of the two existing vehicular crossovers on Victoria Road. This will improve the safety and efficiency of the road corridor and the pedestrian environment. The proposal will be supported by public bus services along Victoria Road.*

Planner's Comment

Agreed - The building is well-sited, in proximity to frequent bus services and within walking distance to schools and shops. Bus services to the CBD, Ryde and Macquarie Park can be accessed from stops located in close proximity along Victoria Road. The subject site is within the Gladesville Town Centre and Victoria Road Corridor surrounding area will be likely to be redeveloped for residential apartments in the future.

(d) to minimise the impact of development on the amenity of surrounding properties.

The applicant has provided the following comments:

*As above, the proposed variation will not result in any significant adverse overshadowing impacts.*

*The proposed built form provides a height transition from lower density residential areas to the west of the site. The additional building height is located along the Victoria Road frontage, representing the portion of the site with greatest separation from the lower density residential areas on the western side of Gerard Lane.*

*The Level 6 apartments have been set back from Victoria Road to minimise apparent bulk of this element when viewed from the street. Levels 5 and 6 of the development have been setback from the southern boundary to provide visual relief from the neighbouring heritage cottage.*

*The proposal results in no privacy impacts between dwellings within the development or to neighbouring properties. Any privacy issues have been mitigated through the application high level windows, privacy screens and opaque glass bricks on the southern facade and generous setbacks to the rear site boundary and the use of privacy screening and planting.*

Planner's Comment

The proposal is acceptable with regard to overshadowing and impacts on the streetscape. The top storey has been set in, away from adjoining properties with the

**ITEM 2 (continued)**

bulk of the non compliance facing Victoria Road, which is a main road and will have minimal impact in terms of overlooking and overshadowing.

(e) to emphasise road frontages along road corridors.

The applicant has provided the following comments:

*The proposal activates Victoria Road and provides a strong street edge along the road frontage. The Victoria Road frontage is highly articulated, incorporating a 'wave' shaped cut out through the centre of the building and a variety of complementary materials and finishes at ground level and the residential levels above. The upper levels of the development have been setback from the southern boundary to provide visual relief from the neighbouring heritage cottage.*

*The proposed development provides street level retail uses along the Victoria Road frontage. Vehicular access to the site is to be provided from Gerard Lane, allowing for an enhanced pedestrian environment along Victoria Road.*

**Planner's Comment**

The site is sited along the Victoria Road and the proposal will emphasise the road corridor through allowing the future redevelopment of the site. The areas of non-compliance are located such that they do not result in significant additional height located outside of the road corridor.

In addition to the above, Clause 4.6(4)(a)(ii) establishes that it should be demonstrated that the proposed development is in the public interest as it is consistent with the objectives of the zone, as discussed earlier in the report.

**3. "Is compliance with the development standard consistent with the aims of the Policy and in particular does compliance with the development standard tend to hinder the obtainment of the objects specified in Section 5(a)(i) and (ii) of the Environmental Planning and Assessment Act?"**

The proposal is permissible within the B4 Mixed Use zoning and achieves compliance with the objectives of the zones as identified above. Critically, the proposed height non-compliance does not affect the proposal achieving the objectives.

With regards to objectives 1.3 (a)(b)(c)(f)(g) & (h) of the EP&A Act 1979, the proposal ensures fulfilment of these objectives as:

The redevelopment of the site, notwithstanding the non-compliance, ensures that the proposal achieves proper management and development of cities through promoting social and economic welfare of the community and a better environment.

**ITEM 2 (continued)**

The proposal, including the proposed non-compliance, supports promotion and co-ordination of the orderly and economic use and development of land. This is because the proposal has been designed with due regard to the site's surrounding context and the proposed extension of Gerard Lane through the site to facilitate the future connection of the public road through the adjacent site to Osgathorpe Street for the benefit of pedestrians and road users including service vehicles such as waste collection.

It should be noted that the objectives of the act are carried out through the assessment of Development Applications against a framework established by the relevant planning controls. As detailed within this assessment report the proposal, despite not achieving strict adherence to all controls, is considered acceptable on a merits basis and the anticipated desired future character of the area.

**4. "Is compliance unreasonable and unnecessary in the circumstances?"**

Justifications provided by the applicant for the proposed variations are below:

*In applying the principles established in the NSW Land and Environment Court judgements outlined in Section 3, compliance with the height of building development standard is considered unreasonable or unnecessary as:*

- *The proposed development is compliant with the floor space ratio control (FSR) applying to the site under the RLEP 2014. In addition to the amenity considerations discussed below, the massing strategy and distribution of permissible GFA has been informed by the following key site constraints:*
  - *The north western portion of the site is to remain free of physical structures to enable the extension of Gerard Lane through the site as envisaged under Part 4.6 Control 3.2.2 of the Ryde Development Control Plan 2014 (RDCP 2014).*
  - *The extension of Gerard Lane while identified under RDCP 2014 is not subject to a notation under RLEP 2014 for acquisition nor is the acquisition or works identified under Council's section 94 Contributions Plan.*
  - *The site is located adjacent to a local heritage item at 310 Victoria Road, Gladesville. Greater setbacks and a reduction in building height along the southern façade have been adopted to provide relief to the heritage item. The proposal has been stepped back at Victoria Road to provide a consistent building line with the heritage cottage. A 4-metre setback to Victoria Road is provided at all levels adjacent to the common boundary. Levels 5 and 6 of the proposal have been setback by 4.3 – 6.3m from the southern boundary.*
- *Design development has included the extension of the lift core to Level 6 of the development to provide equitable access to the rooftop communal open space.*
- *The variation to the building height enables the siting of two (2) residential apartments on Level 6. This is considered a design response to relocate building*

**ITEM 2 (continued)**

*bulk away from low density residential areas on the opposite side of Gerard Lane.*

- *The proposal represents a better planning outcome than a height compliant scheme. Previous massing options incorporated greater communal open space at ground level and apartments fronting Gerard Lane with minimal rear setbacks. The scheme has been further refined to achieve a greater level of amenity for future residents of the development and neighbouring sites, by relocating apartments away from ground level at Gerard Lane, relocating the communal open space to the rooftop and providing a turning bay at Ground Level for residents and the general public.*
- *The relocation of available GFA to Level 6 of the development affords excellent residential amenity for these apartments and a superior outlook and amenity compared with apartments fronting Gerard Lane.*
- *The proposal is consistent with the objectives of the height of buildings development standard and the B4 Mixed Use zone. The proposal is a high quality mixed use development which is of scale compatible with the Victoria Road Corridor.*
- *The proposed development has been designed to comply with the 12m height of building standard applying to the rear of the site. As such, the proposal provides an appropriate height transition to the lower density residential areas located to the west of Gerard Lane.*
- *The height transition and separation from neighbouring developments minimises any potential privacy impacts associated within the proposal. Furthermore, the Level 6 roof terrace and residential apartments, include the provision of deep planter boxes to reduce any opportunities for overlooking to adjacent properties and provide a high quality residential environment.*

**Planner's Comment**

Agreed - Compliance with the standard is considered to be unreasonable and unnecessary on the basis that compliance with the maximum height limit would not necessarily result in an improved outcome. The proposal does not have unreasonable impacts on surrounding properties as:

- The non-compliance does not have any significant impact on adjacent and adjoining properties as evidence in the shadow diagrams.
- The recessed nature of the non compliance has reduced the visible dominance of the top storey from the public domain and as such, is not considered to have an unacceptable visual impact on the streetscape or other areas.
- The proposed built form provides an appropriate height transition from lower density residential uses to the east. The building elements associated with the variation to the height of buildings control associated with the height breach

**ITEM 2 (continued)**

(apartments and lift overrun) are concentrated towards Victoria Road. The design provides an appropriate height transition from lower scale residential uses to the east of Gerard Lane, which is consistent with the intent of the split height of buildings control across the site.

- The proposed non-compliance does not result in an exceedance in the floor space ratio and
- The proposal allows for sufficient separation to adjacent developments to ensure that impacts of bulk and scale are reduced by the proposed non-compliance.

**5 “Is there sufficient environmental planning grounds to justify contravening the Development Standard?”**

In considering environmental planning grounds, the applicant has identified the following:

*The proposed variation does not result in any significant adverse environmental impacts. There are sufficient environmental planning grounds to support a variation of the development standard, as outlined below:*

**Overshadowing**

*The shadow impacts of the amended scheme are reduced compared with the original submission of LDA/2017/0312. The lesser impact is attributed to the increased side setbacks and reduced building bulk at the southern façade of levels 5 and 6.*

*When modelled between 9am and 3pm on 21 June, the impacts of the height non-compliance are greatest at 9am and are significantly reduced by 10am. The overshadowing created by Level 6 of the development is negligible when compared to the impacts height complaint scheme. Overshadowing impacts in general, can be attributed to the orientation of the site and surrounding sites and the sloping topography of the locality.*

**Residential amenity**

*The proposed development achieves a high degree of consistency and compliance with the design principles and standards contained within SEPP 65 and the ADG.*

*The Level 6 communal open space affords excellent amenity for all residents. The landscaped terrace includes seating and barbeque facilities and offers expansive views to the west and south west towards the Parramatta River. The communal open space enjoys excellent solar access and is orientated away from traffic noise on Victoria Road. The upper portion of the height non-compliance (above the Level 6 roof) can be attributed to the lift overrun, which has resulted from the requirement and desire to provide equitable access to all residents to communal open space.*

**Privacy**

*Privacy has been a key design consideration in the design of the apartments and private open space. Screening and landscaping have been incorporated into the*

**ITEM 2 (continued)**

*development as both a design feature and privacy measures. The Level 6 communal open space and apartments result in no adverse privacy impacts to residents of the site or adjoining properties*

**Visual impacts**

*There are no adverse visual impacts associated with the additional built form located at Level 6. The upper levels of the development are setback from the Victoria Road frontage in accordance with the RDCP 2014 to ensure that a appropriate street edge and scale is created along the Victoria Road frontage.*

*Levels 5 and 6 are setback from Victoria Road and incorporate the use of planter boxes and different materials and finishes to distinguish the upper element from the strong street edge created at the lower levels.*

**Planner's Comment**

Agreed – the proposal does not have unreasonable impacts on surrounding properties for the reasons stated above.

In addition, the development provides significant public benefits including the extension of Gerard Lane through the site to allow for the connection to Osgathorpe Street. The envisaged connection between Osgathorpe Street to Gerard Street will improve accessibility for vehicles as well as pedestrians.

Despite the departure from the standard, the proposed development is considered consistent with its objectives and the additional height will not have adverse environmental impact. The proposal also provides significant public benefits through the dedication of land and encumbrances for the purposes of a laneway and accordingly there are sufficient environmental planning grounds to justify contravening the standard.

**1. “Is the objection well founded?”**

As detailed in above sections the proposed variation has been considered acceptable. The non compliance in height is not considered to adversely impact on adjoining and adjacent properties and to ensure compliance would likely result in a poorer planning outcome for the surrounds.

**2. “Would non-compliance raise any matter of significance for State or Regional planning?”**

The departure is not a matter for regional or state environmental planning. The proposal achieves a good urban design outcome and the proposal is not considered to raise any matters of significance for State or Regional planning.

**3. “Is there a public benefit of maintaining the Development Standard?”**

**ITEM 2 (continued)**

There is no public benefit of strictly complying with the standard in this particular instance. Maintaining the development standard would not provide any additional public benefit than what is proposed by the development (provision of housing close to facilities). The redevelopment of the site will result in a variety of public benefits, including allowing the extension of Gerard Lane connection envisaged under the RDCP 2014, upgrades to the public domain and urban renewal. The development will support the increased provision and variety of housing and increased retail floor space to support a growing residential area.

**4. “Matters required to be taken into consideration by the Secretary before granting concurrence.”**

There are no additional matters to be considered. Ryde Local Planning Panel can assume the Secretary’s concurrence where the variation to a numerical standard is greater than 10%. The variation is greater than 10% accordingly the proposal is to be determined by Ryde Local Planning Panel.

**Conclusion**

The proposed mixed-use development is consistent with the objectives of both the height of buildings control and the B4 Mixed Use zone. The proposed variation to the height of buildings control is considered appropriate as the proposal:

- is compliant with RLEP 2014 FSR control.
- Level 6 of the development includes a terrace area for the use by residents. The terrace is accessible via an elevator, ensuring the space is accessible for all residents. The landscaped terrace includes seating and barbeque facilities and offers expansive views to the east and south east towards the Parramatta River. The communal open space is orientated away from traffic noise on Victoria Road, however is afforded considerable solar access due to its location on the roof of the development.
- The proposed built form provides an appropriate height transition from lower density residential uses to the east. The building elements associated with the variation to the height of buildings control (apartments and lift overrun) are located towards Victoria Road. This design initiative provides an appropriate height transition from lower scale residential uses to the east of Gerard Lane, which is consistent with the intent of the split height of buildings control across the site.
- The additional shadowing created by the built form elements on Level 6 and the associated lift overrun is minimal when compared to the shadowing resulting from a height complaint scheme for the site. There are no additional visual impacts or privacy impacts associated with Level 6 of the proposed development.
- The proposal has been amended to allow the extension of Gerard Lane through the site. The lane extension is considered a public benefit which will

### ITEM 2 (continued)

increase the amenity and functionality of the roadway for local residents and the broader community once the connection is completed.

Accordingly the proposed variation is supported.

### Clause 4.4 Floor Space Ratio

Clause 4.4(2) states the floor space ratio (FSR) of a building is not to exceed the maximum specified on the FSR Map. The FSR Map specifies a maximum FSR of 2.3:1 for the site.

The proposed GFA of the development is 4,090m<sup>2</sup>, representing an FSR of 2.3:1.

### Other provisions

The table below considers other provisions relevant to the evaluation of this proposal:

Provision	Comment
Clause 6.2 Earthworks	The proposed development includes excavation for a basement car park. Council's Senior Development Engineer requires that a sediment and erosion control plan to be submitted prior to the issue of a Construction Certificate. See <b>Condition 87</b> . Accordingly the development is considered satisfactory in respect of this clause.
Clause 6.4 Stormwater management	The development is to be designed to maximise on-site stormwater retention for use as an alternative supply to the mains water as well as avoiding any impacts of stormwater runoff on adjoining properties.
Clause 5.10 Heritage conservation	The site is not a heritage item however adjoins a local heritage item. Council's Heritage Officer has reviewed the proposal and supports the demolition of the existing building and the proposed construction of the new mixed used building (as amended). See Heritage Officer's comments under "Referral" section of this report.

### 5.3 Draft Environmental Planning Instruments

There are no draft environmental planning instruments that affect the site.

### 5.4 Development Control Plans

#### City of Ryde DCP 2014

## ITEM 2 (continued)

The following sections of DCP 2014 are of relevance, being:

- Part 4.6 – Gladesville Town Centre & Victoria Road Corridor
- Part 7.2 - Waste Minimisation and Management
- Part 8.1 - Construction Activities
- Part 8.2 - Stormwater Management
- Part 9.2 - Access for People with Disabilities
- Part 9.3 - Car Parking

With regard to Parts 7.2 to 8.2, noting the advice received from the various technical departments within Council and the consideration of issues previously in this report, the proposal is satisfactory in relation to these parts of the DCP. Parts 4.6, 9.2 and 9.3 are considered below.

### Part 4.6 - Gladesville Town Centre & Victoria Road Corridor

The City of Ryde DCP 2014 includes precinct specific provisions related to the Gladesville Town Centre and Victoria Road Corridor.

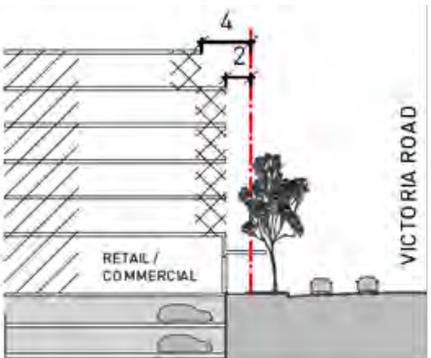
Under the DCP, the site is located within the North Gladesville Precinct which is to be transformed from a poorly functioning strip shopping centre to a mixed use town centre. The vision for this precinct is for the area to be transformed into a cohesive built form corridor of mixed retail, commercial and residential uses.

Control	Comment	Compliance
<b>2.0 Vision</b>		
<b>2.2.4 Vision Statement</b> <b>North Gladesville Precinct</b> The North Gladesville precinct between Pittwater Road and Monash Road is to be transformed from a visually cluttered commercial strip into a cohesive built form corridor of mixed retail, commercial and residential uses. The existing poorly defined spaces and visual clutter will be replaced with buildings which address the road with major facades. Large canopy street trees will be planted in building setbacks and footpaths widened, to create a landscaped setting leading to the town centre precinct.	The development is consistent with the vision statement for the North Gladesville Precinct. The development proposes a mixed use development that has a scale and massing which is consistent with the future intent for the Town Centre. Street planting will be required as part of the Public Domain works and the footpath widened.	Yes
<b>3.1 – Built Form</b>		
<b>3.1.1 Built Form Heights</b>	The LEP specifies two height	No – Clause 4.6

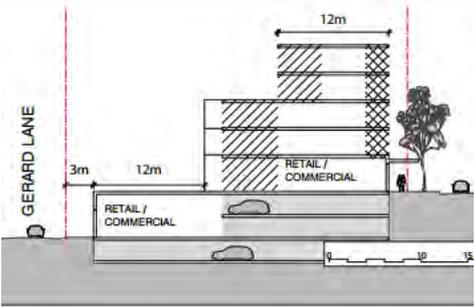
**ITEM 2 (continued)**

<b>Control</b>	<b>Comment</b>	<b>Compliance</b>
Buildings must comply with the maximum heights described in RLEP 2014.	<p>controls apply across the site – 19m and 12m. The 19m height is effectively over the majority of the site (Victoria Road frontage) with the 12m height limit at the rear (Gerard Lane frontage) to provide a transition to the low density properties opposite.</p> <p>The proposal does not comply with the numerical height provision under the LEP. Compliance with LEP height restriction has been discussed in detail earlier in this report.</p>	submitted. See full discussion above.
Floor to ceiling heights must be a minimum of 2.7m for residential uses.	Each residential floor has a floor to floor height of 3.05m which complies with the minimum floor to ceiling height of 2.7m.	Yes
Ground floor levels are to have a floor to floor height of a minimum of 3.6m.	The ground floor has a floor to floor height of 3.6m and complies with the requirement.	Yes
<b>3.1.2 Active Street frontages</b> Provide ground level active uses where indicated on the map.	<p>The development has provided an active frontage along Victoria Road by proposing two retail/commercial tenancies.</p> <p>No vehicular entrance is proposed on this frontage as vehicular access will be from Gerard Lane.</p>	Yes
Residential uses, particularly entries and foyers must not occupy more than 20% of the total length for each street frontage	The site has a frontage of 44.4m to Victoria Road. The front entry along Victoria Road is 8.4m wide, which is 18.9% of the frontage.	Yes
Where required, active uses must comprise the street frontage for a depth of at least 10m.	The commercial uses have a depth of between 2m to 6.7m. The variation can be supported as the tenancies are relatively large in area (82m <sup>2</sup> and 83m <sup>2</sup> ) which are capable of being used for wide range of uses ie shops or food premises.	No – variation acceptable.
Vehicle access points may be permitted where active street frontage is required if there are no practicable alternatives.	Vehicular access is proposed from rear lane (Gerard Lane)	Yes
Security grills can be incorporated to ground floor shops. Blank roller	The plans do not propose any security grills. A condition of consent	Yes

**ITEM 2 (continued)**

Control	Comment	Compliance
shutter doors are not permitted.	will be imposed to reflect this requirement. See <b>Condition 10</b> .	
<p><b>3.1.3 Buildings Abutting the Street Alignment</b></p> <p>Provide buildings built to the street boundary in the Gladesville Town Centre precinct and in Monash Road precinct except as shown on the appropriate map under Section 4.0.</p> <p>Ground level architectural features, such as recessed doors and windows, are permitted to a maximum of 400mm from the street boundary to design out concealment opportunities and promote personal safety and security.</p>	<p>The site is in North Gladesville precinct and therefore this clause is not applicable.</p>	<p>N/A</p>
<p><b>3.1.4 Setbacks (front)</b></p> <p>Setbacks in accordance with Setback Requirements Table and Key Sites Diagram.</p> <p>Front Setback (Diagram A)</p> <p>The table under this section requires the setback as follows:</p> <p>Ground level = 2m</p> <p>Above level 5 = 4m (see DCP illustration below)</p> <p>The ground floor and lower levels must be setback 2m from the front boundary and paving and footpath treatments are to be provided within the setback area.</p> 	<p>A 4m to 5.1m setback is provided on ground floor level. This is a greater setback than required under the DCP, however the greater setback is to be align with the adjoining heritage property setback which is supported by Council's Heritage Officer. Levels 1 &amp; above complies with the required setbacks. Levels 1 to 4 are setback 2m. Levels 5 &amp; 6 are setback 4m.</p> <p><b>Condition 62 (d)</b> has been imposed with regard to the public domain treatments within the setback area to be the same as the footpath.</p> <p>Note: Basement levels (below ground) zero setback to front boundary. The non compliance with the basement levels are acceptable as it is not proposed to provide deep soil landscaping within the front setback area. The front setback area will be paved with street trees provided closer to the kerb.</p>	<p>No for the ground floor – variation acceptable.</p> <p>Yes for Level 1 and above.</p> <p>Non compliance with below ground.</p>

**ITEM 2 (continued)**

Control	Comment	Compliance
<p><b>Side &amp; Rear Setbacks and Residential Amenity</b></p> <p>a. Provide 9 m ground level setback generally at the rear of sites fronting Victoria Road in the North Gladesville and Monash Road Precincts except where adjoining Gerard Lane and as shown in Key Sites Diagrams. Refer Figure 4.6.09 Setback I and Figure 4.6.09 Setback J.</p>  <p>SETBACK J: Typical section for lots with rear to Gerard Lane.</p> <p>Setback J</p> <p>b. Provide 12 m separation minimum above the ground floor between residential buildings (including existing residential buildings on adjacent sites).</p> <p>c. Buildings fronting Victoria Road may build to the side boundary for a depth of 20 m measured from the street frontage. A side setback is then required to achieve 12 m separation between proposed and</p>	<p>A 3m clear setback has been provided from the rear boundary.</p> <p>A minimum of 19m is provided between the proposed building and the dwelling house opposite at 8 Gerard Lane. This complies with the written control, however the written controls (b) &amp; (c) are inconsistent with the setback diagram J which requires a 15m setback from the rear boundary. A 15m setback from the boundary is unachievable given the depth of the site of 35.3m and Council's Senior Co-ordinator Strategic Planning has advised that the diagram is a "typical" section only and the written control should be applied. It should also be noted that the 19m separation between the residential buildings is greater than the ADG requirement of 15m.</p> <p>The proposal is built to boundary for a depth of 22.2m along the southern boundary and 20.6m along the northern boundary and has been indented in 6m, as illustrated in Figure 23 after this table. This is a variation of 2.2m and 0.6m, respectively. The proposed</p>	<p>Yes</p> <p>No – variation acceptable.</p>

**ITEM 2 (continued)**

Control	Comment	Compliance
<p>potential residential land uses.</p> <p>d. Predominantly residential activities should be located adjoining low density residential areas including at the rear. If this is not practicable, activities that do not produce negative impacts in terms of noise, light, sound and odour are encouraged.</p>	<p>variations can be supported as the variation along the southern elevation is a result of pushing the front of the building further back to be aligned with the front setback of the adjoining heritage building, as required by Council's Heritage Officer. The variation is not considered to have any adverse impact to the amenity of the adjoining properties as privacy screens have been provided along the rear balconies.</p> <p>Residential use has been incorporated at the rear of the site opposite the lower density residential area.</p>	
<p><b>3.1.6 Conservation Area and Built Form Guidelines</b></p> <p>All development proposals within the Conservation Area shall be assess for their impact on the heritage significance of the Conservation Area and have regard to the Statement of Significance</p>	<p>The site lies outside of the Conservation Area.</p>	<p>N/A</p>
<p><b>3.1.7 Awnings</b></p> <p>Provide awnings over footpaths for ground level building frontages as shown on relevant map and setback 600mm from kerb. Provide street trees.</p> <p>Height of awning minimum 3m. The heights of adjoining awnings should be considered.</p> <p>Glazed unit not permitted.</p> <p>Provide lighting, preferably recessed, to the underside of awnings, sufficient to ensure a high level of safety for pedestrians at</p>	<p>A 4.6m wide awning has been proposed along Victoria Road and setback 600mm from kerb to allow tree planting. However the Senior Development Engineer has advised that the width of the awning may require additional structural support. No supporting structural engineering report has been submitted to confirm that the awning will require structural support. Therefore it is considered appropriate to impose a condition ensuring that no structural support columns for the awning are provided within the public domain or within the front setback. <b>Condition 93</b> has been imposed requiring this.</p>	<p>Yes</p>

**ITEM 2 (continued)**

Control	Comment	Compliance
night.	<b>Condition 93</b> also requires the awning to have a minimum clearance height of 3m, not glazed and underside lighting to be provided.	
<b>3.2 – Access</b>		
<b>3.2.1 Minimum Street frontage</b> North and South Gladesville Precincts to have a minimum 40m to Victoria Road and have one driveway crossing unless access is possible from a local road.	44.4m frontage to Victoria Road. Access provided from the rear - Gerard Lane with one point of entry.	Yes
<b>3.2.2 Vehicular Access</b> Provide vehicular access from the local roads network in preference to Victoria Road.  This will require the development of public laneways within the rear setback of most sites in the North Gladesville and Monash Road Precincts.  For all existing and proposed laneway, the laneway must include a 2 way carriageway, 6m wide and a footpath along one side 1.5m wide.  Gerard Lane shall be extended to create a connection running from Osgathorpe Street to Gerard Street.	The site is located within the North Gladesville Precinct and access is proposed from the rear lane – Gerard Lane.  The applicant will widen the laneway - 6.0m wide carriageway and a 1.5m wide footpath on the eastern side adjacent to the new development in accordance with Ryde DCP 2014. See Figure 9 above on page 9 illustrating the land to be dedicated and road widening. Council's City Works – Public Domains has conditioned this. See <b>Conditions 61, 62 &amp; 163.</b>  The subject site has a frontage to Gerard Lane and the proposal includes the extension of Gerard Lane. It is proposed to extend the lane through the rear of the site which will allow for a possible future connection with the existing ROW which services the adjacent site at 328 Victoria Road (Dan Murphy site). Preliminary civil drawings have been submitted which demonstrate possible connection with the Dan Murphy site. <b>Conditions 61 &amp; 62</b> has been imposed requiring the extension.  This connection will only be possible	Yes

**ITEM 2 (continued)**

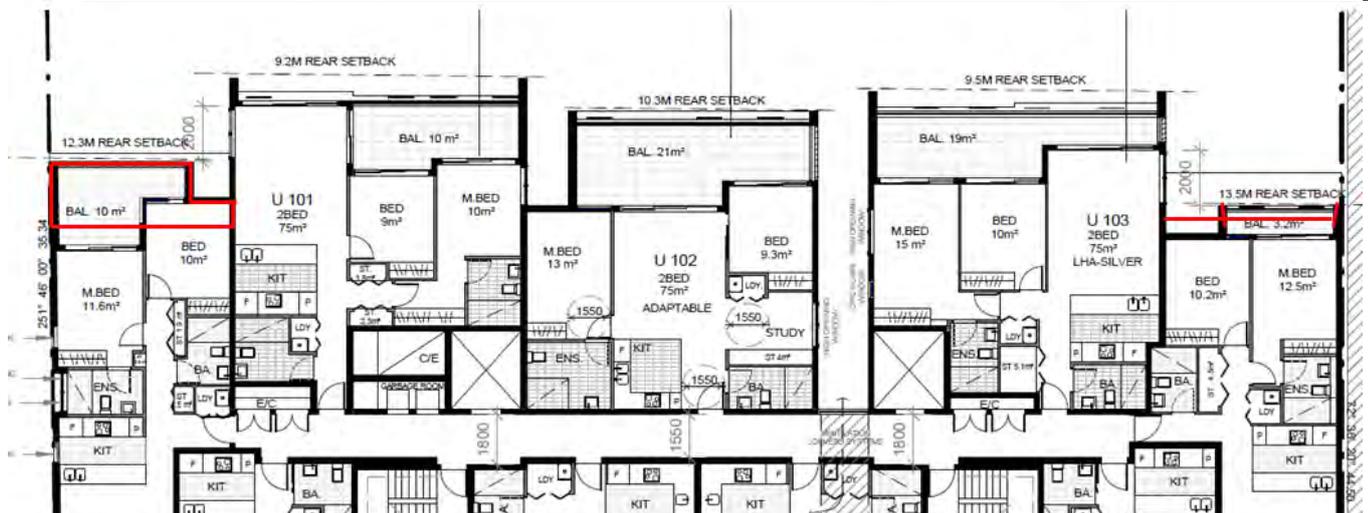
Control	Comment	Compliance
	when the Dan Murphy's site is redeveloped and at this stage it is unknown when this will occur. This connection will then allow Gerard Lane to connect to Osgathorpe Road. Therefore, the proposal has made provision for a publicly accessible turning bay adjacent to the loading bay. This will allow vehicles (including an 8.8m medium rigid vehicle truck to turn around and exit Gerard Lane in a forward direction. <b>Condition 162</b> has been imposed requiring a ROW being created so that this area to be publicly accessible and the area unobstructed at all times.	
<b>3.2.3 Parking</b> Provide publicly accessible parking in specified locations.	The site does not fall in the area designated for publicly accessible parking.	N/A
<b>3.3 Public Domain</b>		
<b>3.3.1 Pedestrian Connections</b> Provide street furniture, lighting and generous paved areas along the main pedestrian routes within the retail and commercial core with clear direct sightlines and direct linkages.  Provide pedestrian through-site connections and public domain parks, squares and plaza's in accordance with the Pedestrian Connections Control Drawing (Figure 4.6.13) and the Public Domain Control Drawing (Figure 4.6.14).  Courtyards, plazas or squares should be provided to complement and adjoin pedestrian through-site connections.	The site is not required to provide any through-site connections, public domain parks, squares or plazas. However, Figure 4.6.14 of the DCP requires new street/lanes to be provided at the rear of the subject site. As stated above, the development will provide the extension of Gerard Lane at the rear of the site through to the adjacent property. <b>Conditions 61 &amp; 62</b> has been imposed requiring this plus the public domain at the front and rear of the site to be upgraded in accordance with the Ryde Public Domain Manual.	Yes
<b>3.3.2 Public Domain Framework</b> Increase the quantum and diversity of public space in the heart of the	The rear of the site is required to provide new streets/lanes. See	Yes

**ITEM 2 (continued)**

<b>Control</b>	<b>Comment</b>	<b>Compliance</b>
town centre as shown on the Public Domain Framework Control Drawing.	<b>Conditions 61 &amp; 62.</b>	
<b>3.3.3 Landscape Character</b> Create a consistent planting theme with a number of species to ensure that the planting provides a visual coherence, Provide street trees as shown on the Landscape Character Control Drawing (Figure 4.60) and in accordance with the Ryde Public Domain Technical Manual and Relevant Street Tree Master Plans.	Street trees will be provided along Victoria Road. See <b>Conditions 61 &amp; 62.</b>	Yes
<b>3.3.4 Urban elements</b> Provide paving, seats, benches and bins in accordance with the Ryde Public Domain Technical Manual. Provide seating and shelter (awnings or bus shelter) at all bus stops. Seating shall be in accordance with the Ryde Public Domain Technical Manual. Provide new street lighting to primary and secondary streets as selected by Council and underground power cables. Provide pole lighting, lighting from building awnings and structures, in new public spaces, to ensure night time pedestrian safety.	A condition of consent will be imposed requiring compliance with the Ryde Public Domain Manual. See <b>Conditions 61 &amp; 62.</b>	Yes
<b>3.3.7 Victoria Road Section – North Gladesville and South Gladesville Precinct</b> Setback building by 2m to provide a wide 5.5m paving along Victoria Road. Provide street furniture in accordance with the Ryde Public Domain Technical Manual including: <ul style="list-style-type: none"> <li>• Provide seats and bins at 200 metre intervals and at bus</li> </ul>	The building has been setback 4m on ground floor and a minimum of 2m for all levels above. This clause requires the public domain to be upgraded in accordance with the Ryde Public Domain Manual. This has been included as a condition of consent. See <b>Condition 62. Condition 62(d)</b> also requires the front paving within the building setback to be grey	Yes

**ITEM 2 (continued)**

Control	Comment	Compliance
<p>stops, OR a minimum one per block, if required by Council.</p> <ul style="list-style-type: none"> <li>• Provide new street lighting, staggered at 40 metre intervals on both sides of street, or to Council satisfaction.</li> <li>• Provide lighting to the underside of awnings for the safety and security of pedestrians.</li> </ul> <p>Power lines are to be underground in locations specified by Council.</p>	<p>granite so as to be consistent with the public domain works.</p> <p>This clause also requires powerlines to be underground in locations specified by Council.</p> <p>Appropriate conditions have been recommended to ensure compliance with this requirement. See <b>Condition 62.</b></p>	



**Figure 23: Illustration of the non compliance with building depth on the northern and southern boundary. The area outlined in red is the area of non compliance being 2.2m along the southern boundary and 0.6m along the northern boundary.**

Part 9.3 – Parking Controls

Part 9.3 specifies that car parking is to be provided at the following rates:

Residential Development - High Density (Residential Flat Buildings)

- 0.6 to 1 space / one bedroom dwelling
- 0.9 to 1.2 spaces / two bedroom dwelling
- 1.4 to 1.6 spaces / three bedroom dwelling
- 1 visitor space / 5 dwellings

The development will contain a total of 50 apartments comprising of:  
10 x 1 bedroom , 38 x 2 bedroom and 2 x 3 bedroom apartments and 165m<sup>2</sup> of retail.

## ITEM 2 (continued)

Based on the above, the following car parking is required:

	Min	Max
10 x 1 bed	6	10
38 x 2 bed	34.2	45.6
2 x 3 bed	2.8	3.2
<b>Total</b>	<b>43</b>	<b>58.8 (59)</b>
Visitor /5	10	10
Retail – 165m <sup>2</sup> /25	6.6 (7)	6.6 (7)
<b>Total</b>	<b>60</b>	<b>76</b>

The proposal is required to provide between 60 to 76 spaces. It is proposed to provide 73 spaces which is below the maximum range. **Condition 184** has been imposed requiring the allocation of spaces.

Five of the units are to be adaptable in accordance with the minimum 10% requirement. Council requires that a disabled parking space be allocated to each of these units. Five disabled parking spaces have been provided however the plans do not indicate specific unit allocations. **Condition 74** has been imposed requiring the residential disabled car spaces to be allocated to the adaptable units.

The DCP states that: *in every new building, where the floor space exceeds 600m<sup>2</sup> GFA (except for dwelling houses and multi-unit housing) provide bicycle parking equivalent to 10% of the required car spaces or part thereof.*

Based on the above, 6 to 8 bicycle spaces are required to be provided. The development incorporates 19 bicycle spaces. **Condition 184** has been imposed requiring two motor cycle spaces being provided.

The proposal complies with Council's car parking and bicycle requirements.

### 5.5 Planning Agreements OR Draft Planning Agreements

The applicant has offered to enter into a Voluntary Planning Agreement with Council for the dedication and construction of Gerard Lane to the rear of the property at the developer's cost. Council at its meeting on 25<sup>th</sup> September 2018 resolved to, inter alia:

- a) That Council accept the letter of offer dated 1 March 2018 from Buildex Gladesville Pty Ltd to enter into a Voluntary Planning Agreement. The Voluntary Planning Agreement will require the Applicant to provide a public benefit in stages as summarised below:

**ITEM 2 (continued)**

- i. Construction of part of Gerard Lane, estimated total construction cost at approx. \$174,926.00
  - ii. Dedication of Land for Part of Gerard Lane, estimated value of \$257,000 if FSR transferred to additional part storey (\$1,030,000 if acquired without FSR transfer)
  - iii. Security for Material Public Benefits, 'Staged Bank Guarantee' to be calculated, adjusted from time to time and held by Council until all Material Public Benefits are considered to be practicably complete and dedicated to Council as road reserve.
  - iv. Compulsory acquisition clause to enable Council to acquire proposed land for Material Public Benefits should the developer default.
  - v. 10% of Staged Bank Guarantee to be held for 12 month defects liability period.
  - vi. Caveat able interest lodged on title of land upon execution of VPA in favour of Council whilst Property NSW is land owner.
  - vii. Registration of the Planning Agreement on the Title of Land.
  - viii. The offer by the Applicant does not exclude the payment of Council's Section 7.11 Contributions and 7.11 Contributions will be payable at the usual time, being prior to issue of the relevant Construction Certificate;
- (b) That Council delegate authority to the General Manager to negotiate the specific terms of the Voluntary Planning Agreement by Buildex Gladesville Pty Ltd,
- (c) That Council delegate authority to the General Manager to subsequently exhibit a draft of the Voluntary Planning Agreement in accordance with the relevant provisions of the Environmental Planning and Assessment Act 1979;
- (d) That Council delegate authority to the General Manager to enter into the Voluntary Planning Agreement on behalf of Council.

**5.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)**

Council's current Section 7.11 Development Contributions Plan 2007 (Interim Update 2014) effective 10 December 2014 requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on the number of additional dwellings there are in the development proposal. The contribution that are payable with respect to the increase housing density on the subject site (being for residential development outside the Macquarie Park Area) are as follows:

- 10 x 1 bedroom units;
- 38 x 2 bedroom units and
- 2 x 3 bedrooms
- 165m<sup>2</sup> of retail floor space

## ITEM 2 (continued)

The development includes the demolition of an existing commercial building (car wash). The commercial floor space of 109m<sup>2</sup> is taken from the survey plan and given as a concession for existing commercial space.

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$139,424.12
Open Space & Recreation Facilities	\$340,384.00
Civic & Urban Improvements	\$117,611.44
Roads & Traffic Management facilities	\$16,310.60
Cycleways	\$10,021.10
Stormwater Management Facilities	\$32,070.68
Plan Administration	\$2,702.08
<b>The total contribution is</b>	<b>\$658,524.02</b>

**Condition 45** has been imposed to reflect the required Section 7.11 contribution.

### 5.7 Any matters prescribed by the regulations

As the development involves the demolition of a building, Council must consider the provisions of *AS201-1991: The Demolition of Structures*. Appropriate conditions of consent have been included to reflect this Australian Standard.

## 6. The likely impacts of the development

Most of the impacts associated with the proposed development have already been addressed in the report. The additional impacts associated with the development or those issues requiring further consideration are discussed below.

### Built Form

The area is currently undergoing a transitional phase with many sites within the Gladesville Town Centre being redeveloped for mixed-use development. The built form and scale of the development meets Council's vision and objectives for the North Gladesville Precinct, with a building that addressed the road with major facades.

The proposed building will not have any significant adverse impacts on the existing built environment or the amenity of the surrounding area and the proposed built form and character of the development will contribute to an attractive public domain.

### Overshadowing and Solar Access

The extent of overshadowing is an important consideration in terms of amenity to the proposed development as well as adjoining developments.

**ITEM 2 (continued)**

The development will comply with the requirements of Council's codes and the SEPP 65 requirements in terms of providing acceptable amenity within the development.

Shadow diagrams for 21 June has been submitted which illustrate that the development will cast shadows on properties in Gerard Street, the rear yards of properties in Evan Street, 8 Gerard Street and adjoining southern properties 310 and 306 Victoria Road. See shadow diagrams, Figures 20 to 22 earlier in the report on pages 34 to 36.

As illustrated in the diagrams, properties at 1 to 15 Gerard Street, 2 to 12 Evan Street and 8 Gerard Lane will be in shade at 9am. However by 12 noon there will be no overshadowing on the surrounding residential properties.

306 Victoria Road currently contains a car yard and shop front at the front of the site facing Victoria Road, with a elevated 2 storey dwelling and side garage at the rear of the site, facing Gerard Lane. The site will received solar access at 9am however by 11am the dwelling house will be in shade. The dwelling will start to receive solar access again from 2pm to 3pm. The extent of overshadowing is demonstrated in Figures 19 to 21 and would appear that the residential component on the site will receive the required solar access from 9am to 11pm and again at 2pm to 3pm.

310 Victoria Road is the adjoining southern property and contains a single storey dwelling house (heritage listed) facing Victoria Road and a 3 storey dwelling house at the rear of the site, facing Gerard Lane.

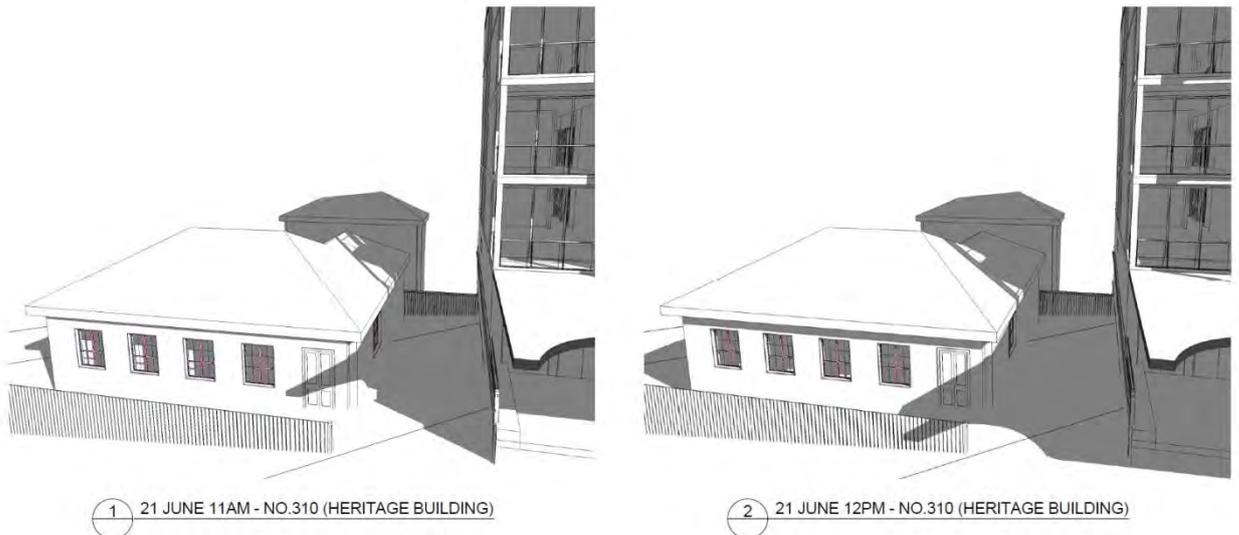
Due to the orientation of the site, east to west, overshadowing to southern properties are unavoidable and 310 Victoria Road will be impacted by overshadowing by a compliant development as illustrated in the shadow diagrams. The variation to the height results in no additional overshadowing impacts than the overshadowing created by a height compliant development.

The elevational shadow diagrams for 310 Victoria illustrates that the front and rear dwellings will receive solar access in the morning and afternoon, respectively. The front dwelling will receive morning sun, from 9am to 12 noon. The rear dwelling will receive afternoon sun from 1pm to 3pm. See Figures 24 to 29 below.

**ITEM 2 (continued)**

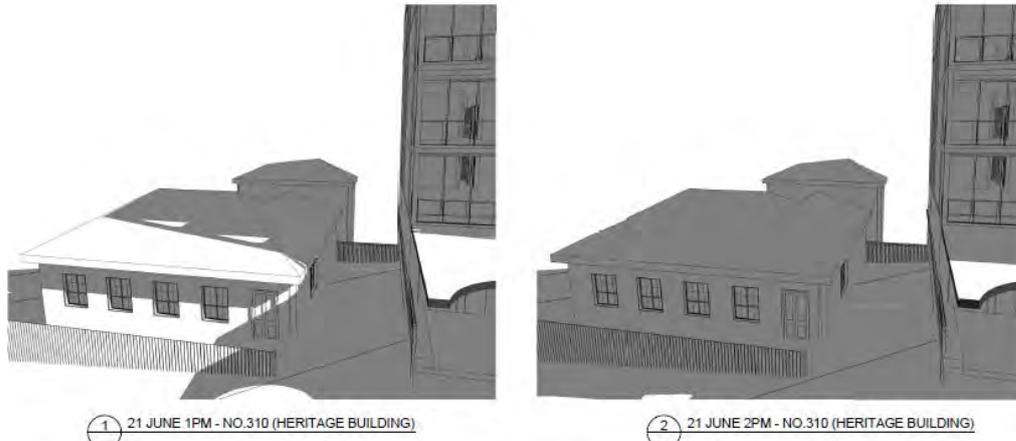


**Figure 24: Front dwelling at 310 Victoria Road, receiving morning solar access at 9am and 10am.**

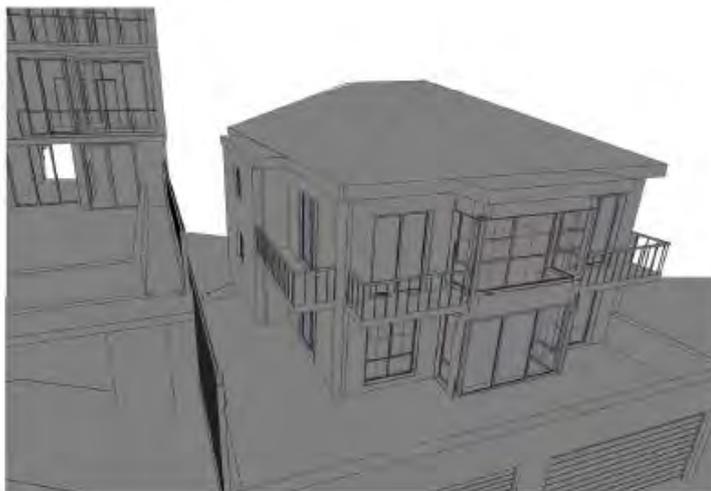


**Figure 25: Front dwelling at 310 Victoria Road, receiving morning solar access at 11am and 12 noon**

**ITEM 2 (continued)**



**Figure 26: Front dwelling at 310 Victoria Road, illustrating that the dwelling will be in shade by 2pm the dwelling, however the proposal has been able to demonstrate that 310 Victoria Road will receive the required solar access.**



1 21 JUNE 9AM - NO.310 (UNIT)

**Figure 27: Rear dwelling at 310 Victoria Road, will be in shade at 9am.**

**ITEM 2 (continued)**



② 21 JUNE 12PM - NO.310 (UNIT)



② 21 JUNE 2PM - NO.310 (UNIT)

**Figure 28: Dwelling at rear of 310 Victoria Road will be in shade at 12 noon however by 1pm will start to get some solar access.**



**Figure 29: Dwelling at rear of 310 Victoria Road will benefit from the afternoon sun.**

**ITEM 2 (continued)****7. Suitability of the site for the development**

The proposed development is considered to be a suitable development for the site, being permissible in the zone. As detailed earlier in this report, the development is consistent with the emerging character of the area and appropriately responds to the natural and built environmental assets and constraints of the site.

**8. The Public Interest**

The development is considered to be in the public interest as it is reasonably consistent with the relevant planning controls and will provide a public benefit in term of possible extension of Gerard Lane through to Osgathorpe Road. Where variations to the planning controls occur in terms of height, the proposed variation is not considered to have any potential impact to adjoining properties. The development complies with the objectives of the planning controls.

**9. Submissions**

In accordance with DCP 2014 Part 2.1 Notice of Development Applications, the proposal was advertised in the Northern District Times on 30 August 2017 and adjoining property owners were notified of the application. Submissions about the proposal closed on 20 September 2017.

During the notification period, 16 submissions were received. Figure 30 demonstrates the location of the properties who lodged submissions in relation to the site.

Amended plans were received and re-notified for a period of 22 March to 9 April 2018. The 2<sup>nd</sup> round of notification received a total of 13 submissions raising the same concerns as tabled in the 1<sup>st</sup> round of notification.

The offer to enter into a Voluntary Planning Agreement was also notified for a period of 1 May 2018 to 17 May 2017 and 4 submissions were received in that the VPA does not allay their concerns raised in their submissions.

**ITEM 2 (continued)**



**Figure 30: Location of properties where submissions received. Note: 3 submissions located outside this property map, located in Morrison Road and Wharf Road which are over 800m away.**

The 2<sup>nd</sup> round of notification (after the amended plans) raised the following concerns:

- *Height/out of character: The building height exceeds the 19m height control. The building must comply with the height as prescribed, and remove one floor of the building. To allow for an extra storey will mean leverage for the next developer to add another one, it will set a dangerous precedent for the next developer.*

*The development will be out of character with this stretch of Victoria Road and Gladesville. The height of existing structures on that particular road section are only 2-3 stories.*

Planner's comments:

RLEP 2014 applies a split height control across the site - height limit of 19m (Victoria Road frontage) and 12m (Gerard Lane frontage). The proposal is non compliant with the 19m height control fronting Victoria Road with an extra storey (2 apartments located) above the height control. The extra storey/built form is massed towards the Victoria Road frontage with the proposal compliant with the 12m height control applying to Gerard Lane which faces residential properties. The building mass has been located along the Victoria Road frontage, the commercial frontage of the site away from the adjacent low density area.

The design and scale of the development has been amended as recommended by the Urban Design Review Panel. It has been amended to include a 4m setback to

**ITEM 2 (continued)**

Victoria Road at ground level and Levels 1 to 4 with setback of between 2m to 4m. Level 5 has been setback 4m and the top most floor setback minimum 5m from Victoria Road. The upper level which breaches the control has also been significantly setback from the side boundaries.

The UDRP has confirmed that the revised proposal has improved significantly from earlier iterations. This is particularly evident in the adjustments made to the building form to set it back from the side boundary (adjacent to the heritage item), and the reduction of the extent of the upper-most floor to minimise offsite overshadowing. The additional building height was supported by the UDRP as: *from a design perspective because of the success of the building form, the establishment of the laneway connection, and importantly - because the additional shadowing impacts derived from the height non-compliance are negligible.* As illustrated in the shadow diagrams, the additional shadowing created by Level 6 and the associate lift overrun is minimal when compared with a height complaint scheme. Furthermore, Level 6 include a communal open space area which is accessible by all residents and this usable area does not add to the bulk or scale of the building as the balustrades/planters are minor protrusions. As such, the extra height/storey, whilst it is over the height control has been located away from adjoining residential properties and designed so that it will have minimal impact, therefore the objectives of the standard is achieved (see full discussion above under Clause 4.6 of RLEP which allows for variation to a development standard in certain situations).

With regard to setting a precedent, each application is assessed and determine on its own merit. In this particular instead, the site has certain constraints which require it to distribute the floor space elsewhere on site. The site is located adjacent to a local heritage item and the site is also required to provide a connection through to Osgathorpe Road. A greater setback is required adjacent to heritage item to provide a consistent building line and minimize impact to the heritage item. The applicant has provided both these requirements and the relocation of the floor space to Level 6 is considered suitable in this instance.

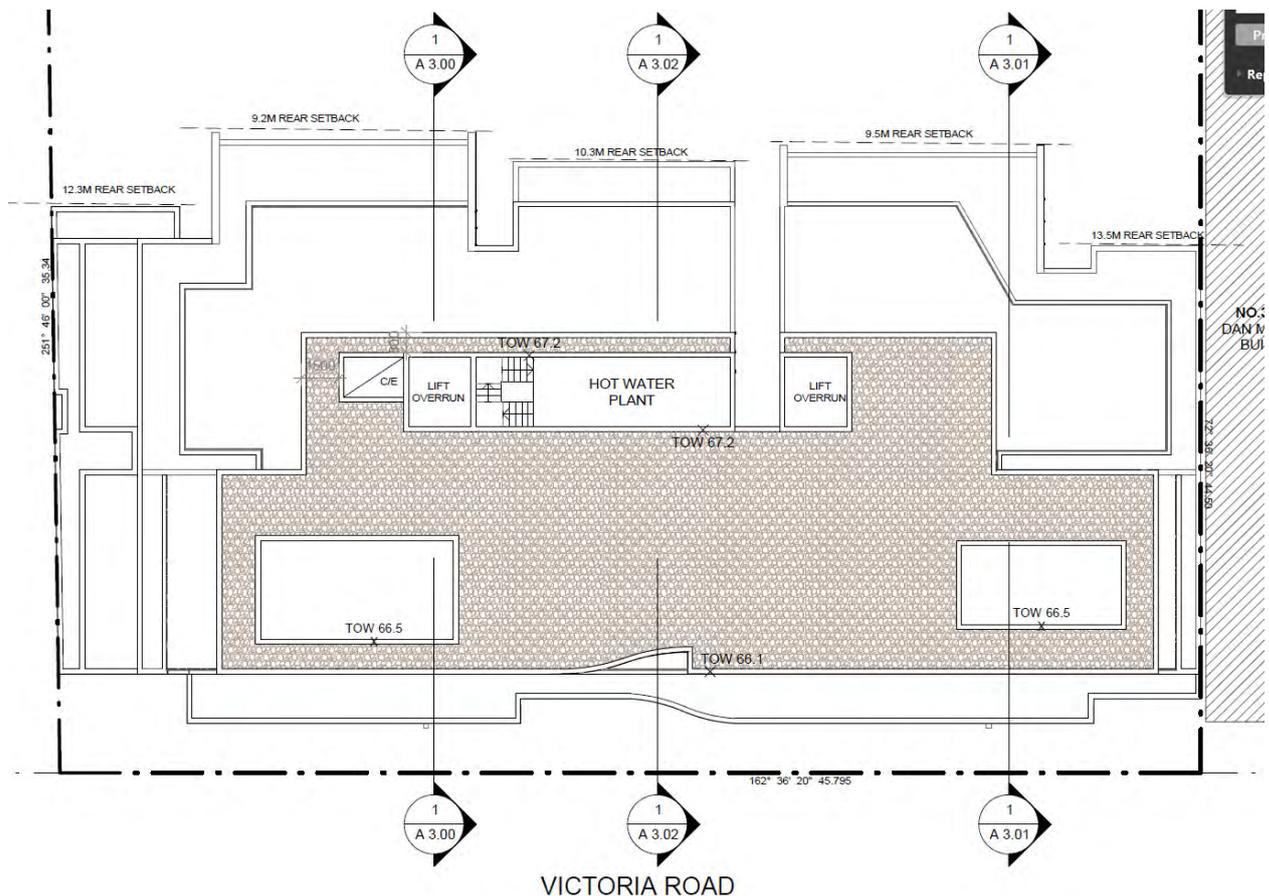
The character of the area and surrounding neighbourhood is currently in a transitional stage. Many sites within the Gladesville Town Centre are being redeveloped for mixed-use developments with the scale and density permissible under the Ryde Local Environmental Plan 2014. The proposed development is generally consistent with the desired future character of the area, and whilst it is acknowledged that the proposal is over the height control for the area, the additional storey has been indented in from the site boundaries and will not be greatly discernible when viewed from Victoria Road or from the rear of the site. The UDRP has advised that *the additional building height is supportable from a design perspective because of the success of the building form.*

- *Even on Level six noise and privacy issues would still apply to residents nearby and overshadowing may still be an issue.*

**ITEM 2 (continued)**

Planner's comments:

The rooftop communal open space area on Level 6 is setback between 12m to 21m from the rear boundary with deep planter boxes (1.2m to 2m wide) around the perimeter of the open space which will screen and separate the COS from the residents opposite at Gerard Lane.



**Figure 31: Roof Design**

A Landscape Plan has been submitted with the application and Council's Consultant Landscape Architect has reviewed the plans and has advised that "At the Level, a rooftop communal terraces has been provided consisting of a series of spaces arranged around the central lift and stair core with raised decking, seating, podium plants, moveable planters, BBA facilities, water features and overhead all weather cover.

The location, species selection and densities of planting at the ground floor level are generally considered to be appropriate. Species selected are suitable for the podium on structure design and will provide a reasonable level of amenity". Note: Planting of various height – 0.8m to 2m are proposed within the planter boxes around the perimeter of the COS which is considered satisfactory.

**ITEM 2 (continued)**

As discussed above, overshadowing from this development is considered acceptable. The shadow diagrams illustrate that the development will cast shadows on some properties in Gerard Street, the rear yards of properties in Evan Street, 8 Gerard Street and adjoining southern properties 310 and 306 Victoria Road. However the affected properties will be able to receive the required solar access as they will benefit from either the morning or afternoon sun. See shadow diagrams and full discussion above.

An Acoustic Report prepared by Acoustic Logic has been submitted with the application. The report looked at potential noise sources which could impact on the amenity of nearby land users. These potential noise sources are noise generated by mechanical plants (such as air condition and car park fans) and noise from the operation of the loading bay. **Condition 70** has been imposed requiring compliance with the recommendations contained in the report.

Noise from Level 6 was not a consideration given that the communal open space is setback 12m from the rear boundary with a separation of over 17m from the rear yard area of 8 Gerard Lane. Along the southern elevation, the communal open space is setback 5m to 7.8m from the side boundary with a 1.2m wide planter box for landscaping to screen and buffer the communal open space area from the adjoining residential property. In addition noise control conditions have been imposed. See **Conditions 189 & 190**.

- *Regarding the southern elevation of Levels 5 & 6, the extension of the balcony lengths has increased the overlooking of southern properties and not reduced it. I would object to the present proposal unless the south facing balcony walls are topped with a screen to a height of 180m that is designed to prevent downward vision and be of an opaque or fixed louvered screen or glass brick.*

Planner's comments:

The southern balconies on Levels 5 & 6 face the adjoining southern property – 310 Victoria Road. 310 Victoria Road consist of two detached buildings, a single storey dwelling facing Victoria Road and a separate rear three storey dwelling facing Gerard Lane with rear and side balconies.

The proposed building is part 6/part 7storey and whilst the balcony of Unit 501 on Level 5 will look down on the roofs of 310 Victoria Road, there is potential to look into the side and rear balconies of the rear dwelling at 310 Victoria Road. The front dwelling facing Victoria Road is separated by a side driveway and whilst there is a southern side window, due to the height, overlooking into this side window is not an issue.

To address the concern of overlooking into the balconies of the rear dwelling at 310 Victoria Road, **Condition 1(c)** has been imposed requiring a 1.6m high privacy screen being provided along the southern elevation of the balcony for Unit 501 on

**ITEM 2 (continued)**

Level 5. On Level 6 communal open space area is setback 5m off the southern boundary with planter box with planting of 1.5m high is proposed. This is sufficient to minimize any overlooking to 310 Victoria Road.

- *Use of Gerard Lane as the primary access. It is a single lane roadway that will be insufficient to meet the increased traffic use of the development (an additional 73 vehicles impact on existing residences and business is unacceptable). The extension to Osgathorpe Road is unplanned and would require access to private land. There is no reference as to when this will be completed.*

*The proposal suggests they would build a footpath. Given that the footpath would not extend to Gerard Street – not useful. Will they be removing the existing parking on this laneway (when parking is already at a minimum) to accommodate this development. In addition the proposal will add congestion on the roads.*

Planner's comments:

Currently the site's access is off Victoria Road. The proposed development will provide all vehicular access via Gerard Lane. The main function of a laneway is to provide access to buildings for vehicles and pedestrians, particularly for service reasons such as fire egress and garbage collection or access to carparks and loading docks. Therefore the proposal to relocate vehicular access from Victoria Road to Gerard Lane is consistent with this approach and as required by Roads and Maritime Services.

It should be noted that Council's Development Control Plan 2014 – Part 4.6 Gladesville Town Centre and Victoria Road Corridor requires existing laneways to be a 2 way carriageway, 6m wide and a footway along one side 1.5m wide. **Condition 62 (a)** has been imposed requiring this. The DCP intends to widen Gerard Lane when sites are redeveloped will allow for a 2 way carriageway to be eventually provided. A Traffic Report prepared by Varga Traffic Planning has provided the following comments:

*An indication of the existing traffic conditions on the road network in Gerard Lane is provided by peak period traffic surveys undertaken as part of this response. The traffic surveys were undertaken in Gerard Street where it intersects with Gerard Lane on Wednesday 25th October 2017. The results of the traffic surveys reveal that:*

- *two-way traffic flows in Gerard Lane, north of Gerard Street, during the morning peak period are typically in the order of 4 vehicles per hour (vph), comprising 2 trips IN and 2 trips OUT*
- *two-way traffic flows in Gerard Lane during the afternoon peak period are typically in the order of 16 vph, comprising 8 trips IN and 8 trips OUT.*

**ITEM 2 (continued)**

*As detailed in the traffic report submitted with the DA, the proposed development is expected to result in a modest increase in traffic flows in Gerard Lane of approximately 14 vph during the morning peak period and approximately 12 vph during the afternoon peak period.*

*The survey data also indicates that overnight kerbside parking in Gerard Lane is minimal, typically in the order of just 1 or 2 parked cars. During business hours however that number increases to 7 parked cars, suggesting that the laneway is used by local employees and/or commuters.*

*In this regard, there are approximately 6 kerbside parking spaces physically available along the western side of Gerard Lane, outside No.1 Gerard Street, plus a further 2 spaces located outside No.8 Gerard Lane. Kerbside parking is not permitted to the north of No.8 Gerard Lane, including along the site frontage.*

*Gerard Lane, north of Gerard Street, has a carriageway width of approximately 5.0m kerb-to-kerb, permitting two-way traffic flow given it currently terminates at the subject site.*

*As part of the development application it is proposed to widen Gerard Lane to a width of 5.5m between face of kerbs, with an additional 1.5m wide footpath to be provided along the eastern side of the laneway, within the site boundary. (Council's DCP requires 6m and this has been conditioned to comply. Council's City Work – Public Domain has reviewed the plans and is satisfied that this can be complied with).*

*In the short to medium term, it is considered that the proposed development, along with maintaining the kerbside parking in Gerard Lane, will not result in any unacceptable traffic implications in the laneway as passing opportunities are readily available. Given the existing and proposed low traffic volumes in the laneway, the likelihood of 2 vehicles travelling in opposite directions simultaneously is expected to be absolutely minimal.*

Council's Senior Traffic and Development Engineer has advised that:

*Traffic generation for the proposed development (i.e. 50 residential units and 165m<sup>2</sup> retail area) is expected to be around 12 to 14 vehicle trips per peak hour. The additional increase in traffic on Gerard Lane is equivalent to one additional vehicle every four to five minutes, which is expected to have a minor impact on Gerard Lane. In addition, the design of the car park and loading dock access for the proposed development provides opportunity to other vehicles to use the area for an informal turnaround facility. The loading dock is also designed to accommodate forward in and forward out manoeuvres for Council's 11m waste collection vehicle via Gerard Lane.*

**ITEM 2 (continued)**

It is not proposed to remove any on-street parking on Gerard Lane as part of this development. It is noted that on-street parking is permitted on western side of Gerard Lane, except on Tuesday 5AM-10AM to assist with waste collection. This effectively reduces the width of the travel lane to one lane width for two-way traffic flow. In the near future, Council will prepare a Laneway Parking Policy to review current parking controls at narrow laneways. Gerard Lane will be included in this review.

It is correct that there is no certainty as to when Gerard Lane will be extended through to Osgathorpe Road as this will be negotiated when the adjoining site, 328 Victoria Road (Dan Murphy site) is redeveloped. However the extension to allow for the possible connection is provided as part of this proposal, as such the opportunity to provide the laneway is not lost.

- *Only two retail spaces and they have been reduced in size. These acted as the only benefit to community and at least acted to preserve some element of business opportunity in Gladesville.*

Planner's comments:

The proposal provide for 165m<sup>2</sup> (2 separate tenancy of 83m<sup>2</sup> and 82m<sup>2</sup>) of retail/office space located along the Victoria Road frontage. The commercial/retail spaces are located across the front of the building and are sufficient in size to cater for different uses. The shop fronts will help to activate the street frontage and will provide business opportunity, in keeping with the objectives of the zone.

- *Overshadowing: My property will lose at least half a day of sunlight. (1 Gerard Street) The building shadow cast is significantly larger than the current property and would see an additional 3 properties in Gerard Street lost complete sunlight across their property at the start of the day and the shadow cast is substantially longer periods than the existing structure.*

Planner's comments:

The rear yard area of 1 Gerard Street will be in shade from 9am to approximately 12 noon midwinter and by 12 noon onwards will benefit from the midday and afternoon sun. Accordingly 1 Gerard Street will receive the required solar access. No additional overshadowing will occur to this property during the equinox.

The proposed variation to the height, as it is located at the front of the site, result in minimal additional overshadowing impacts than a height compliant development, as illustrated in the shadow diagrams above, Figures 20 to 22 on pages 34 to 36.

- *Lack of broader facilities and transport to service the overdevelopment of Gladesville and Ryde. There is an overdevelopment of the Gladesville area, services cannot keep up, ie bus services are often full and unable to stop in Gladesville. Oppose to the number of apartments developing in Gladesville, conservatively there are 1000 apartments proposed or being built. All these*

**ITEM 2 (continued)**

*sites are/were light commercial which provide employment opportunities.  
There is no additional infrastructure being built to cope with the increase.*

Planner's comments:

The provision of new infrastructure such as schools, public transport etc is under the State government jurisdiction and Council at the time of the making of the current planning controls (LEP 2014) wrote to the relevant departments for them to consider as part of their strategic plans funding for new schools, public transport etc.

In addition it should be noted that Victoria Road is a major strategic bus corridor and the Bus Priority Infrastructure Program aims to improve public transport along Victoria Road.

The proposal has included 165m<sup>2</sup> of retail floor space on the ground level fronting Victoria Road. These retail areas will provide employment opportunity and will activate the streetscape.

With regards to overdevelopment within the Gladesville area, the subject site is zoned B4 Mixed use and the proposed development is permissible with consent.

- *We are regularly inconvenienced, with our driveway (1 Gerard Street) dug up for pipes and access to our property impeded, workers trespassing onto our property (and using our water to hose down their surfaces) from development at 230 Victoria Road.*

Planner's comments:

With any major redevelopment work, some level of inconvenience may result once the construction commences. However, to address the issue and to minimise traffic impact, a Construction Traffic Management Plan will be required to be submitted. The CTMP will help ensure safe and efficient movement of vehicles and pedestrians onto, off and around the site, minimising disruptions / impacts and maintain a safe environment for vehicular and pedestrian traffic external to the site.

In addition, the construction period is temporary and site management conditions have been imposed to minimise disruption to adjoining sites and the surrounding area. A requirement has been included in the CTMP that all rear access to properties adjoining the laneway and along Gerard Street is to be retained at all times during construction. See **Condition 58 (viii)**. With regards to workers trespassing private properties this is a police matter.

- *Inconsistencies in the documents – one section states “seven storey retail residential building block. It will contains a total of 50 units across 7 levels and 2 basement car parking levels”, whilst on page 53 refers to a “proposed eight storey residential building with two retail tenancies on ground floor and three levels of parking.” This is a critical inconsistency.*

**ITEM 2 (continued)**Planner's comments:

The proposed development is for a part 6/part 7 storey mixed use building containing two commercial tenancies on the ground floor and 50 residential apartments with two and a half level of basement carparking. The development is maximum 7 storeys.

- *Difficult to see where visitors to the retail space would park to visit those shops. The proposal only offers two retail spaces. Am also concern about the retail space as there is already large number of empty retail spaces, lack of parking spaces.*

Planner's comments:

Based on a retail floor area of 165m<sup>2</sup>, it is required to be provide 7 retail spaces, the proposal has provided 8 spaces allocated to retail car parking. This is considered satisfactory. These spaces are located on the lower ground floor and access to the retail spaces will be via the lifts.

**10. Referrals**Internal Referrals:

**Senior Development Engineer: 31 August 2018:** There are no objections to the proposed development with respect to the engineering components, subject to conditions being applied to any development consent being issued for the proposed development. See **Conditions 69, 83 to 90, 123, 130 to 132, 138 to 143.**

**Heritage Officer: 23 March 2018:** The application has been referred for heritage consideration as the subject site immediately adjoins 'Hamilton' (310 Victoria Road, Gladesville), which is an item of heritage significance, listed on Schedule 5 of the Ryde LEP 2014.

*This proposal has previously been comprehensively considered and previous comments provided by referral dated 20<sup>th</sup> September 2017. Additional heritage advice has been provided separately on multiple occasions to the Assessment Officer and Applicant with respect to the front alignment and eastern façade treatment.*

*Amended plans have now been received which detail changes to the front façade by increasing the setback to the northeastern front corner to sit in line with the front alignment of the adjoining heritage item. This setback is now carried through vertically for the entirety of the building and is considered satisfactory.*

*The eastern façade has also been revised to incorporate a variety of changes, including increasing the setback to the upper two floors and incorporation of vertically arranged glass block panels and a centrally positioned vertical indentation of 300mm which in turn incorporates highlight windows to levels 1, 2, 3 and 4.*

**ITEM 2 (continued)**

*These features are in deliberate response to reducing the planar form of the eastern elevation and to 'break up' the visual bulk of the eastern elevation to provide a more complementary design response and relationship to the adjoining heritage item.*

*Overall, the proposal is now considered satisfactory and can be supported on heritage grounds, subject to conditions. See **Conditions 91, 117 & 118.***

**Consultant Landscape Architect: 6 June 2018:** The proposal was referred to Council's Consultant Landscape Architect who has advised:

*Tree removal proposed on the subject site has been supported given it relates to eight (8) trees observed as 'dead' or 'dying' and unsuitable for retention due to safety concerns. These trees should be removed as soon as practical and regardless of whether the proposed application is approved. It should be noted that the rapid decline and patterns of tree decay appear to be consistent with a case of poisoning.*

*The location, species selection and densities of planting at the ground floor level are generally considered to be appropriate. Species selected are suitable for the podium on structure design and will provide a reasonable level of amenity.*

*With regards to the level of communal open space, it is noted that the proposal fails to provide the recommended 25% site area of approximately 425m<sup>2</sup> providing only 120m<sup>2</sup>. Despite this, it is considered that the communal open space allocated at Level 6 provides a high level of amenity that achieves the objectives and outcomes listed within the ADG and is therefore considered acceptable under the circumstances. It is also noted that a number of dwellings are afforded oversized terrace areas providing additional opportunity for outdoor recreation.*

*The proposal also fails to provide the minimum level of deep soil required being 7% or approximately 120m<sup>2</sup>. Based on the plans submitted, negligible deep soil is provided which has therefore limited any planting of significant trees or screening shrubs on site. Whilst this may have been achievable, it is noted that a large portion of the site required dedication to new public domain works limiting opportunity for the inclusion of large tracts of deep soil on site in accordance with the requirements of the ADG.*

*One (1) condition is recommended in relation to the provision of all-weather cover for the outdoor cooking facilities at the rooftop terrace. See **Condition 1(b).***

**City Works: 5 April 2018:**

**Drainage:** The stormwater works along Gerard Lane are considered acceptable and can be approved subject to conditions. See **Conditions 69, 86, 121, 123, 179 & 180.**

**ITEM 2 (continued)**

**Traffic:** No objections subject to conditions. See **Conditions 35, 36, 37, 58, 59, 102, 127, 165 & 166.**

**Public Domain:** From a Public Domain perspective there are no objections to approval of this application subject to conditions. See **Conditions 60 to 62, 64 to 66, 106, 107, 124, 133, 134, 148 to 163 & 174.**

**Waste:** From Waste perspective there are no objections to approval of this application subject to conditions. See **Conditions 41, 42, 94 to 96, 175 to 177.**

External Referrals:

**Roads and Maritime Services: 11 April 2018:** Roads and Maritime has reviewed the amended plans and notes that the proposed amendments are within the proposed building and there is no vehicular access proposed on Victoria Road.

RMS raised no objections to the proposed amendments subject to conditions. See **Conditions 52, 58, 63, 99 & 100.**

**NSW Police: 22 May 2018:** No objections subject to conditions. See **Conditions 167 to 173.**

**Consultant Geotechnical Engineer: 21 September 2018:** The proposal was referred to Council's Consultant Geotechnical Engineer due to the extent of excavation proposed, who has raised no objections to the proposal subject to condition requiring that all design and construction work be conducted in full compliance with all of the recommendations contained in the Morrow Geotechnics Report dated 20 June 2018. See **Condition 72.**

**Water NSW:** The proposal was not referred to Water NSW as the proponent has not indicated on the application form that the development was an integrated development under S90 of the Water Management Act. The proponent has chosen to lodge a separate application for ground water works and accordingly a deferred commencement condition has been imposed requiring approval from Water NSW before the consent is activated.

**11. Conclusion**

After consideration of the development against the relevant section of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest. The proposal provides an opportunity to redevelop the site with a mixed use building that is considered responsive to the strategic intentions of the Gladesville Town Centre and Council's RLEP2014 and associated planning controls that have been adopted for the locality. The proposed development was amended as per the recommendations of the UDRP and with the impositions of the attached conditions

**ITEM 2 (continued)**

the development will provide a high degree of amenity for future occupants in terms of access to public transport, commercial uses and shops.

The site is zoned B4 Mixed Use under Ryde LEP 2014 and the development results in one variation to the development standards contained in Ryde LEP 2014 in respect to the overall height of the building. The height exceedance is not considered to have an unreasonable impact to adjoining properties in terms of overshadowing or overlooking. The portion of the building that is over the height is located away from residential component, with the top storey stepped in to minimise any visual impact when viewed from Victoria Road or from the heritage site. The development also proposed to extend the rear laneway to its northern boundary, providing an opportunity to eventually connect through to Osgathorpe Street, as envisaged by Council's DCP. Accordingly, given the circumstance of the case, the applicant has provided a Clause 4.6 variation which is supported.

The development generally complies with the relevant planning controls except for the building depth, building separation and setbacks. Notwithstanding the proposed variations, the proposal provides for acceptable amenity. The variations are not considered to adversely impact adjoining properties or the streetscape character of the area. The UDRP have raised no concerns in this regard, the proposed design is considered reasonable in the circumstances.

The issues raised in the submissions have been considered and have been adequately addressed throughout the assessment process. Refusal of the application is not warranted based on the reasons contained in the submissions.

**12. Reasons for the Decision**

In light of the above, the development application is recommended for approval subject to conditions for the following reasons:

- 1) The proposed development is consistent with the objectives of the B4 Mixed Use zone under RLEP 2014. The development is also consistent with the development standards in RLEP 2014 with the exception of height.
- 2) The variation to the height control requested under Clause 4.6 of the RLEP is justified for the following reasons:
  - The non-compliance in height does not result in an exceedance in the floor space ratio.
  - The building elements associated with the variation to the height of buildings control (apartments and lift overrun) are located towards Victoria Road and indented in from the side boundaries, as such there are no additional visual impacts or privacy impacts associated with the variation.

**ITEM 2 (continued)**

- The additional shadowing created by the variation is minimal when compared to the shadowing resulting from a height complaint scheme for the site and will not adversely impact on any adjoining properties.
  - The development is consistent with the desired future character of the locality.
- 3) The proposal results in some breaches to the Apartment Design Guide in respect to building depth, setback, apartment width, circulation corridor and communal open space. A condition of consent has been imposed to comply with the building separation. This condition will ensure that the development is not likely to adversely impact the residential amenity of adjoining properties. Despite the non-compliances, in building depth, setback, apartment widths, circulation corridor and communal open space the development will still provide adequate amenity to future residents whilst maintaining amenity to the adjoining residential properties.

**12. Recommendation**

Pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, the following is recommended:

- a. That the City of Ryde Council Local Planning Panel grant Deferred Commencement Consent to development application LDA2017/0312 for the construction of a mixed use development at 312 Victoria Road subject to the conditions of consent in Attachment 1 of this report.
- b. That the persons who made submissions be advised of this decision.
- c. That RMS be advised of the decision.

**ATTACHMENTS**

- 1 Draft Conditions of Consent
- 2 Clause 4.6 Variation - Height
- 3 A3 Plans - subject to Copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Sandra Mccarry**  
**Acting Senior Coordinator - Major Development**

Report Approved By:

**Sandra Bailey**  
**Manager - Development Assessment**

**Liz Coad**  
**Director - City Planning and Environment**

**ITEM 2 (continued)**

**ATTACHMENT 1**

**Draft Condition LDA 2017/312 – 312 Victoria Road, Gladesville.**

**DEFERRED COMMENCEMENT**

**Part 1.** The following are the Deferred Commencement condition(s) imposed pursuant to Section 4.16(3) of the Environmental Planning & Assessment Act 1979.

(A) Pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979, the applicant must satisfy the following deferred commencement conditions of consent prior to this development consent becoming operative.

1. **Voluntary Planning Agreement.** The applicant is to enter into a Voluntary Planning Agreement (as defined pursuant to Section 7.4 of the Environmental Planning and Assessment Act 1979) with Council for the delivery of the public benefits as identified within the letter of offer from Buildex Gladesville Pty Ltd dated 1 March 2018 and in accordance with the items accepted by Council at its ordinary meeting 25 September 2018 in respect of the offer.

2. **Water NSW.** Under Section 90 of the Water Management Act 2000 the applicant must obtain approval for a water supply work from Water NSW for taking groundwater. The applicant must comply with the requirements issued by Water NSW and any other licensing requirements under the Water Management Act 2000.

(B) Written evidence that the matter identified in deferred commencement conditions (A) 1 & 2 above have been satisfied, must be submitted to Council within 24 months from the date of this development consent, failing which, this development consent will lapse pursuant to Section 95 (6) of the Environmental Planning and Assessment Act 1979.

(C) This Development Consent will not operate until such time that the Council notifies the Applicant in writing that that deferred commencement consent conditions (A) 1 & 2 above have been satisfied; and

(D) Upon Council giving written notification to the Applicant that deferred commencement consent conditions (A) 1 & 2 above have been satisfied, the development consent will become operative from the date of that written notification, subject to the following conditions of consent:

**Part 2.** The conditions in the following section of this consent shall apply upon satisfactory compliance with the above requirements and receipts of appropriate written confirmation from Council.

**ITEM 2 (continued)**  
**GENERAL**

**ATTACHMENT 1**

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

<b>Document Description</b>	<b>Date</b>	<b>Plan No/Reference</b>
Demolition Plan	02/08/2018	A0.02 Issue F
Basement 1	02/08/2018	A1.01 Issue F
Basement 2	02/08/2018	A1.00 Issue F
Lower Ground	02/08/2018	A1.02 Issue F
Ground	02/08/2018	A1.03 Issue F
Level 1	02/08/2018	A1.04 Issue F
Level 2	02/08/2018	A1.05 Issue F
Level 3	02/08/2018	A1.06 Issue F
Level 4	02/08/2018	A1.07 Issue F
Level 5	02/08/2018	A1.08 Issue F
Level 6	02/08/2018	A1.09 Issue F
Roof Plan	02/08/2018	A1.10 Issue F
Level 6 Balustrade Detail	02/08/2018	A1.11 Issue F
Elevation - North	02/08/2018	A2.00 Issue F
Elevation – East (Victoria Rd)	02/08/2018	A2.01 Issue F
Elevation - South	02/08/2018	A2.02 Issue F
Elevation – West (Gerard Lane)	02/08/2018	A2.03 Issue F
Green Wall Detail	02/08/2018	A2.04 Issue F
Section – East- West (south)	02/08/2018	A3.00 Issue F
Section – East- West (north)	02/08/2018	A3.01 Issue F
Section – East- West (middle)	02/08/2018	A3.02 Issue F
Section – Garbage Room	02/08/2018	A3.03 Issue F
Perspective – Finishes Legend – Victoria Road	02/08/2018	A4.00 Issue F
Perspective – Finishes Legend – Victoria Road South	02/08/2018	A4.01 Issue F
Perspective – Finishes Legend – Gerard Lane	02/08/2018	A4.02 Issue F
Landscaping Plan 1 – Lower ground & Ground	13/06/2018	DA-L101
Landscaping Plan 2 – Level 5 & 6	13/06/2018	DA-L201

Prior to the issue of a **Construction Certificate**, the following amendments shall be made (as marked in red on the approved plans):

**ITEM 2 (continued)**

**ATTACHMENT 1**

a. **Increase Setback.** To ensure adequate separation between the rear balcony of UG01 and the dwelling at 8 Gerard Lane, the rear balcony of UG01 is to be reduced in length by 3m so as the separation between 8 Gerard Lane and the balcony is 15m as required under the ADG.

b. **Outdoor cooking.** To ensure useability and longevity of the outdoor barbeques and cooking facilities located on Level 6 communal open space, the facilities are to be relocated to be under the roof cover. Details of compliance are to be submitted to Council for approval prior to the release of the Construction Certificate.

c. **Privacy Screen.** To prevent overlooking into the adjoining rear dwelling house at 310 Victoria Road, a 1.6m high privacy screen is to be provided along the southern elevation of the balcony for Unit 501 on Level 5. The privacy screen is to be designed to prevent downward vision and is to be of opaque or fixed louvered screen.

The Development must be carried out in accordance with the amended plans approved under this condition.

2. **Voluntary Planning Agreement.** Pursuant to Section 4.17(1)(a) of the Environmental Planning and Assessment Act 1979, the Voluntary Planning Agreement between City of Ryde and Buildex Gladesville Pty Ltd and that relates to the development application the subject of this consent required under deferred commencement condition 1, must be lodged for registration on the title of the property in accordance with the terms of the Voluntary Planning Agreement.

3. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.

4. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 816262M\_03, dated 18 June 2018/

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

6. **Water NSW.** Water NSW should be notified if any plans or documents are amended and these amendments significantly change the extent of excavation/impact on the ground water.

**ITEM 2 (continued)**

**ATTACHMENT 1**

Once notified, Water NSW will ascertain if the amended plans require review or variation/s to the GTA.

7. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) Protect and support the adjoining premises from possible damage from the excavation, and
- (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

8. **Signage – not approved unless shown on plans.** This consent does not authorise the erection of any signs or advertising structures not indicated on the approved plans. Separate approval must be obtained from Council for any additional signs, unless such signage is "exempt development".

9. **Balconies:**

(a) **Clothes drying.** No clothes drying on balconies in the public view are permitted. Any future Strata Management Plan is to include the requirement that clothes drying on balconies visible from any public domain is not permitted.

10. **Security Grilles.** This consent does not authorise the erection of any security grilles or barriers on the shopfront. Separate approval must be obtained for any such works.

11. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.

12. **Hoardings.**

(a) A hoarding or fence must be erected between the work site and any adjoining public place.

(b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

13. **Illumination of public place.** Any public place affected by works must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

**ITEM 2 (continued)**

**ATTACHMENT 1**

14. **Development to be within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Gates must be installed so they do not open onto any footpath.

15. **Public space.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.

16. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 1985 and City of Ryde, Development Control Plan 2006: - Part 8.1; Construction Activities.

17. **Design and Construction Standards.** All engineering works shall be carried out in accordance with the requirements as outlined within Council's DCP 2014 Part 8.5 *Public Civil Works* and relevant Development Control Plans except as amended by the conditions herein.

18. **Service Alterations.** All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the applicant's expense.

19. **Construction Staging.** For any staging of the public domain works, the applicant shall provide a detailed construction management and staging plan.

20. **Public areas and restoration works.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP 2014 Part 8.5 *Public Civil Works*, to the satisfaction of Council.

21. **Roads and Maritime Services (RMS).** All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site before stopping. A construction zone will not be permitted on Victoria Road.

22. **Road Occupancy Licence.** A Road Occupancy Licence should be obtained from Transport Management Centre for any works that may impact on traffic flows on Victoria Road during construction activities.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**23. Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's 2014 DCP Part 8.5 (Public Domain Works), except otherwise as amended by conditions of this consent.

**24. Restoration.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities will be carried out by Council following submission of a permit application and payment of appropriate fees. Repairs of damage to any public stormwater drainage facility will be carried out by Council following receipt of payment. Restoration of any disused gutter crossings will be carried out by Council following receipt of the relevant payment.

**25. Road Opening Permit.** The applicant shall apply for a road-opening permit where a new pipeline is proposed to be constructed within or across the footpath. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) required within the road reserve. No works shall be carried out on the footpath without this permit being paid and a copy kept on the site.

**26. Proposed food premises.** Separate development application/s must be submitted to Council to fitout and use any proposed food premises.

**27. Construction and fit-out of food premise.** Any proposed food premises (other than retail meat premises) must be constructed and fitted-out in accordance with the requirements of:

- (a) Food Safety Standard 3.2.3: *Food Premises and Equipment*; and
- (b) Australian Standard AS 4674-2004: *Design, construction and fit-out of food premises*.
- (c) The walls of all proposed food premises must be constructed of brick, concrete blocks, preformed panels filled with suitable material or other solid materials.
- (d) Provision for installation of kitchen exhaust systems - adequate provision must be made for the installation of kitchen exhaust systems to proposed food premises.

**28. Carpark exhaust vent.** The carpark exhaust vent must be located at least 3 metres above ground level or any pedestrian thoroughfare and:

- (a) at least 6 metres from any fresh air intake vent or natural ventilation opening; and

**ITEM 2 (continued)**

**ATTACHMENT 1**

(b) at least 6 metres or, where the dimensions of the allotment make this impossible, the greatest possible distance from any neighbouring property boundary.

29. **Kitchen exhaust vent.** A kitchen exhaust vent must be located above roof level:

- (a) at least 6 metres from any fresh air intake vent or natural ventilation opening;
- (b) at least 6 metres or, where the dimensions of the allotment make this impossible, the greatest possible distance from any neighbouring property boundary; and
- (c) at least 8 metres from any cooling tower.

30. **Fresh air intake vents** - All fresh air intake vents must be located in a position that is free from contamination and at least 6 metres from any exhaust air discharge vent or cooling tower discharge. All exhaust air discharge vents must be designed and located so that no nuisance or danger to health will be created.

31. **Plumbing and drainage work** - All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation and the NSW Department of Fair Trading.

32. **Certification.** A Tree Protection Schedule, as indicated below, which provides a logical sequence of hold points for the various development stages including pre construction, construction and post construction and a checklist of various hold points that are to be signed and dated by the Project Arborist. This is to be completed progressively and included as part of the final certification. A copy of the final certification is to be made available to the City of Ryde Council prior to the issue of any Occupation Certificate.

1.	Indicate clearly (with spray paint on trunks) trees approved for removal only	Principal Contractor	Project Arborist	Prior to demolition and site establishment
2.	Establishment of tree protection fencing	Principal Contractor	Project Arborist	Prior to demolition and site establishment
3.	Supervise all excavation works proposed within the TPZ	Principal Contractor	Project Arborist	As required prior to the works proceeding adjacent to the tree
4.	Inspection of trees by Project Arborist	Principal Contractor	Project Arborist	Bi-monthly during construction period

**ITEM 2 (continued)**

**ATTACHMENT 1**

5.	Final inspection of trees by project Arborist	Principal Contractor	Project Arborist	Prior to issue of Occupation Certificate
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**DEMOLITION CONDITIONS**

The following conditions are imposed to ensure compliance with relevant legislation and Australian Standards, and to ensure that the amenity of the neighbourhood is protected.

A Construction Certificate is not required for Demolition.

**33. Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:

- (a) Council must be notified of the following particulars:
- (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
  - (ii) The date the work is due to commence and the expected completion date

(b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.

**34. Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).

**35. Demolition Traffic Management Plan.** As a result of the site constraints, limited vehicle access and parking, a Demolition Traffic Management Plan (DTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by Council prior to commencing any demolition work.

The DTMP must:-

- i. Make provision for all construction materials to be stored on site, at all times.
- ii. The DTMP is to be adhered to at all times during the project.
- iii. Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- iv. Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site is not permitted unless approved by City Works & Infrastructure Directorate

**ITEM 2 (continued)**

**ATTACHMENT 1**

- v. Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- vi. Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- vii. Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- viii. All rear access to properties adjoining the laneway and along Gerard Street to be retained at all times during construction.
- ix. Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the DTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- x. Specify spoil management process and facilities to be used on site.
- xi. Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- xii. The DTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”, Council’s DCP 2014 Part 8.1 (Construction Activities) and Council’s DTMP checklist. A copy of Council’s DTMP checklist shall be obtained from Council’s Traffic, Transport and Development Department prior to submission of DTMP.
- xiii. All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Demolition Traffic Management Plan is submitted.

NOTE: This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The DTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

**36. Implementation of Demolition Traffic Management Plan.** All works and demolition activities are to be undertaken in accordance with the approved Demolition Traffic Management Plan (DTMP). All controls in the DTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the DTMP be impacted by surrounding major development not encompassed in the approved DTMP, the DTMP

**ITEM 2 (continued)**

**ATTACHMENT 1**

measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved DTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

**37. Excavation**

(a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer. Also See Condition 119.

(b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with Safework NSW in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.

**38. Asbestos.** Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by Safework NSW.

**39. Asbestos – disposal.** All asbestos wastes must be disposed of at a landfill facility licensed by the New South Wales Environmental Protection Authority to receive that waste. Copies of the disposal dockets must be retained by the person performing the work for at least 3 years and be submitted to Council on request.

**40. Waste management plan.** Demolition material must be managed in accordance with the approved waste management plan.

**41. Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

**42. Tip Dockets.** Tip Dockets identifying the type and quantity of waste disposed/recycled during demolition and construction are to be kept in accordance with the Site Waste Minimisation & Management Plan for spot inspections.

**43. Discovery of Additional Information** - Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.

**ITEM 2 (continued)**

**ATTACHMENT 1**

44. **Noise control measures** - All noise and vibration control measures nominated in the acoustical consultant's report and any related project documentation must be implemented.

**PRIOR TO CONSTRUCTION CERTIFICATE**

A Construction Certificate must be obtained from a Principal Certifier to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued.

Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifier is responsible for determining compliance with the conditions in this Section of the consent.

Details of compliance with the conditions, including plans, supporting documents or other written evidence must be submitted to the Principal Certifier.

45. **Section 7.11.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council as follows:

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$139,424.12
Open Space & Recreation Facilities	\$340,384.00
Civic & Urban Improvements	\$117,611.44
Roads & Traffic Management facilities	\$16,310.60
Cycleways	\$10,021.10
Stormwater Management Facilities	\$32,070.68
Plan Administration	\$2,702.08
<b>The total contribution is</b>	<b>\$658,524.02</b>

These are contributions under the provisions of Section 7.11 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 Interim Update (2014), effective from 10 December 2014.

The above amounts are current at the date of this consent, and are subject to **quarterly** adjustment for inflation on the basis of the contribution rates that are applicable at time of payment. Such adjustment for inflation is by reference to the Consumer Price Index published by the Australian Bureau of Statistics

**ITEM 2 (continued)**

**ATTACHMENT 1**

(Catalogue No 5206.0) – and may result in contribution amounts that differ from those shown above.

The contribution must be paid **prior to the issue of any Construction Certificate**. Payment may be by EFTPOS (debit card only), CASH or a BANK CHEQUE made payable to the **City of Ryde**. Personal or company cheques will not be accepted.

A copy of the Section 7.11 Development Contributions Plan may be inspected at the Ryde Customer Service Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

46. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifier prior to the issue of the **Construction Certificate**.

47. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.

48. **Security deposit.** The Council must be provided with security for the purposes of section 4.17(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation )

49. **Fees.** The following fees must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**:

- Infrastructure Restoration and Administration Fee
- Enforcement Levy

50. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifier prior to the issuing of the **Construction Certificate**.

51. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected

**ITEM 2 (continued)**

**ATTACHMENT 1**

by any part of your development. Please go to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin) to apply.

**52. Roads and Maritime Services.** The redundant driveway on Victoria Road shall be replaced with kerb and gutter to match existing. Details of these requirements should be obtained from Roads and Maritime Services, Manager Developer Works, Statewide Delivery, Parramatta (telephone 9598 7798).

Detailed design plans of the proposed kerb and gutter are to be submitted to Roads and Maritime for approval prior to the issue of a Construction Certificate and commencement of any road works.

A plan checking fee (amount to be advised) and lodgement of a performance bond may be required from the applicant prior to the release of the approved road design plans by Roads and Maritime.

**53. Remedial Action Plan** - The proponent must submit a Remedial Action Plan (RAP) which shall be prepared by an appropriately qualified consultant in accordance with EPA Guidelines and shall document all the proposed remedial works to be undertaken at the site and also contain an environmental management plan and occupational health and safety plan for the remedial works. The report should also set out the remediation options available for the site and whether the work is considered to be category 1 or category 2 remediation work. The report must comply with the Guidelines for Consultants Reporting on Contaminated Sites (EPA, 1997) and demonstrate that the site can be made suitable for the proposed use.

**54. Remediation of land** - The land must be remediated to the extent necessary for the proposed use and a copy of the site validation report must be submitted to Council for consideration. The site validation report must comply with the *Guidelines for Consultants Reporting on Contaminated Sites* (EPA, 1997) and demonstrate that the site is suitable for the proposed use.

**No Construction Certificate is to be issued for any building work on the land until Council has confirmed in writing that it is satisfied that the land is suitable for the proposed use, without the need for further remediation.**

**55. Notice of remediation work** - Before commencing remediation work written notice must be submitted to Council in accordance with clause 16 of *State Environmental Planning Policy No. 55 - Remediation of Land*.

**56. Remediation work** - All remediation work must be carried out in accordance with the requirements of:

(a) *State Environmental Planning Policy No. 55 - Remediation of Land*;

**ITEM 2 (continued)**

**ATTACHMENT 1**

(b) any relevant guidelines published by the NSW Environment Protection Authority; and

(c) any council policy or development control plan relating to the remediation of land.

**57. Installation of grease trap and Grease trap room details** A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building or in a dedicated grease trap room and be readily accessible for servicing. Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.

Details of any proposed grease trap room must be submitted for approval with the application for the Construction Certificate.

**58. Construction Traffic Management Plan.** A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Roads and Maritime and Council for approval prior to the issue of a Construction Certificate.

The Construction Traffic Management Plan (CTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by Council prior to issue of any Construction Certificate.

The CTMP must:-

- i. Make provision for all construction materials to be stored on site, at all times.
- ii. Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- iii. Make provision for parking onsite once basement level is constructed. All Staff and Contractors are to use the basement parking once available.
- iv. Provide for the movement of trucks to and from the site, and deliveries to the site. Temporary truck standing/ queuing locations in a public roadway/ domain in the vicinity of the site are not permitted unless approved by Council's Public Works.
- v. Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- vi. Specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- vii. Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps,

**ITEM 2 (continued)**

**ATTACHMENT 1**

structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.

viii. All rear access to properties adjoining the laneway and along Gerard Street to be retained at all times during construction.

ix. Take into consideration the combined construction activities of other development in the surrounding area. To this end, the consultant preparing the CTMP must engage and consult with developers undertaking major development works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities, such as (but not limited to) concrete pours, crane lifts and dump truck routes. These communications must be documented and submitted to Council prior to work commencing on site.

x. Specify spoil management process and facilities to be used on site.

xi. Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.

xii. The CTMP shall be prepared in accordance with relevant sections of Australian Standard 1742 – “Manual of Uniform Traffic Control Devices”, RMS’ Manual – “Traffic Control at Work Sites”, Council’s DCP 2014 Part 8.1 (Construction Activities) and Council’s CTMP checklist. A copy of Council’s CTMP checklist shall be obtained from Council’s Traffic, Transport and Development Department prior to submission of CTMP.

xiii. All fees and charges associated with the review of this plan is to be in accordance with Council’s Schedule of Fees and Charges and are to be paid at the time that the Construction Traffic Management Plan is submitted.

**Note:** This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems. The CTMP is intended to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site.

**59. Waste and Service Vehicle Access.** Access to the on-site loading bay area including ramp grades, transitions and height clearance shall be designed for safe access of 10.5m Council’s waste vehicle, as a minimum requirement. The height clearance required is 4.0m, measured from the floor level to any overhead structures such as pipes. Swept path diagrams must include forward in and forward out access on Gerard lane from surrounding streets and details of the road including, kerb line, line marking, signs, traffic devices, power poles, other structures and neighbouring driveways. Plans showing the ramp grades, transitions and height clearance and swept path diagrams of 10.5m Council’s waste vehicle shall be submitted to and approved by Council’s Traffic Engineer prior to the issue of the **Construction Certificate**.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**60. Ground Anchors.** The installation of permanent ground anchors into public roadway is not permitted. The installation of temporary ground anchors may be considered subject to an application to Council's City Works and Infrastructure Directorate, and approval obtained as per the provisions of Section 138 of the Roads Act, 1993. The application for consent must include detailed structural plans prepared by a Chartered Structural Engineer (registered on the NER of Engineers Australia), clearly nominating the number of proposed anchors, minimum depth below existing ground level at the boundary alignment and the angle of installation. The approval will be subject to:

- a. Advice being provided to the relevant Public Utility Authorities of the proposed anchoring.
- b. the payment of all fees in accordance with Council's Schedule of Fees & Charges at the time of the application, and
- c. the provision of a copy of the Public Liability insurance cover of not less than \$20million with Council's interest noted on the policy. The policy shall remain valid until the de-commissioning of the ground anchors.

**61. Public domain improvements.** The public domain is to be upgraded in both Victoria Road and Gerard Lane frontages of the development site in accordance with the City of Ryde Public Domain Technical Manual Chapter 2 – Gladesville. The work is to include paving, multifunction light poles, street furniture and plantings, and must be completed to Council's satisfaction at no cost to Council, prior to the issue of any Occupation Certificate.

A public domain plan for the following works shall be submitted to, and approved by Council's City Works & Infrastructure, prior to the issue of the **Construction Certificate**.

(a) Gerard Lane extension and Footpath paving as specified in the condition of consent for public infrastructure works.

(b) Street trees to be provided in accordance with the North Gladesville Tree Master Plan. The designated species are "Platanus acerifolia" (London Plane tree) for Victoria Road, and "Future street & open space tree planting" for Gerard Lane frontage.

Note: In designing the street tree layout, the consultant shall check and ensure that all new street trees are positioned such that there are no conflicts with the proposed street lights, utilities and driveway accesses. The proposed street lights will have priority over the street trees. All costs associated with the removal of existing street trees, where required, will be borne by the Developer.

(c) All telecommunication and utility services are to be placed underground along the Victoria Road and Gerard Lane frontages. The extent of works

**ITEM 2 (continued)**

**ATTACHMENT 1**

required in order to achieve this outcome may involve works beyond the frontages of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of work.

(d) New street lighting using LED luminaires is to be designed and installed to Australian Standard AS1158:2010 *Lighting for Roads and Public Spaces*, with vehicular luminance category V5 and pedestrian luminance category P3 along Gerard Lane. The street lighting will remain on the Ausgrid street lighting network.

(e) New street lighting serviced by metered underground power and on multifunction poles (MFPs) shall be designed and installed to Australian Standard AS1158:2010 *Lighting for Roads and Public Spaces*, with vehicular luminance category V3 and pedestrian luminance category P2 along Victoria Road.

Subject to design, it is expected that one new street light on multi-function pole (MFP) will be required along the Victoria Road frontage of the site.

The consultant shall liaise with Council's City Works and Infrastructure Directorate in obtaining Council's requirements and specifications for the MFP and components, including the appropriate LED luminaire and location of the meter boxes.

Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant and submitted to, and approved by Council's City Works & Infrastructure prior to lodgement of the scheme with Ausgrid for their approval.

**Note:** Council has prepared a design guide and schema for the provision of the street lighting on MFPs. A copy of the design guide and schema can be made available to the Electrical Design Consultant upon request to Council's City Works and Infrastructure Directorate.

**62. Public Infrastructure Works** – Public infrastructure works shall be designed and constructed as outlined in this condition of consent. The approved works must be completed to Council's satisfaction at no cost to Council.

Engineering drawings prepared by a Chartered Civil Engineer (registered on the NER of Engineers Australia) are to be submitted to, and approved by Council's City Works and Infrastructure prior to the issue of the Construction Certificate. The works shall be in accordance with City of Ryde DCP 2014 Part

**ITEM 2 (continued)**

**ATTACHMENT 1**

8.5 - Public Civil Works, and DCP 2014 Part 8.2 - Stormwater Management, where applicable.

The drawings shall include plans, sections, existing and finished surface levels, drainage pit configurations, kerb returns and other relevant details for the new works and also demonstrate the smooth connection of the proposed Gerard Lane road extension into the remaining street scape.

- (a) The construction of the extension of Gerard Lane (approximately 25m long) between the existing driveway to underground carpark at 328 Victoria Road and the northern end of the existing Gerard Lane. The extension of Gerard Lane shall be designed and constructed with the following formation - 6.0m wide carriageway and a 1.5m wide footpath on the eastern side adjacent to the new development in accordance with the City of Ryde DCP 2014 *Part 8.5 - Public Civil Works*.
- (b) The removal of all redundant vehicular crossings and replacement with new kerb and gutter, and the adjacent road pavement reconstruction.
- (c) The construction of new kerb and gutter along the Victoria Road frontage of the development site according to RMS requirements. Proposed kerb profiles are to be provided to ensure proper connections to existing kerb and gutter along Victoria Road.
- (d) Construction of **grey granite** footway (Paving Type 2), along the Victoria Road and Gerard Lane frontages of the development site in accordance with the City of Ryde Public Domain Technical Manual Chapter 2 - Gladesville. So as to be consistent and integrated with the public domain works along Victoria Road, the grey granite paving is also required to be provided within the building front setback/entrance area.
- (e) Stormwater drainage installations in the public domain in accordance with the DA approved plans.
- (f) Staging of the public civil works, if any, and transitions between the stages.
- (g) The relocation/adjustment of all public utility services affected by the proposed works. Written approval from the applicable Public Authority shall be submitted to Council along with the public domain plans submission. All the requirements of the Public Authority shall be complied with.

**Notes:**

- 1. The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths, prior to setting the floor levels for the proposed building.
- 2. Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
- 3. Prior to submission to Council, the Applicant is advised to ensure that the drawings are prepared in accordance with the standards listed in the City of Ryde DCP 2014 Part 8.5 - *Public Civil Works*, Section 5 "*Standards*

**ITEM 2 (continued)**

**ATTACHMENT 1**

*Enforcement*". A checklist is also available upon request to Council's City Works & Infrastructure Directorate.

**63. RMS – Street trees.** The proposed trees and planter boxes adjacent to Victoria Road shall be provided at a minimum distance of 600mm away from the face of the kerb.

**64. Driveway Access and Boundary Alignment Levels** - The applicant shall apply to Council for site specific driveway access and boundary alignment levels prior to the issue of any Construction Certificate. The application shall be accompanied by preliminary engineering plans of civil works along the frontage of the development site. The Council issued levels shall be incorporated into the detail design plans for the public domain improvements and infrastructure works, and the design of the internal driveway, car parking areas, landscaping and stormwater drainage plans. Fees are payable in accordance with Council's Schedule of Fees & Charges at the time of the application.

**65. Vehicle Footpath Crossings.** To protect the footpath from damage resulting from the vehicular traffic, the footpath crossing/s shall be designed and constructed in accordance with the City of Ryde Development Control Plan 2014 Part 8.3 *Driveways* and Part 8.5 - *Public Civil Works*, and all relevant Australian Codes and Standards (AS2890.1). The crossings shall match the paving style along the frontages of the development site.

In order to avoid the access driveway looking like a public road, kerbs shall not be returned to the boundary alignment line.

Accordingly, prior to issue of Construction Certificate an application shall be made to Council for driveway crossing alignment levels. These issued levels are to be incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application.

The applicant shall provide Council with certification from a Chartered Civil Engineer (registered on the NER of Engineers Australia) confirming that the vehicle footpath crossing and driveway design meet Council requirements and the relevant standards, prior to the issue of the Construction Certificate.

**66. Public Domain Works – Defects Security Bond.** To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works in the road reserve following completion of the development. The defects liability period shall commence from the date of issue by Council, of the Compliance Certificate for the External Works. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' maintenance period. A bond in the form of a cash deposit

**ITEM 2 (continued)**

**ATTACHMENT 1**

or Bank Guarantee for **\$50,000** shall be lodged with the City of Ryde prior to the issue of a Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the twelve (12) months maintenance period.

**67. Engineering plans assessment and works inspection fees.** The applicant is to pay to Council fees for assessment of all engineering and public domain plans and inspection of the completed works in the public domain, in accordance with Council's Schedule of Fees & Charges at the time of the issue of the plan approval, prior to such approval being granted by Council.

**Note:** An invoice will be issued to the Applicant for the amount payable, which will be calculated based on the design plans for the public domain works.

**68. Design verification in respect of SEPP 65.** Prior to a Construction Certificate being issued with respect to this development, the Principle Certifying Authority is to be provided with a written Design Verification from a qualified designer. This statement must include verification from the designer that the plans and specification achieve or improve the design quality of the development to which this consent relates, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*. This condition is imposed in accordance with Clause 143 of the *Environmental Planning and Assessment Regulation 2000*.

**69. Drainage.** The proposed drainage along Gerard Lane shall be documented on a detailed features survey plan that describes all existing structures, utility services, vegetation and other relevant features to Council's satisfaction. Details shall be prepared by a suitably qualified professional hydraulic engineer and submitted to council for approval prior to the issue of a **Construction Certificate**. The following shall be complied with:

- The Kerb Inlet pit shall be 2.4 metre cast-in-situ and conforming to Council's standard drainage pit details.
- The minimum distance from the lintel to the near end of the splay of the driveway at kerb line shall be at least 600mm.
- A drainage system longitudinal section is to be drawn, at a scale of 1:100 or 1:200 horizontally and 1:10 or 1:20, vertically showing crossing utility services, pipe size, class and type, pipe support type in accordance with AS 3725 or AS 2032 as appropriate, pipeline chainages, pipeline grade, hydraulic grade line and any other information necessary for the design and construction of the drainage system. Long section through the proposed stormwater pits and pipes is to be submitted to and approved by Council prior to the issue of a **Construction Certificate**.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**70. Compliance Acoustical Assessment Report** . The development is to comply with the recommendations contained in the Acoustic Report prepared by Acoustic Logic dated 17/02/2017.

**71. Road and rail noise/vibration.** The development must be acoustically designed and constructed to meet the relevant provisions of Australian Standard AS 2107:2000 Recommended design sound levels and reverberation times for building interiors. Written endorsement of compliance with these requirements must be obtained from a suitably qualified person.

**72. Compliance with Geotechnical Report.** All design and construction work be conducted in full compliance with all of the recommendations as contained in the Geotechnical Report prepared by Morrow Geotechnics Pty Ltd dated 20 June 2018.

**73. Compliance with Access Report.** The development is to comply with the requirements contained in the Access Report prepared by Morris-Goding Accessibility Consulting dated 10 July 2017.. The development is to comply with the Access to Premises Standard 2010, BCA 2014 and Australian Standard AS 1428.1 – 2009 Design for Access and Mobility – General Requirements For Access -New Building Work. Australian Standard AS 4299 – 1995

**74. Adaptable Units.** Five (5) adaptable apartments, each with an allocated disabled parking space, are to be provided within the development. These apartments are to comply with all of the requirements as outlined in AS4299. Details demonstrating compliance is to be provided on the Construction Certificate plans. Prior to the issue of the Construction Certificate, a suitably qualified access consultant is to certify that the development achieves the requirements of AS4299.

**75. Storage.** Each residential unit is to be provided with the minimum internal storage area as required by the Apartment Design Guide. Details of the location of the storage and dimensions of the storage areas are to be provided on the Construction Certificate plans. The architect is to verify in writing that the development complies prior to the issue of the Construction Certificate.

**76. Vehicular entry.** The vehicular entries are to have high quality finishes and detailing to the walls and ceiling. Service ducts or pipes are to be covered and not visible from any public domain. Details demonstrating compliance is to be submitted on the Construction Certificate plans.

**77. Soil Depth over Structures.** Where planting is proposed over a structure, the development is to achieve the minimum standards for soil provision suitable to the proposed planting, as contained within the Apartment Design

**ITEM 2 (continued)**

**ATTACHMENT 1**

Guide. Information verifying that the development complies with these requirements to be provided on the Construction Certificate plans.

**78. Irrigation.** An automatic watering system is to be supplied to all landscape areas including common areas, private open spaces to ensure adequate water is available to lawns and vegetation. Irrigation systems shall be fully automated and capable of seasonal adjustments. Details are to be submitted to the PCA prior to the issue of Construction Certificate.

**79. Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifier prior to the release of the **Construction Certificate**.

**80. Fencing.** Fencing is to be in accordance with Council's DCP 2014: Part 3.3 – Dwelling Houses and Dual Occupancy (attached) – Section 2.16 - Fences. Any boundary fencing shall be erected in such a manner as not to interfere with the natural flow of ground and surface water to the detriment of any other party. Details of compliance are to be provided in the plans for the **Construction Certificate**.

**81. Lighting of common areas (driveways etc).** Details of lighting for internal driveways, visitor parking areas and the street frontage shall be submitted for approval prior to issue of the **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

**82. Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Construction Certificate satisfactory evidence is to be provided to the Certifier that arrangements have been made for:

(i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Alternatively, demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

And

(ii) The provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

(Note real estate development project has the meanings given in Section 372Q of the Telecommunications Act).

**ITEM 2 (continued)**

**ATTACHMENT 1**

**83. Erosion and Sediment Control Plan.** An Erosion and Sediment Control Plan (ESCP) must be prepared by a suitably qualified consultant, detailing soil erosion control measures to be implemented during construction. The ESCP is to be submitted with the application for a Construction Certificate. The ESCP must be in accordance with the manual “*Managing Urban Stormwater: Soils and Construction*” by NSW Department – Office of Environment and Heritage and must contain the following information;

- Existing and final contours
- The location of all earthworks, including roads, areas of cut and fill
- Location of all impervious areas
- Location and design criteria of erosion and sediment control structures,
- Location and description of existing vegetation
- Site access point/s and means of limiting material leaving the site
- Location of proposed vegetated buffer strips
- Location of critical areas (drainage lines, water bodies and unstable slopes)
- Location of stockpiles
- Means of diversion of uncontaminated upper catchment around disturbed areas
- Procedures for maintenance of erosion and sediment controls
- Details for any staging of works
- Details and procedures for dust control.

The ESCP must be submitted with the application for a Construction Certificate. This condition is imposed to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

**84. Vehicle Access & Parking.** All internal driveways, vehicle turning areas, garages and vehicle parking space/ loading bay dimensions must be designed and constructed to comply with the relevant section of AS 2890 (Offstreet Parking standards).

With respect to this, the following revision(s) must be undertaken;

- a) The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of *AS/NZS 2890.1-2004*
- b) Minimum lines of sight for pedestrian safety must be provided in accordance Figure 3.3 of *AS/NZS 2890.1:2004*
- c) All internal ramps and structures must begin within the site boundary and free of the right of way required for the pedestrian footpath at the rear of the site.
- d) All internal driveways and vehicle access ramps must have ramp grades, transitions and height clearances complying with AS 2890.1. To demonstrate compliance with this Standard, the development's structural details must include a

**ITEM 2 (continued)**

**ATTACHMENT 1**

driveway profile, showing ramp lengths, grades, surface RL's and overhead clearances taken along the vehicle path of travel from the crest of the ramp to the basement. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle. Note: The actual height clearance is perpendicular to the plane of travel (refer to AS 2890.1).

These amendment(s) must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

**85. Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to *Council's underground drainage system within Gerard Lane*, generally in accordance with the plans by ABC Consultants Pty Ltd, drawing number 16075 C00.01 C, C01.01 C, C02.01 D, C09.01 D, C09.02 D, C10.01 C, C11.01 C, C11.02 C, C12.01 B, and C12.02 B, dated 23<sup>rd</sup> June 2018 subject to the following amendments;

- The stormwater plans must be amended to incorporate the latest revision of the approved architectural plans.
- The access grates to the on-site detention storage facility must be located within common area for maintenance purposes. As a result the balconies of UG04 and UG05 must be reduced by an additional 1 and 2 metres respectively from the rear. The landscaping area shall be allocated as common space on the strata subdivision plan, thus resulting in reasonable access of the detention tank.
- The plan depicts the tank with an overflow weir that would discharge out through the southern façade. This however fronts a walkway which is recessed below street level so in the event of surcharge, would inundate lower basement levels. The plan must be revise the design to provide a dual line overflow, with each line having capacity to accommodate a 100yr ARI storm event. The overflow path must be directed towards Gerard Lane, away from the site.
- The nominated volume of the pump/ sump system is not strictly in accordance with the DCP requirement which warrants that the wet well have sufficient capacity to accommodate 100yr ARI – 3 hour storm event in the event of pump failure.
- Connection to the public drainage infrastructure will require a road opening permit. Plans detailing these works are to be provided with the permit application and Council's City Works & Infrastructure is to inspect the connection prior to backfill. This is to be noted on the detailed plans.

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a chartered civil engineer and comply with the following;

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance

**ITEM 2 (continued)**

**ATTACHMENT 1**

with the requirements of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.

- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- Onsite detention must be incorporated in the stormwater management system having a minimum SSR of 39.88 m<sup>3</sup> and a maximum PSD of 38.43 L/s. Any variations to these values attributed to changes required by conditions of this consent, must be in accordance with Council's DCP requirements for onsite detention and must be validated in the certification of the design required by this condition.

**86. Stormwater Management – Connection to Public Drainage System.**

The connection to the public inground stormwater drainage infrastructure located within Gerard Lane will require the assessment, and inspection by Council's Civil Infrastructure & Integration Department (Stormwater Section) to ensure the integrity of this asset is maintained. Engineering plans detailing the method of connection complying with Council's DCP and Technical Standards and an inspection fee in accordance with Council's Schedule of Fees and Charges must be paid to Council prior to the issue of the Construction Certificate. Council must be notified when the connection has been made to the pit and an inspection must be made by a Council officer prior to restoration/ backfill at the point of connection for approval.

Where the point of connection is in neighbouring property, the applicant must provide written notification to the affected property owner no less than a week prior to the works and all structures/ surface areas affected by the drainage connection works must be reinstated at the completion of this activity, at no cost to the affected property owner.

**87. External Engineering Works.** To facilitate satisfactory and safe access to and from the proposed development, the following public infrastructure works shall be constructed at no cost to Council along the entire public road frontage of the site.

- a) Construction of concrete footpath paving and replacement of all damaged kerb and gutter etc.
- b) Construction of any other associated structures across the footway if required by Council's Civil Infrastructure & Integration Department.
- c) Relocation or adjustments of any services within the footpath area if required due to proposed works

Detailed engineering plans prepared by a qualified and experienced civil engineer in accordance with Development Control Plan 2014 Part 8.5 - Public Civil Works are to be submitted to, and approved by Council.

**ITEM 2 (continued)**

**ATTACHMENT 1**

Engineering plans assessment and inspections fee associated with this work are payable in accordance with Council's Schedule of Fees and Charges prior to approval being issued by Council.

**88. Construction near overland flow path.** All structures within the site must be designed and constructed to withstand the force of running flood waters, including the potential impact by debris and buoyancy, during the possible maximum flood.

**89. Geotechnical Design, Certification and Monitoring Program.** The proposed development involves the construction of subsurface structures and excavation that has potential to adversely impact neighbouring property if undertaken in an inappropriate manner. To ensure there are no adverse impacts arising from such works, the applicant must engage a suitably qualified and practicing Engineer having experience in the geotechnical and hydrogeological fields, to design, certify and oversee the construction of all subsurface structures associated with the development.

This engineer is to prepare the following documentation;

- a) Certification that the civil and structural details of all subsurface structures are designed to;
  - provide appropriate support and retention to neighbouring property,
  - ensure there will be no ground settlement or movement during excavation or after construction (whether by the act of excavation or dewatering of the excavation) sufficient to cause an adverse impact to adjoining property or public infrastructure, and,
  - ensure that the treatment and drainage of groundwater will be undertaken in a manner which maintains the pre-developed groundwater regime, so as to avoid constant or ongoing seepage to the public drainage network and structural impacts that may arise from alteration of the pre-developed groundwater table.
  
- b) A Geotechnical Monitoring Program (GMP) to be implemented during construction that;
  - is based on a geotechnical investigation of the site and subsurface conditions, including groundwater,
  - details the location and type of monitoring systems to be utilised, including those that will detect the deflection of all shoring structures, settlement and excavation induced ground vibrations to the relevant Australian Standard;
  - details recommended hold points and trigger levels of any monitoring systems, to allow for the inspection and certification of geotechnical and hydrogeological measures by the professional engineer; and;
  - details action plan and contingency for the principal building contractor in the event these trigger levels are exceeded.

**ITEM 2 (continued)**

**ATTACHMENT 1**

- Is in accordance with the recommendations of the Geotechnical Report by Aargus Pty Ltd, report no. GS6945-1A, dated 13<sup>th</sup> July 2017, and Smart Structures Australia Pty Ltd, reference 17081.R2, dated 24<sup>th</sup> October 2017.

The certification and the GMP is to be submitted for the approval of the Accredited Certifier prior to the issue of the Construction Certificate.

90. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction work, namely No. 310 and 328 Victoria Road. A copy of the dilapidation survey is to be submitted to the Accredited Certifier *and Council* prior to the release of the Construction Certificate. The dilapidation survey for 310 Victoria Road is to be in accordance with Condition 91 below.

91. **Pre-commencement dilapidation report – 310 Victoria Road.** A pre-commencement dilapidation report shall be prepared that provides a written and photographic record of the existing structural condition of the adjoining heritage item at 310 Victoria Road Gladesville.

The pre-commencement dilapidation report shall be undertaken by a qualified structural engineer, with proven experience in dealing with structures of heritage significance.

A copy of the report must be provided to the satisfaction of Council, any other owners of public infrastructure, together with the owners of adjoining and affected private properties.

92. **Site Dewatering Plan.** To ensure that stormwater runoff and the disposal of groundwater from the excavation is drained in an appropriate manner and without detrimental impacts to neighbouring properties and downstream water systems, a Site Dewatering Plan (SDP) must be prepared and submitted with the application for a Construction Certificate.

The SDP is to comprise of detailed plans, documentation and certification of the system, must be prepared by a chartered civil engineer and must, as a minimum, comply with the following;

- All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded so as to prevent the emission of offensive noise as a result of their operation.
- Pumps used for dewatering operations are not to be fuel based so as to minimise noise disturbance and are to be electrically operated.
- Discharge lines are to be recessed across footways so as to not present as a trip hazard and are to directly connect to the public inground drainage infrastructure where ever possible.

**ITEM 2 (continued)**

**ATTACHMENT 1**

- The maximum rate of discharge is to be limited to the sites determined PSD rate or 30L/s if discharging to the kerb.
- Certification must state that the submitted design is in accordance with the requirements of this condition and any relevant sections of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
- Be in accordance with the recommendations of approved documents which concern the treatment and monitoring of groundwater.
- Any details, approval or conditions concerning dewatering (eg Dewatering License) as required by the Water Act 1912 and any other relevant NSW legislation.
- Approval and conditions as required for connection of the dewatering system to the public drainage infrastructure as per Section 138 of the Roads Act.

93. **Awning over Council footpath.** The proposed awning extending over Council's verge and footway area must provide no less than 3m clearance above the footpath and a minimum clearance of 600mm from the vertical alignment of the immediate kerb. The awning is not to be of glazed material and is to have underside lighting.

No structural support columns/ structures for the awning are to be provided within the public domain area or within the building front setback. The structure is to be designed and certified by an appropriately qualified Structural Engineer. This engineer is to provide certification with the application for a Construction Certificate that the structure has been designed in accordance with the relevant Australian Standards to ensure public safety.

94. **Waste.** If there are any changes to the original DA plans stamped and approved by Council, these have to be approved by the Waste Department at the City of Ryde Council before the issue of a Construction Certificate to ensure the waste collection is not affected.

Council does not support the use of private contractors for the collection of domestic waste. All domestic waste will be collected by the Council waste collection contractor.

The commercial waste must be collected from the loading dock located inside the building.

95. **Waste Storage Area.** All waste storage areas which have a doorway must be wide enough to allow the bins allocated to the property to fit through opening including the door.

- 1100L Bins – width 1.4m, depth 1.1m, height 1.4m
- 660L Bins – width 1.3m, depth 0.8m, height 1.3m

**ITEM 2 (continued)**

**ATTACHMENT 1**

Access to the hard waste area must be provided for collection contractors. Suitable details showing entry to the room from the corridor near the loading dock, and not through the bin storage area, must be clearly shown on the approved plan before the issue of any Construction Certificate

On-site storage at a rate of 5m<sup>2</sup> per 30 units (see sliding scale for larger developments), must be provided. Suitable details must be clearly shown on the approved plan before the issue of any Construction Certificate

**96. Garbage and Recycling Rooms.** The proposed garbage/s room must be constructed in accordance with the Waste Management Plan prepared by Elephant's Foot (dated 27/6/2017) and the following requirements (whichever is more stringent):

- (a) The room must be of adequate dimensions to accommodate all waste containers, and any compaction equipment installed, and allow easy access to the containers and equipment for users and servicing purposes;
- (b) The floor must be constructed of concrete finished to a smooth even surface, coved to a 25mm radius at the intersections with the walls and any exposed plinths, and graded to a floor waste connected to the sewerage system;
- (c) The floor waste must be provided with a fixed screen in accordance with the requirements of Sydney Water Corporation;
- (d) The walls must be constructed of brick, concrete blocks or similar solid material cement rendered to a smooth even surface and painted with a light coloured washable paint;
- (e) The ceiling must be constructed of a rigid, smooth-faced, non-absorbent material and painted with a light coloured washable paint;
- (f) The doors must be of adequate dimensions to allow easy access for servicing purposes and must be finished on the internal face with a smooth-faced impervious material;
- (g) Any fixed equipment must be located clear of the walls and supported on a concrete plinth at least 75mm high or non-corrosive metal legs at least 150mm high;
- (h) The room must be provided with adequate natural ventilation direct to the outside air or an approved system of mechanical ventilation;
- (i) The room must be provided with adequate artificial lighting; and
- (j) a hose with a trigger nozzle must be provided in or adjacent to the room to facilitate cleaning.

Details of the proposed garbage room and proposed bins must be submitted for approval with the application for the Construction Certificate. Such details must include:

**ITEM 2 (continued)**

**ATTACHMENT 1**

- (a) the specifications and layout of all proposed waste storage and handling equipment; and
- (b) the access to the collection point from the retail units.

**PRIOR TO COMMENCEMENT OF CONSTRUCTION**

Prior to the commencement of any demolition, excavation, or building work the following conditions in this Part of the Consent must be satisfied, and all relevant requirements complied with at all times during the operation of this consent.

**97. Site Sign**

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
  - (i) showing the name, address and telephone number of the Principal Certifier for the work,
  - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.
- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**98. Excavation adjacent to adjoining land**

- (a) If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must, at their own expense, protect and support the adjoining premises from possible damage from the excavation, and where necessary, underpin the adjoining premises to prevent any such damage.
- (b) The applicant must give at least seven (7) days notice to the adjoining owner(s) prior to excavating.
- (c) An owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

**99. RMS.** The developer is to submit design drawings and documents relating to the excavation of the site and support structures to Roads and Maritime for assessment, in accordance with Technical Direction GTD2012/001.

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime.

**ITEM 2 (continued)**

**ATTACHMENT 1**

The report and any enquiries should be forwarded to:  
Project Engineer, External Works  
Sydney Asset Management  
Roads and Maritime Services  
PO Box 973 Parramatta CBD 2124.  
Telephone 8849 2114

If it is necessary to excavate below the level of the base of the footings of the adjoining roadways, the person acting on the consent shall ensure that the owner/s of the roadway is/are given at least seven (7) day notice of the intention to excavate below the base of the footings.

The notice is to include complete details of the work.

100. **RMS.** Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to Roads and Maritime for approval, prior to the commencement of any works.

Details should be forwarded to: [Suppiah.Thillai@rms.nsw.gov.au](mailto:Suppiah.Thillai@rms.nsw.gov.au)

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued. With regard to the Civil Works requirement please contact the Roads and Maritime Project Engineer, External Works Ph: 8849 214.

101. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.

102. **Work Zones and Permits.** Prior to commencement of the relevant works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. A Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.

103. **Notice of Intention to Commence Public Domain Works.** Prior to commencement of the public domain works, a *Notice of Intention to Commence Public Domain Works* shall be submitted to Council's City Works and Infrastructure Directorate. This Notice shall include the name of the Contractor who will be responsible for the construction works, and the name of the Supervising Engineer who will be responsible for providing the certifications required at the hold points during construction, and also obtain all Road Activity Permits required for the works.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**Note:** Copies of a number of documents are required to be lodged with the Notice; no fee is chargeable for the lodgement of the Notice.

**104. Notification of adjoining owners & occupiers – public domain works.** The Applicant shall ensure that the adjoining owners and occupiers are given prior written notice (by registered post) of when construction works will occur. The notice is to include a contact number should they have any enquiries in relation to the construction works. The duration of any interference to neighbouring driveways shall be minimised; and driveways shall be returned to the operational condition as they were prior to the commencement of works, at no cost to the owners.

**105. Pre-Construction Dilapidation Report.** To ensure Council's infrastructures are adequately protected a pre-construction dilapidation report on the existing public infrastructure in the vicinity of the proposed development and along the travel routes of all construction vehicles is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record of any observable defects to the following infrastructure where applicable.

- (a) Road pavement,
- (b) Kerb and gutter,
- (c) Footpath,
- (d) Drainage pits,
- (e) Traffic signs, and
- (f) Any other relevant infrastructure.

The report is to be dated and submitted to, and accepted by Council's City Works & Infrastructure Directorate, prior to any work commencing.

All fees and charges associated with the review of this report shall be in accordance with Council's Schedule of Fees and Charges and shall be paid at the time that the Dilapidation Report is submitted.

**106. Road Activity Permits** - To carry out work in, on or over a public road, the Consent of Council is required as per the *Roads Act 1993*. Prior to the commencement of the relevant works and considering the lead times required for each application, permits for the following activities, as required and as specified in the form "*Road Activity Permits Checklist*" (available from Council's website) are to be obtained and copies submitted to Council with the *Notice of Intention to Commence Public Domain Works*.

a) Road Use Permit - The applicant shall obtain a Road Use Permit where any area of the public road or footpath is to be occupied as construction workspace, other than activities covered by a Road Opening Permit or if a Work Zone Permit is not obtained. The permit does not grant exemption from parking regulations.

**ITEM 2 (continued)**

**ATTACHMENT 1**

b) Work Zone Permit - The applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. **A Roads and Maritime Services Road Occupancy Licence shall be obtained for State Roads.**

c) Road Opening Permit - The applicant shall apply for a road-opening permit and pay the required fee where a new pipeline is to be constructed within or across the road pavement or footpath. Additional road opening permits and fees are required where there are connections to public utility services (e.g. telephone, telecommunications, electricity, sewer, water or gas) within the road reserve. No opening of the road or footpath surface shall be carried out without this permit being obtained and a copy kept on the site.

d) Elevated Tower, Crane or Concrete Pump Permit - The applicant shall obtain an Elevated Tower, Crane or Concrete Pump Permit where any of these items of plant are placed on Council's roads or footpaths. This permit is in addition to either a Road Use Permit or a Work Zone Permit.

e) Crane Airspace Permit - The applicant shall obtain a Crane Over Airspace Permit where a crane on private land is operating in the air space of a Council road or footpath. Approval from the Roads and Maritime Services for works on or near State Roads is required prior to lodgement of an application with Council. A separate application for a Work Zone Permit is required for any construction vehicles or plant on the adjoining road or footpath associated with use of the crane.

f) Hoarding Permit - The applicant shall obtain a Hoarding Permit and pay the required fee where erection of protective hoarding along the street frontage of the property is required. The fee payable is for a minimum period of 6 months and should the period is extended an adjustment of the fee will be made on completion of the works. The site must be fenced to a minimum height of 1.8 metres prior to the commencement of construction and throughout demolition and/or excavation and must comply with WorkCover (New South Wales) requirements.

g) Skip Bin on Nature Strip - The applicant shall obtain approval and pay the required fee to place a Skip Bin on the nature strip where it is not practical to locate the bin on private property. No permit will be issued to place skips.

**107. Temporary Footpath Crossing** - A temporary footpath crossing, if required, must be provided at the vehicular access points. It is to be 4 metres wide, made out of sections of hardwood with chamfered ends and strapped with hoop iron, and a temporary gutter crossing must be provided.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**DURING CONSTRUCTION**

Unless otherwise specified, the following conditions in this Part of the consent must be complied with at all times during the construction period. Where applicable, the requirements under previous Parts of the consent must be implemented and maintained at all times during the construction period.

108. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifier during construction to ensure that the critical stage inspections are undertaken, as specified under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.

109. **Noise management plan.** Where demolition or construction activities are likely to cause significant noise or vibration (eg. jackhammering ,rock breaking or impact piling) a noise management plan must be prepared by a suitably qualified acoustical consultant and be submitted to the Principal Certifying Authority before the work commences. The plan must be prepared in accordance with the Interim Construction Noise Guideline (DECC, 2009) and include:

- (a) Identification of nearby affected residences or other sensitive receivers.
- (b) An assessment of the expected noise impacts.
- (c) Details of the work practices required to minimise noise impacts.
- (d) Noise monitoring procedures.
- (e) Procedures for notifying nearby affected residents.
- (f) Complaints management procedures.

110. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.

111. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

112. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:

- Fill is allowed under this consent;
- The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
- the material is reused only to the extent that fill is allowed by the consent.

113. **Construction materials.** All materials associated with construction must be retained within the site.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**114. Site Facilities**

The following facilities must be provided on the site:

- (a) toilet facilities in accordance with Safework NSW requirements, at a ratio of one toilet per every 20 employees, and
- (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

**115. Site maintenance**

The applicant must ensure that:

- (c) approved sediment and erosion control measures are installed and maintained during the construction period;
- (d) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
- (e) the site is clear of waste and debris at the completion of the works.

**116. Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

**117. Archaeology.** As required by the National Parks and Wildlife Service Act 1974 and the Heritage Act 1977, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the Heritage Act 1977 to obtain the necessary approvals/permits from the Heritage Division of the OEH.

Note: The National Parks and Wildlife Service Act 1974 and the Heritage Act 1977 impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

**118. Excavation works.** To minimise vibration and risk to the structural stability and integrity of the adjoining heritage item. All excavation works shall employ such techniques and equipment which minimises the amount of ground vibration.

In this regard, excavation of the site by use of pneumatic drill for the breaking of rock or any other vibrating equipment for excavation, shall not be permitted.

**ITEM 2 (continued)**

**ATTACHMENT 1**

119. **Tree Removal.** All tree removal work is to be carried out in accordance with *Safe Work Australia Guide for Managing Risks of Tree Trimming and Removal (2016)* and undertaken by an Arborist with minimum AQF Level 3 qualifications.

120. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.

121. **Stormwater Drainage Works** - Council stormwater drainage works on Gerard Lane shall be constructed generally in accordance with Job Number 16075, drawing C10.01 dated 23 June 2017 prepared by ABC Consultants.

122. **Utility Services** - The applicant shall undertake and bear all costs associated with the liaison, approval and relocation of any utility services. All correspondence and approvals between the Applicant and utility authorities shall be provided to the Council in conjunction with engineering documentation for the stormwater drainage works.

123. **Hold Points during construction – Drainage Works** - Construction inspections shall be required by Council's Stormwater Engineer for the Council stormwater drainage works at the following hold points: -

- Upon excavation of trenches shown on the approved drainage drawings.
- Upon installation of pipes and other drainage structures prior to backfilling.
- Upon backfilling of excavated areas and prior to the construction of the final pavement surface.

An inspection fee is applicable for each visit, and at least 24 hours' notice will be required for the inspections. Please contact Council's Customer Service Section on 9952 8222 to book an inspection. Work is not to proceed until the works are inspected and approved by Council in writing.

124. **Hold Points during construction - Public Domain.** Council requires inspections to be undertaken by a Chartered Civil Engineer (registered on the NER of Engineers Australia), for the public domain, at the hold points shown below.

The Applicant shall submit to Council's City Works and Infrastructure, certification from the Engineer, at each stage of the inspection listed below, within 24 hours following completion of the relevant stage/s. The certificates shall contain photographs of the works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken.

**ITEM 2 (continued)**

**ATTACHMENT 1**

- a) Prior to the commencement of construction and following the set-out on site of the position of the civil works to the levels shown on the approved civil drawings.
- b) Upon excavation, trimming and compaction to the subgrade level - to the line, grade, widths and depths, shown on the approved civil engineering drawings.
- c) Upon compaction of the applicable sub-base course.
- d) Upon compaction or construction of any base layers of pavement, prior to the construction of the final pavement surface (e.g. prior to laying any pavers or asphalt wearing course).
- e) Upon installation of any formwork and reinforcement for footpath concrete works.
- f) Final inspection - upon the practical completion of all civil works with all disturbed areas satisfactorily restored.

**125. Implementation of Construction Traffic Management Plan.** All works and construction activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the CTMP be impacted by surrounding major development not encompassed in the approved CTMP, the CTMP measures and controls are to be revised accordingly and submitted to Council for approval. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

**126. Maintenance.** The area surrounding the construction site must be maintained to reduce the incidence of illegal dumping and management of litter from the site and workers associated with the site must be undertaken.

**127. Traffic Management.** Any traffic management procedures and systems must be in accordance with *AS 1742.3 1996* and City of Ryde, Development Control Plan 2014: - Part 8.1; Construction Activities. This condition is to ensure public safety and minimise any impacts to the adjoining pedestrian and vehicular traffic systems.

Accordingly, a detailed plan of traffic management prepared by a traffic engineer including certification indicating compliance are to be submitted with the Construction Certificate application.

**128. Truck Shaker.** A truck shaker grid with a minimum length of 6 metres must be provided at the construction exit point. Fences are to be erected to ensure vehicles cannot bypass them. Sediment tracked onto the public roadway by vehicles leaving the subject site is to be swept up immediately.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**129. Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by ABC Consultants Pty Ltd, drawing number 16075 C00.01 C, C01.01 C, C02.01 D, C09.01 D, C09.02 D, C10.01 C, C11.01 C, C11.02 C, C12.01 B, and C12.02 B, submitted in compliance to the condition labelled “Stormwater Management.” and the requirements of Council in relation to the connection to the public drainage system.

**130. Erosion and Sediment Control Plan - Implementation.** The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual “Managing Urban Stormwater: Soils and Construction“ by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.

**131. Geotechnical Monitoring Program - Implementation.** The construction and excavation works are to be undertaken in accordance with the Geotechnical Report and Monitoring Program (GMP) submitted with the Construction Certificate. All recommendations of the Geotechnical Engineer and GMP are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

**132. Site Dewatering Plan – Implementation.** The Site Dewatering Plan (SDP) on the site must be constructed in accordance with the Construction Certificate version of the SDP submitted in compliance to the condition labelled “Site Dewatering Plan.”, the requirements of Council in regards to disposal of water to the public drainage infrastructure and the requirements of any Dewatering License issued under NSW Water Act 1912 in association with the works. A copy of the SDP is to be kept on site at all times whilst dewatering operations are carried out.

**133. Public Domain Works - Construction.** The public domain infrastructure works specified in this consent must be constructed in accordance with the approved civil infrastructure plans, documentation and any associated conditions as issued by Council’s Civil Infrastructure & Integration Department under the provisions of Section 138 of the Roads Act and Local Government Act.

**134. Public Domain Works – Construction Inspections.** Any works in the Public Domain or alterations to public infrastructure that will come under the care and control of Council upon completion of the development, will require inspection by Council’s Civil Infrastructure & Integration Department (the relevant officer) at the following hold points: -

**ITEM 2 (continued)**

**ATTACHMENT 1**

- a) Prior to the commencement of construction and following the set-out on site of the position of the drainage works to the levels shown on the approved drainage drawings.
- b) Upon excavation of trenches and for other drainage structures to the line, grade, widths and depths shown on the approved drainage drawings.
- c) Upon installation of any pipe and other drainage structures.
- d) Upon backfilling of excavated areas and prior to the construction of the final pavement surface.
- e) Upon the completion of all drainage works and prior to practical completion.

An inspection fee is applicable for each visit and at least 24hours notification will be required prior to each inspection.

**PRIOR TO OCCUPATION CERTIFICATE**

An Occupation Certificate must be obtained from a Principal Certifier prior to commencement of occupation of any part of the development, or prior to the commencement of a change of use of a building.

Prior to issue, the Principal Certifier must ensure that all works are completed in compliance with the approved construction certificate plans and all conditions of this Development Consent.

Unless an alternative approval authority is specified (eg Council or government agency), the Principal Certifier is responsible for determining compliance with conditions in this Part of the consent. Details to demonstrate compliance with all conditions, including plans, documentation, or other written evidence must be submitted to the Principal Certifier.

135. **Public Benefit Works.** All public benefit as identified in the VPA referred to in deferred commencement condition1 are to be completed to Council's satisfaction prior to the issue of any Occupation Certificate.

136. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 816262M\_3, dated 18 June 2018.

137. **Finishes and Material.** Prior to the release of any Occupation Certificate the project architect is to certify that the materials and finishes detailed on the drawings titled Perspective \_ Victoria Road Issue F, Perspective\_ Victoria Road South Issue F and Perspective\_ Gerard Lane Issue F have been used in construction of the project.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**138. Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.

**139. Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention, and pump out system components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's standard terms for such systems, as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7 and to the satisfaction of Council. The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.

**140. Drainage System Maintenance Plan.** To ensure the approved onsite detention system and WSUD measures function as designed for the ongoing life of the development, a drainage system maintenance plan (DSMP) must be prepared for implementation for the ongoing life of the development.

The DSMP must contain the following;

- (a) All matters listed in Section 1.4.9 of the DCP Part 8.2 (Stormwater and Floodplain Management – Technical Manual).
- (b) The DSMP is to incorporate a master schedule and plan identifying the location of all stormwater components crucial to the efficient operation of the trunk drainage system on the development lot. This is to include (but not be limited to) pump/sump systems, WSUD components and all onsite detention systems. The master plan is also to contain the maintenance schedule for each component.
- (c) The DSMP is also to include safe work method statements relating to access and maintenance of each component in the maintenance schedule.
- (d) Signage is to be placed in vicinity of each component, identifying the component to as it is referred in the DSMP (eg. OSD – 1), the reference to the maintenance work method statement and maintenance routine schedule.
- (e) Designate areas inside the property in which the maintenance operation is to be undertaken for each component. Maintenance from the road reserve or public domain is not accepted. Areas are to be demarcated if required.
- (f) Locate a storage area for maintenance components / tools to be stored on site. The location is to be recorded in the DSMP.

**ITEM 2 (continued)**

**ATTACHMENT 1**

The DSMP is to be prepared by a suitably qualified and practising drainage engineer in co-operation with a workplace safety officer (or similar qualified personal) and all signage / linemarkings are to be implemented prior to the issue of any Occupation Certificate.

**141. Redundant Footpath Crossing.** The existing footpath crossing(s) and associated gutter crossover(s) which are not accessing approved vehicle access points must be removed and restore kerb and gutter, verge and footway to match existing adjoining sections. All new levels and materials must be flush and consistent with adjoining sections and all costs are to be borne by the applicant. The works must be completed to Councils satisfaction, prior to the issue of any Occupation Certificate.

**142. Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.

- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
- b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
- c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- d) Confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 - 2003 (National Plumbing and Drainage Code), the relevant sections of the Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures and any requirements of Council pending on site conditions.
- e) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).

**ITEM 2 (continued)**

**ATTACHMENT 1**

- f) Certification from a suitably qualified structural or geotechnical engineer confirming that any temporary soil/ rock anchors installed into public roadway, have been de-stressed and are no longer providing any structural support.
- g) Certification from a suitably qualified geotechnical engineer confirming that the Geotechnical Monitoring Program (GMP) was implemented throughout the course of construction and that all structures supporting neighbouring property have been designed and constructed to provide appropriate support of the neighbouring property and with consideration to any temporary loading conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes.
- h) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

**143. On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

**144. Landscaping.** All landscaping works approved by Condition 1 are to be completed prior to the issue of the final **Occupation Certificate**.

**145. Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the Fire and Rescue NSW.

Details demonstrating compliance are to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate.

Each year the Owners must send to the Council and the Fire and Rescue NSW an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

**146. Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to

**ITEM 2 (continued)**

**ATTACHMENT 1**

Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to [www.sydneywater.com.au/section73](http://www.sydneywater.com.au/section73) or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

**147. Post-construction dilapidation report.** Prior to the issue of any Occupation Certificate, a post-construction dilapidation report shall be submitted to the satisfaction of Council.

The post-construction dilapidation report shall clearly detail the final structural condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report.

A copy of the report shall also be provided to any other owners of public infrastructure and the owners of the affected adjoining and private properties.

**148. Public Domain Improvements and Infrastructure Works – Completion.** All public domain improvements and infrastructure works shall be completed to Council's satisfaction, in accordance with the approved public domain plans and at no cost to the Council, prior to the issue of any Occupation Certificate.

**149. Restoration – Supervising Engineer's Certificate** - Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council a certificate from the Supervising Engineer confirming that the final restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure and replacement of any redundant vehicular crossings as a result of the construction works associated with this development site, have been completed in accordance with the Council's standards and specifications, and DCP2014 Part 8.5 *Public Civil Works*, or the Roads and Maritime Services' standards and specifications, where applicable.

**150. Electricity accounts for new street lighting.** Prior to the issue of any Occupation Certificate, the Applicant shall liaise with Council's Public Domain Development Section regarding the setting up of the electricity account/s in order to energise the newly installed street lighting.

**151. Compliance Certificates – Street Lighting.** Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, a *Certificate of Compliance - Electrical Work (CCEW)* from the Electrical Contractor, and certification from a qualified Electrical Engineering consultant confirming that the street lighting in the public domain has been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**152. Compliance Certificate – External Landscaping Works.** Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, certification from a qualified Landscape Architect confirming that the public domain landscaping works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications.

**153. Public Domain Works-as-Executed Plans.** To ensure the public infrastructure works are completed in accordance with the approved plans and specifications, and that the assets to be handed over to Council are accounted for inclusion in Council's Assets Register, Works-as-Executed Plans shall be submitted to Council for review and approval. The Works-as-Executed Plans are to be prepared on a copy of the approved plans and certified by a Registered Surveyor, and shall contain notations in red, all departures from the Council approved details. Any rectifications required by Council shall be completed by the Developer prior to the issue of any Occupation Certificate.

**154. Supervising Engineer Final Certificate.** Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

**155. Post-Construction Dilapidation Report** – To ensure Council's infrastructures are adequately protected a post-construction dilapidation report on the existing public infrastructure in the vicinity of the completed development and along the travel routes of all construction vehicles is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record of any observable defects to the following infrastructure where applicable.

- (a) Road pavement,
- (b) Kerb and gutter,
- (c) Footpath,
- (d) Drainage pits,
- (e) Traffic signs, and
- (f) Any other relevant infrastructure.

The report shall include summary statement/s comparing the pre and post construction conditions of the public infrastructure. The report is to be dated and submitted to, and accepted by Council's City Works and Infrastructure Directorate, prior to issue of the Occupation Certificate. The report shall be used by Council to compare with the pre-construction dilapidation report, and to assess whether restoration works will be required prior to the issue of the Occupation Certificate.

**ITEM 2 (continued)**

**ATTACHMENT 1**

All fees and charges associated with the review of the report shall be in accordance with Council's Schedule of Fees and Charges, and shall be paid at the time that the Dilapidation Report is submitted.

**156. Decommissioning of Ground Anchors.** Prior to the issue of any Occupation Certificate, the Applicant shall provide Council a certificate from a suitably qualified Structural or Geotechnical Engineer confirming that all temporary soil/ground anchors installed into the public road reserve, have been decommissioned and are not transferring any structural loads into the road reserve stratum.

**157. Final Inspection – Assets Handover** - For the purpose of the handover of the public infrastructure assets to Council, a final inspection shall be conducted in conjunction with Council's Engineer from City Works and Infrastructure Directorate following the completion of the external works. Defects found at such inspection shall be rectified by the Applicant prior to Council issuing the Compliance Certificate for the External Works. Additional inspections, if required, shall be subject to fees payable in accordance with Council's Schedule of Fees & Charges at the time.

A minimum 48 hours' notice will be required when booking for the final inspection.

**158. Compliance Certificate – External Works and Public Infrastructure Restoration.** Prior to the issue of any Occupation Certificate, a compliance certificate shall be obtained from Council's City Works and Infrastructure confirming that all works in the road reserve including all public domain improvement works and restoration of infrastructure assets that have been dilapidated as a result of the development works, have been completed to Council's satisfaction and in accordance with the Council approved drawings. The applicant shall be liable for the payment of the fee associated with the issuing of this certificate.

**159. Engineering Condition – Public Domain Works** - All outstanding civil works associated with new laneway and all other road works, kerb and gutter, footpath, vehicular crossings and stormwater drainage works for this development site shall be completed in accordance with Council's specifications and to the satisfaction of Council prior to the issue of the **Occupation Certificate.**

**160. Certification of fit-out work.** Where Council is not the Principal Certifying Authority, the PCA must inspect the completed fit-out and issue a compliance certificate certifying that the fit-out complies with Food Safety Standard 3.2.3: *Food Premises and Equipment* and Australian Standard AS 4674-2004: *Design, construction and fit-out of food premises*, and a copy of

**ITEM 2 (continued)**

**ATTACHMENT 1**

the compliance certificate must be submitted to Council, before the issue of an Occupation Certificate

**161. Creation of the Right of Way over 1.5m wide footpath.** To facilitate public access a 1.5m wide Right of Way (ROW) for public access for the frontage of the property in Gerard Lane, as shown on Architectural Plan A1.02 Lower Ground Floor Issue F, shall be created and registered on the titles of the subject property over the 1.5m wide footpath. The terms of the ROW shall be to Council's satisfaction and shall provide for, but not be limited to the following:

- a) To be publicly accessible at all times.
- b) Maintenance of the R.O.W to ensure safe, unobstructed access to the public at all times with all costs of maintenance being borne by the registered proprietor of the land.
- c) Any public liability arising from the use of the ROW by the users, including the public are to be fully borne by the registered proprietor of the land.
- d) Allow for future modifications where necessary to facilitate the construction of a public access way upon redevelopment of the adjoining properties to the south of the subject site.

The terms of the R.O.W shall be submitted to Council for assessment and approval and will need to be registered at the Lands and Property Management Authority, prior to issue of Occupation Certificate.

**162. Creation of ROW over the Loading and Turning Bay.** To allow for vehicles to turn and exit Gerard Lane in a forward direction, A Right of Way (ROW) over the loading and turning bay is to be created and registered on the titles of the subject property. The terms of the ROW shall be to Council's satisfaction and shall provide for, but not be limited to the following:

- a) To be publicly accessible at all times,
- b) Maintenance of the R.O.W to ensure safe, unobstructed access to the public at all times with all costs of maintenance being borne by the registered proprietor of the land.
- c) Any public liability arising from the use of the ROW by the users, including the public are to be fully borne by the registered proprietor of the land.
- d) The ROW shall be extinguished once the through connection from Gerard Lane through to Osathorpe Street is realised.

The terms of the R.O.W shall be submitted to Council for assessment and approval and will need to be registered at the Lands and Property Management Authority, prior to issue of Occupation Certificate.

**163. Dedication of land to Council for part of Gerard Lane.** The north western corner of land, approximately 171.4m<sup>2</sup> in area and as shown in yellow

**ITEM 2 (continued)**

**ATTACHMENT 1**

on architectural plan A1.02 – Lower Ground Floor Issue F, is to be dedicated to Council prior to the issue of any Occupation Certificate.

**164. Design Verification.** Prior to an Occupation Certificate being issued to authorise a person to commence occupation or use of a residential flat building, the Principal Certifying Authority (PCA) is to be provided with design verification from a qualified designer. The statement must include verification from the qualified designer that the residential flat development achieves the design quality of the development as shown on plans and specifications in respect of the relevant Construction Certificate issued, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Apartment Design Guide. This condition is imposed in accordance with Clause 154A of the Environmental Planning and Assessment Regulation 2000.

**165. Signage and Linemarking – External.** A plan demonstrating the proposed signage and line marking within Council's Public Domain shall be prepared by a suitably qualified person and submitted to and approved by the Ryde Traffic Committee prior to the issue of any Occupation Certificate. Note: The applicant is advised that the plan will require approval by the Ryde Traffic Committee if the proposal requires change in existing parking conditions and hence, adequate time should be allowed for this process.

**166. Signage and Linemarking – Implementation.** The applicant is to install all signage and linemarking, as per the plan approved by the Ryde Traffic Committee. These works are to be undertaken prior to the issue of any Occupation Certificate.

**167. CCTV Cameras.** CCTV cameras will be required to be installed throughout the site. The cameras should include the foyer area to the buildings including the area around the mail boxes. The cameras should also monitor the 50 metre vicinity outside the building including, but not limited to, the footpath area in front of the premises. CCTV cameras should also cover any communal areas, lifts, public spaces, pedestrian link and the basement car parks, including the entry and exit points to the car park. Recordings should be made twenty four (24) hours a day seven (7) days a week.

As a minimum, CCTV cameras at entry and exit points to the premises MUST record footage of a nature and quality in which it can be used to identify a person recorded by the camera. All other cameras MUST record footage of a nature and quality in which it can be used to recognise a person recorded by the camera. The time and date must automatically be recorded on all recordings made whilst it is recording. All recordings are to be kept for a minimum period of thirty (30) days before they can be reused or destroyed.

**ITEM 2 (continued)**

**ATTACHMENT 1**

If requested by police, the applicant is to archive any recording until such time as they are no longer required. Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any windows computer.

The CCTV control system should be located within a secured area of the premise and only accessible by authorised personnel. If the CCTV system is not operational, immediate steps are to be taken by the applicant to ensure that it is returned to a fully operational condition as soon as possible.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

168. **Car parking security.** Vehicular entry to residential parking and visitor's parking areas is to be through a secured roller shutter with an intercom system for visitor's access. The doors are to be controlled by locksets such as remote or card operating electronic lock sets. The phasing of the roller door needs to minimise the opportunity for unauthorised pedestrian access after a vehicle enters/exits the car park. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

169. **Graffiti.** All surfaces on the street level that are not glass should use graffiti resistant paints and/or other surfaces that discourage graffiti. A maintenance policy should be established for graffiti to be painted over within two a week of the graffiti.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

170. **Security.** To enhance the physical security of doors, all glass doors are to be laminated and the main entry/exit doors to individual units on the ground floor, including balcony doors and fire exit doors to the development are to be fitted with a single cylinder lockset (Australian and New Zealand Standard - Lock Sets), which comply with the Building Code of Australia. Windows to individual units on the ground floor should also be fitted with key operated locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

171. **Intercom System.** Intercom facilities should be incorporated into these entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development. An auxiliary lock set should also

**ITEM 2 (continued)**

**ATTACHMENT 1**

be incorporated into the design of each of the entry/exit points to enable emergency services to access the development particularly in emergency situations.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

172. **Balcony doors to units.** Balcony doors to units are to be fitted with single cylinder locksets (Australian and New Zealand Standard – Lock Sets) to restrict unauthorised access to units. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

173. **Lift access and security.** Electronic access controls are to be installed on the lift. The equipment should include card readers to restrict access to the level a resident resides on, to the car parking levels and to the Ground Floor. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

174. **Public domain – work-as-executed plan.** A works as executed plan for works carried out in the public domain must be provided to and endorsed by Council prior to the issue of any **Occupation Certificate**.

175. **Garbage Services.** Suitable arrangements must be made with the City of Ryde Council for the provision of garbage services to the premises prior to the issue of any **Occupation Certificate**.

176. **Indemnity.** Where it is necessary for waste collection vehicles to enter the property to service the waste containers, the property owner must indemnify Council and its contractor in writing against claims for damage to the driveways and manoeuvring areas. This indemnity must be submitted to the City of Ryde Council prior to the issue of any Occupation Certificate

177. **Universal Council Key.** Where there is a lockable door to access a bin room or hard waste storage room, the universal Council key should be installed so the contractor can access the room for servicing bins or collect the household clean-up items.

178. **Letterboxes and street/house numbering.** All letterboxes and house numbering are to be designed and constructed to be accessible from the public way. Council must be contacted in relation to any specific requirements for street numbering.

179. **CCTV Report** - Prior to the issue of an Occupation Certificate, the Council shall be provided with an electronic closed circuit television report

**ITEM 2 (continued)**

**ATTACHMENT 1**

(track mounted camera CCTV report) prepared by an accredited operator that assesses the condition of the newly constructed drainage network along Gerard Lane. Any defects in the drainage network identified in the report shall be rectified to Council's satisfaction.

180. **Works-as Executed Drawings – Stormwater Drainage.** Prior to the issue of an Occupation Certificate, full work-as-executed plans prepared and signed by a registered surveyor or engineer for the Council stormwater drainage works shall be submitted to and approved by Council's Stormwater Engineer. Where changes have occurred the plans shall be marked-up in red ink and shall include levels and locations for all drainage structures and works, buildings, and finished ground and pavement surface levels, and the extent of pervious and impervious areas. The work-as-executed drawings shall be accompanied by a certificate from a suitably qualified engineer (registered on the NER of Engineers Australia), certifying the drawings are a true and accurate representation of the constructed works.

181. **Acoustic certification.** A report from a qualified acoustical consultant demonstrating compliance with the relevant noise criteria must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.

182. **Disabled access.** Access for disabled persons shall be provided in the building or portion of the building in accordance with the applicable legislation and the requirements set out in AS 1428.1. Documentary evidence and certification is to be obtained from a suitable qualified person confirming that the development meets these requirements in accordance with this consent, is to be provided to the PCA prior to the issue of any Occupation Certificate.

183. **Mechanical Ventilation.** Where any mechanical ventilation systems have been installed, a certificate from a professional mechanical services engineer certifying that the systems comply with the approved plans and specifications must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.

**OPERATIONAL CONDITIONS**

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

184. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the parking allocation as follows;

- 51 residential spaces,
- 5 residential accessible spaces,

**ITEM 2 (continued)**

**ATTACHMENT 1**

- 9 visitor spaces,
- 1 visitor accessible space,
- 6 commercial spaces,
- 1 commercial accessible space,
- 2 motorbikes spaces and
- 8 bicycle parking spaces.

The parking allocations will need to incorporate minor modifications to allow one accessible space is provided for the commercial and visitor spaces, as required above. The commercial and residential parking spaces are to have some form of physical separation to prevent any misuse of the spaces.

**185. Stormwater Management – Implementation of maintenance program.**

The stormwater management system components are to be maintained for the ongoing life of the development by the strata management/ owners corporation, as per the details in the approved drainage system maintenance plan (DSMP).

**186. Signs.** Signs will be required to be placed within the bin area to encourage correct recycling and reduce contamination. City of Ryde will provide the required signage

**187. Storage and disposal of wastes/Recyclable wastes** - All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.

Wastes for recycling must be stored in separate bins or containers and be transported to a facility where the wastes will be recycled or re-used.

**188. Air pollution** - The use of the premises, including any plant or equipment installed on the premises, must not cause the emission of smoke, soot, dust, solid particles, gases, fumes, vapours, mists, odours or other air impurities that are a nuisance or danger to health.

**189. Offensive noise** - The use of the premises must not cause the emission of 'offensive noise' as defined in the *Protection of the Environment Operations Act 1997*.

**190. Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:

(a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent

**ITEM 2 (continued)**

**ATTACHMENT 1**

noise in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000).

(b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.

(c) The transmission of vibration to any place of different occupancy.

End of Consent.

ITEM 2 (continued)

ATTACHMENT 2



## CLAUSE 4.6 VARIATION REQUEST – HEIGHT OF BUILDINGS STANDARD

### 1. INTRODUCTION

This request has been prepared in accordance with the provisions of clause 4.6 of the *Ryde Local Environmental Plan 2014* (RLEP 2014) – Exceptions to Development Standards. This request seeks a variation to the Height of Building development standard adopted under clause 4.3 of the RLEP 2014, as it applies to 312 Victoria Road, Gladesville (the site).

This request supports an amendment to development application LDA/2017/0312 (the development application) for the mixed-use redevelopment of the site. The development application proposes the demolition of all existing structures on the site and construction of a seven (7) storey mixed-use development with ground floor retail fronting Victoria Road, 50 residential apartments and basement levels accommodating on-site carparking, loading and plant.

As shown in **Figure 1**, RLEP 2014 assigns a split height of buildings control to the site. The eastern portion of the site, fronting Victoria Road, is subject to a maximum height of buildings control of 19m. The western portion of the site adjacent to Gerard Lane has a maximum height of buildings control of 12m.

This request should be read in conjunction with the amended Statement of Environmental Effects (SEE) prepared by Urbis, the amended Architectural Plans prepared by MoMA Architects at **Appendix B** and the amended Gerard Lane Civil Engineering Plans prepared by ACE at **Appendix K** of the SEE. This request has been prepared having regard to the following:

- Clause 4.6 and clause 4.3 of RLEP 2014;
- The considerations for assessing standards set out by the relevant case law.

Figure 1 – RLEP 2014 Height of Buildings Map



SA6244\_Clause 4.6\_Final\_March 2018

ITEM 2 (continued)

ATTACHMENT 2



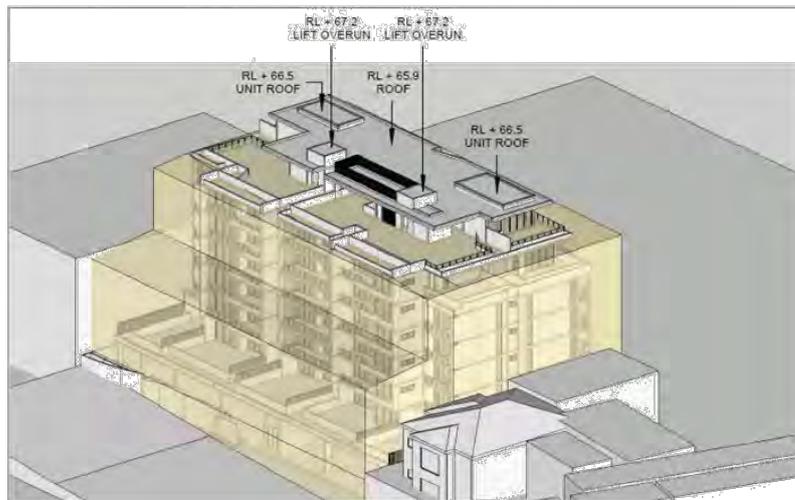
2. PROPOSED VARIATION

The development proposal involves the demolition of the existing buildings and structures on the site and the construction of a seven (7) storey mixed-use development with ground floor commercial and residential uses. The site is subject to a split height of buildings control under the RLEP 2012. The eastern portion of the site, fronting Victoria Road, is subject to a maximum height of buildings control of 19m. The western portion of the site adjacent to Gerard Lane has a maximum height of buildings control of 12m.

The proposed variation relates to the portion of the site subject to the 19m height of buildings control, as illustrated in the building height plane diagram at Figure 2 below. The proposed development in compliance with the 12m height of building control relating to the western portion of the site. As can be seen in Figure 2, a large portion of the building envelope fronting Gerard Lane does not contain any built form.

The height non-compliance relates to Level 6 of the proposed development and the rooftop plant and lift overrun. Level 6 includes a rooftop terrace which provides 416sqm of landscaped communal open space and two (2) residential apartments orientated towards Victoria Road away from the adjacent low density neighbourhood.

Figure 2 – Height Plane Diagram (view from Gerard Lane)



**ITEM 2 (continued)**

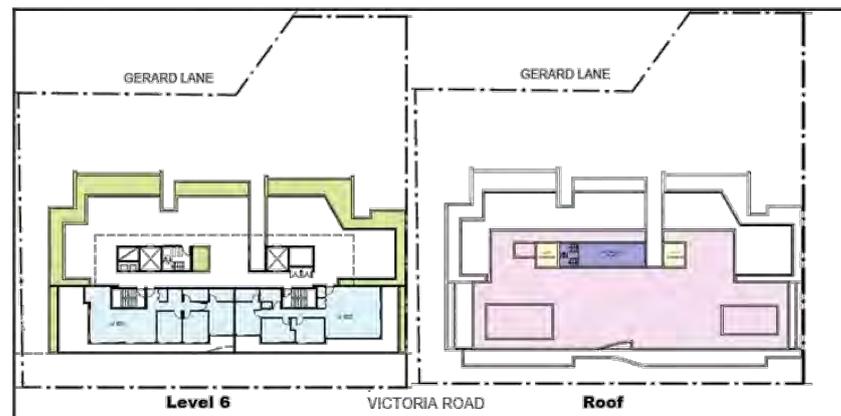
**ATTACHMENT 2**



**Building elements above the height plane**

The proposed variation to the standard ranges from 0.5m at the balcony balustrades, to 4.3m at the lift overrun. The different building elements above the height of buildings control have been analysed as a percentage of the site area as a method of quantifying the variation and examining the locations of minor protrusions (balustrades/planters) compared with primary building bulk (residential apartments, roof, lift overrun and plant). This analysis is provided in **Figure 3** below and in the **Architectural Plans** at **Appendix B** of the SEE.

Figure 3 – Analysis of elements above the height plan



**ELEMENTS ABOVE THE HEIGHT PLANE:**

SITE AREA:1778.4

<input type="checkbox"/> LIFT OVERRUN:	approx 18.6 m <sup>2</sup> ( 1.04% of site area)	RL 67.2
<input type="checkbox"/> ROOF:	approx 432 m <sup>2</sup> ( 24.3% of site area)	RL 65.9-66.5
<input type="checkbox"/> L6 RESIDENTIAL:	approx 203.8 m <sup>2</sup> ( 11.5% of site area)	RL 62.85
<input type="checkbox"/> BALUSTRADES AND PLANTERS:	approx 162 m <sup>2</sup> ( 9.1% of site area)	RL 63.3 – 63.96
<input type="checkbox"/> HOT WATER PLANT SCREEN ENCLOSURE:	approx 33.2 m <sup>2</sup> ( 1.9% of site area)	RL 67.2

As illustrated in Figure 3, the maximum variation (lift overrun and hot water plant screen) occupy 2.94% of the site area. The lift overrun and hot water plant screen enclosure are located in the centre of the centre of site and are set back from Victoria Road.

**ITEM 2 (continued)**

**ATTACHMENT 2**



As illustrated in **Figure 2**, the roof of Level 6 represents a variation to the height control of 3.05-3.65m. The roof of Level 6 apartments and overhang has an area of 432sqm, which is equivalent to 24.3% of the site area. The Level 6 apartments and roof are orientated towards Victoria Road to create a height transition and increased separation distances from lower density residential areas to the west. The building massing strategy and distribution of permissible GFA is discussed in **Section 6** of this statement.

Protrusions caused by balustrades and planters represent minor variations to the standards and do not contribute to building bulk. The finished floor level of the Level 6 communal open space and apartment balconies sit below the height of buildings control.

### **3. PRINCIPLES OF EXCEPTIONS TO DEVELOPMENT STANDARDS**

#### **3.1. CLAUSE 4.6 EXCEPTIONS TO DEVELOPMENT STANDARDS**

Clause 4.6 of RLEP 2014 provides flexibility in the application of development standards allowing the consent authority to grant development consent for developments that do not comply with identified development standards, where it can be shown that flexibility in the application of the standard would achieve better outcomes for and from the development.

This assessment demonstrates the planning merits of the development which includes the variation of the development standard.

The objectives of clause 4.6 of RLEP 2014 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Clause 4.6(3)(a) and (b) of RLEP 2014 requires the variation request to demonstrate:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

The consent authority when considering a request to vary a development standard must be satisfied that the proposed development will be in the public interest and that the proposed development is consistent with the objectives of the particular standard and the objectives of the zone in which the development is proposed to be carried out.

#### **3.2. NSW LAND AND ENVIRONMENTAL COURT: CASE LAW**

##### **3.2.1. Wehbe v Pittwater Council [2007] NSWLEC 827**

The decision of Justice Preston in *Wehbe v Pittwater Council* [2007] expanded the findings of *Winten v North Sydney Council* [2001] and established a five (5) part test for consent authorities to consider when assessing an application to vary a development standard in order to determine whether non-compliance with the development standard is well founded.

The five (5) different ways in which an objection may be well founded are as follows:

ITEM 2 (continued)

ATTACHMENT 2



- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- *The underlying objective or purpose of the standard not relevant to the development and therefore compliance is unnecessary;*
- *The underlying objective or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and reasonable;*
- *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

**3.2.2. Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90**

More recently, *Four2Five v Ashfield Council* was initially heard by Commissioner Pearson, and upheld on appeal by Justice Pain in the Court of Appeal. Commissioner Pearson's decision in this case (and Justice Pain's endorsement of the reasoning) requires an application to vary a development standard to go beyond the five (5) part test of *Wehbe v Pitwater Council* [2007] to demonstrate the following:

- *Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP;*
- *The development standard is unreasonable or unnecessary on grounds other than the development achieved the objectives of the development standard and/or land use zone.*
- *There are sufficient environmental planning grounds particular to the circumstances of the proposed development that do not apply to any similar development on the site or in the vicinity.*

**3.2.3. Randwick City Council v Micaul Holdings Pty Ltd [2016] NSW LEC 7**

In *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSW LEC 7 Preston CJ noted at paragraph 7 that development consent cannot be granted for development that contravenes a development standard unless the consent authority:

- *"Considers the cl 4.6 objections (the requirement in cl 4.6(3)); and*
- *Was satisfied that, first, the cl 4.6 objections adequately addressed the matters required to be demonstrated by cl 4.6(3) (the requirement in cl 4.6(4)(a)(i)) and, second, the development will be in the public interest because it is consistent with the objectives of the height standard and the FSR standard and the objectives for development within the R3 zone in which the development is proposed to be carried out (the requirement in cl 4.6(4)(a)(ii))."*

Preston CJ noted at paragraph 39 that "the [consent authority] does not have to be directly satisfied that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only indirectly by being satisfied that the applicant's written request has adequately addressed the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary". In this respect, he also noted that in assessing whether compliance with

**ITEM 2 (continued)**

**ATTACHMENT 2**



the development standards was unreasonable or unnecessary an established test is consistency with the objectives of the standard and the absence of environmental harm.

**3.2.4. Moskovich v Waverley Council [2016] NSWLEC 1015**

Commissioner Tour reflected on the recent decisions considering Four2Five and said:

- *“Clause 4.6(3)(a) is similar to clause 6 of SEPP 1 and the Wehbe ways of establishing compliance are equally appropriate [at 50]. One of the most common ways is because the objectives of the development standard are achieved – as per Preston CJ in Wehbe at 42-43.*
- *Whereas clause 4.6(4)(a)(ii) has different wording and is focused on consistency with objectives of a standard. One is achieving, the other is consistency. Consequently, a consideration of consistency with the objectives of the standard required under clause 4.6(4)(a)(ii) to determine whether non-compliance with the standard would be in the public interest is different to consideration of achievement of the objectives of the standard under clause 4.6(3). The latter being more onerous requires additional considerations such as the matters outlined in Wehbe at 70-76. Such as consideration of whether the proposed development would achieve the objectives of the standard to an equal or better degree than a development that complied with the standard.*
- *Establishing compliance with the standard is unnecessary or unreasonable in 4.6(3)(a) may also be based on “tests” 2-5 in Wehbe either instead of achieving the objectives of the standard (Wehbe test 1) or in addition to that test. The list in Wehbe is not exhaustive but is a summary of the case law as to how “unreasonable or unnecessary” has been addressed to the meet the requirements of SEPP 1.*
- *It is best if the written request also addresses the considerations in the granting of concurrence under clause 4.6(5)”.*

**4. CONSISTENCY WITH THE OBJECTIVES OF THE HEIGHT OF BUILDINGS STANDARD**

Clause 4.6(4)(a)(ii) of RLEP 2014 requires a variation request demonstrate that the proposed development is in the public interest as it is consistent with the objectives of the particular standard. **Table 1** assesses the consistency of the proposal against the objective of clause 4.3 of the RLEP 2014.

Table 1 – Height of buildings Objectives

Objective	Compliance
<i>To ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.</i>	The height of the proposal is contextually appropriate and is consistent with the emerging character of the area. Victoria Road is transitioning into a mixed-used corridor and there are a number of recent developments (constructed, approved or under assessment) of a similar scale. Developments approved of a similar and scale and similar variation to the height of buildings control include:

ITEM 2 (continued)

ATTACHMENT 2



Objective	Compliance
	<ul style="list-style-type: none"> <li>• Approved five (5) storey mixed-use development at 265 Victoria Road, Gladesville (LDA2016/0023),</li> <li>• Approved six (6) storey mixed-use development at 717 Victoria Road, Gladesville (LDA2015/0472), and</li> <li>• Approved seven (7) storey mixed-use development at 723-731 Victoria Road, Gladesville (LDA/2015/0654).</li> <li>• Approved 5 &amp; 9 storey mixed-use development at 39 - 41 Devlin St, Ryde (LDA2016/0359).</li> </ul> <p>The proposal includes two commercial tenancies fronting Victoria Road to provide activation at the ground plane as required under RDCP 2014. Levels 5 and 6 are setback from Victoria Road and incorporate the use of planter boxes and different materials and finishes to distinguish the upper element from the strong street edge created at the lower levels.</p>
<p><i>To minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area.</i></p>	<p>MoMA Architects have undertaken an overshadowing analysis which is submitted at <b>Appendix B</b> of the SEE. As evident in the analysis and further discussed in Section 6.2 below, the proposed variation to the 19m height of buildings control results in minimal additional shadowing impacts on neighbouring properties, when compared to a height complaint scheme.</p> <p>The proposal is for a contemporary mixed-use development which is compatible with the future character of the Victoria Road Corridor. The proposal includes the construction and dedication of an extension of Gerard Lane (carriageway and footpath) through the site to the north-western boundary. While this work is nominated in RDCP 2014 as an objective, there is no statutory requirement for acquisition.</p> <p>The proposal includes other public domain improvements such as new paving, footpath upgrades and street tree planting and street lighting to both the Victoria Road and Gerard Lane frontages.</p>
<p><i>To encourage a consolidation pattern and sustainable integrated land use and transport development</i></p>	<p>The proposal is located within the Victoria Road Corridor which is identified for urban renewal under Council's adopted controls and policies.</p>

**ITEM 2 (continued)**

**ATTACHMENT 2**



Objective	Compliance
<p><i>around key public transport infrastructure.</i></p>	<p>The proposal includes the construction and dedication of the Gerard Lane extension through the site to the north-western site boundary as envisaged under RDCP 2014. The construction and dedication of the roadway is a public benefit which will serve residents of the site, but importantly, will deliver a missing connection that will benefit the broader community and will adhere to Council's objectives.</p> <p>The proposal includes the removal of the two existing vehicular crossovers on Victoria Road. This will improve the safety and efficiency of the road corridor and the pedestrian environment. The proposal will be supported by public bus services along Victoria Road.</p>
<p><i>To minimise the impact of development on the amenity of surrounding properties.</i></p>	<p>As above, the proposed variation will not result in any significant adverse overshadowing impacts.</p> <p>The proposed built form provides a height transition from lower density residential areas to the west of the site. The additional building height is located along the Victoria Road frontage, representing the portion of the site with greatest separation from the lower density residential areas on the western side of Gerard Lane.</p> <p>The Level 6 apartments have been set back from Victoria Road to minimise apparent bulk of this element when viewed from the street. Levels 5 and 6 of the development have been setback from the southern boundary to provide visual relief from the neighbouring heritage cottage.</p> <p>The proposal results in no privacy impacts between dwellings within the development or to neighbouring properties. Any privacy issues have been mitigated through the application high level windows and opaque glass bricks on the southern facade and generous setbacks to the rear site boundary and the use of privacy screening and planting.</p>
<p><i>To emphasise road frontages along road corridors.</i></p>	<p>The proposal activates Victoria Road and provides a strong street edge along the road frontage. The Victoria Road frontage is highly articulated, incorporating a 'wave' shaped cut out through the centre of the building and a variety of complementary materials and finishes at ground level and the</p>

**ITEM 2 (continued)**

**ATTACHMENT 2**



Objective	Compliance
	<p>residential levels above. The upper levels of the development have been setback from the southern boundary to provide visual relief from the neighbouring heritage cottage.</p> <p>The proposed development provides street level retail uses along the Victoria Road frontage. Vehicular access to the site is to be provided from Gerard Lane, allowing for an enhanced pedestrian environment along Victoria Road.</p>

**5. CONSISTENCY WITH THE OBJECTIVES OF THE B4 MIXED USE ZONE**

Clause 4.6(4)(a)(ii) establishes that it should be demonstrated that the proposed development is in the public interest as it is consistent with the objectives of the zone. **Table 2** assesses the consistency of the proposal against the objective of the B4 Mixed Use zone under the RLEP 2014.

Table 2 – Assessment against the B4 Mixed Use Zone Objectives

Objective	Compliance
<i>To provide a mixture of compatible land uses.</i>	<p>The proposed development provides a mix of commercial and residential uses that are appropriate for the site, the Gladesville Town Centre and the Victoria Road Corridor.</p> <p>The proposed development is compliant with the FSR control applying to the site under the RLEP 2014 and the proposed massing strategy and distribution of permissible GFA is compatible with the surrounding area.</p>
<i>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.</i>	<p>The ground floor commercial uses and public domain improvement works will contribute to a vibrant, active and safe environment for the benefit of the community, as well as for residents. The site is located in close proximity to north and south bound bus services along Victoria Road. North bound services travel to Macquarie Park, Ryde and West Ryde. South bound services travel to the Sydney CBD.</p> <p>The proposal includes the removal of the existing vehicular crossovers to Victoria Road. Vehicular access to the site is to be provided from Gerard Lane, allowing for an enhanced pedestrian environment along Victoria Road. The proposed extension of Gerard lane through the site facilitates the future connection of the public road through the adjacent site to</p>

**ITEM 2 (continued)**

**ATTACHMENT 2**



Objective	Compliance
	Osgathorpe Street for the benefit of pedestrians and road users of the broader community.
<i>To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.</i>	Not applicable.
<i>To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.</i>	Not applicable.

**6. ASSESSMENT**

The following provides an assessment of the variation proposed.

**6.1. IS COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?**

In applying the principles established in the NSW Land and Environment Court judgements outlined in Section 3, compliance with the height of building development standard is considered unreasonable or unnecessary as:

- The proposed development is compliant with the floor space ratio control (FSR) applying to the site under the RLEP 2014. In addition to the amenity considerations discussed below, the massing strategy and distribution of permissible GFA has been informed by the following key site constraints:
  - The north western portion of the site is to remain free of physical structures to enable the extension of Gerard Lane through the site as envisaged under Part 4.6 Control 3.2.2 of the Ryde Development Control Plan 2014 (RDCP 2014).
  - The extension of Gerard Lane while identified under RDCP 2014 is not subject to a notation under RLEP 2014 for acquisition nor is the acquisition or works identified under Council’s section 94 Contributions Plan.
  - The site is located adjacent to a local heritage item at 310 Victoria Road, Gladesville. Greater setbacks and a reduction in building height along the southern façade have been adopted to provide relief to the heritage item. The proposal has been stepped back at Victoria Road to

**ITEM 2 (continued)**

**ATTACHMENT 2**



provide a consistent building line with the heritage cottage. A 4-metre setback to Victoria Road is provided at all levels adjacent to the common boundary. Levels 5 and 6 of the proposal have been setback by 4.3 – 6.3m from the southern boundary.

- Design development has included the extension of the lift core to Level 6 of the development to provide equitable access to the rooftop communal open space.
- The variation to the building height enables the siting of two (2) residential apartments on Level 6. This is considered a design response to relocate building bulk away from low density residential areas on the opposite side of Gerard Lane.
- The proposal represents a better planning outcome than a height compliant scheme. Previous massing options incorporated greater communal open space at ground level and apartments fronting Gerard Lane with minimal rear setbacks. The scheme has been further refined to achieve a greater level of amenity for future residents of the development and neighbouring sites, by relocating apartments away from ground level at Gerard Lane, relocating the communal open space to the rooftop and providing a turning bay at Ground Level for residents and the general public.
- The relocation of available GFA to Level 6 of the development affords excellent residential amenity for these apartments and a superior outlook and amenity compared with apartments fronting Gerard Lane.
- The proposal is consistent with the objectives of the height of buildings development standard and the B4 Mixed Use zone. The proposal is a high quality mixed use development which is of scale compatible with the Victoria Road Corridor.
- The proposed development has been designed to comply with the 12m height of building standard applying to the rear of the site. As such, the proposal provides an appropriate height transition to the lower density residential areas located to the west of Gerard Lane.
- The height transition and separation from neighbouring developments minimises any potential privacy impacts associated within the proposal. Furthermore, the Level 6 roof terrace and residential apartments, include the provision of deep planter boxes to reduce any opportunities for overlooking to adjacent properties and provide a high quality residential environment.

**6.2. ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS TO JUSTIFY CONTRAVENING THE DEVELOPMENT STANDARD?**

The proposed variation does not result in any significant adverse environmental impacts. There are sufficient environmental planning grounds to support a variation of the development standard, as outlined below:

***Overshadowing***

- MoMA Architects have undertaken an overshadowing analysis (**Appendix B**). The proposed variation to the 19m height of buildings control results in additional overshadowing to neighbouring properties, when compared to a height complaint envelope.

**ITEM 2 (continued)**

**ATTACHMENT 2**



- The shadow impacts of the amended scheme are reduced compared with the original submission of LDA/2017/0312. The lesser impact is attributed to the increased side setbacks and reduced building bulk at the southern façade of levels 5 and 6.
- When modelled between 9am and 3pm on 21 June, the impacts of the height non-compliance are greatest at 9am and are significantly reduced by 10am. The overshadowing created by Level 6 of the development is negligible when compared to the impacts height complaint scheme. Overshadowing impacts in general, can be attributed to the orientation of the site and surrounding sites and the sloping topography of the locality.

**Residential amenity**

- The proposed development achieves a high degree of consistency and compliance with the design principles and standards contained within SEPP 65 and the ADG.
- The Level 6 communal open space affords excellent amenity for all residents. The landscaped terrace includes seating and barbeque facilities and offers expansive views to the west and south west towards the Parramatta River. The communal open space enjoys excellent solar access and is orientated away from traffic noise on Victoria Road. The upper portion of the height non-compliance (above the Level 6 roof) can be attributed to the lift overrun, which has resulted from the requirement and desire to provide equitable access to all residents to communal open space.

**Privacy**

- Privacy has been a key design consideration in the design of the apartments and private open space. Screening and landscaping have been incorporated into the development as both a design feature and privacy measures. The Level 6 communal open space and apartments result in no adverse privacy impacts to residents of the site or adjoining properties.

**Visual impacts**

- There are no adverse visual impacts associated with the additional built form located at Level 6. The upper levels of the development are setback from the Victoria Road frontage in accordance with the RDCP 2014 to ensure that a appropriate street edge and scale is created along the Victoria Road frontage.
- Levels 5 and 6 are setback from Victoria Road and incorporate the use of planter boxes and different materials and finishes to distinguish the upper element from the strong street edge created at the lower levels.

**6.3. WILL THE PROPOSED DEVELOPMENT BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT?**

The proposed variation to the height of buildings control satisfies the objectives of the development standard and the relevant B4 Mixed Use zone objectives providing a mixed use development with high quality communal open space in close proximity to public transport and delivering a public road connection to create a more permeable neighbourhood. The proposed development is considered to be in the public interest for the following reasons:

**ITEM 2 (continued)**

**ATTACHMENT 2**



- The proposed variation to the height of buildings control is a site specific design response and enables the extension of road network. The proposed siting of the development and distribution of the permissible floor space above the permitted height control to allow the extension of Gerard Lane and footpath through the rear of the site. The construction and dedication of Gerard Lane will increase the functionality of the roadway for residents and the broader public.
- The proposal is for a contemporary mixed-use development which is entirely compatible with the emerging future character of the Victoria Road Corridor and are consistent with other laneway developments along the corridor. The proposal includes several public domain improvements, including new paving and footpath upgrades, street tree planting and street furniture and lighting, and the provision for the extension to Gerard Lane.
- The proposed massing is the result of detailed design testing which will achieve a greater level of amenity for future residents of the development and neighbouring sites as outlined above.

**6.4. WHETHER OR NOT NON-COMPLIANCE WITH THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING**

The non-compliance will not raise any matters of significance for State or regional environmental planning.

**6.5. PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD**

No public benefit will be achieved by strictly applying the height of buildings control. The increase in building height will enable a development to be delivered that is consistent with the desired future character of the Victoria Road Corridor, is compliant with the relevant FSR control and provides a high level of residential amenity in a convenient location. The development facilitates the extension of Gerard Lane connection envisaged under the RDCP 2014.

As discussed within the SEE, the redevelopment of the site will result in a variety of public benefits, including upgrades to the public domain and high quality urban renewal and streetscape activation along the Victoria Road Corridor. The development will support the increased provision and variety of housing and increased retail floor space to support a growing residential area.

**6.6. MATTERS REQUIRED TO BE TAKEN INTO CONSIDERATION BY THE SECRETARY BEFORE GRANTING CONCURRENCE**

There are no additional matters to be considered. It is understood that only a full Council can assume the Secretary's concurrence where the variation to a numerical standard is greater than 10%.

ITEM 2 (continued)

ATTACHMENT 2



**6.7. CONSIDERATIONS ARISING FROM WEHBE AND FOUR2FIVE**

The five part test established by Preston J in *Wehbe v Pittwater Council* [2007] NSWLEC 827 and furthered in *Four2FivePty Ltd v Ashfield Council* [2015] NSWLEC 90 are considered in **Table 4** and **Table 5**.

Table 3 – Wehbe Five Part Test

Question	Comment
<i>Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?</i>	Yes, the proposal is consistent with the objectives of the height of buildings control and B4 Mixed Use zone. The proposal is for a high quality mixed use development which is of scale entirely compatible with the envisaged future character of the Victoria Road Corridor.
<i>Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary?</i>	No, the underlying objectives of the standard are relevant to the development. As demonstrated in this statement, the proposal satisfies the objectives of the standard. The proposed height variation does not result in any unreasonable amenity impacts on surrounding properties.
<i>Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?</i>	If strict numerical compliance were required, GFA would be required to be reallocated to the lower levels. This would compromise the ability to extend Gerald Lane through the site and the height transition provided to surrounding lower density areas. If residential floor space was located at the rear of the site, amenity of the apartments would be compromised.  The relocation of floor space to lower levels would increase the perceived bulk and scale of the proposal.
<i>Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that departs from the standard, making compliance with the development standard by others both unnecessary and unreasonable?</i>	Whilst the height of buildings control has not been strictly abandoned or destroyed, consent has been granted to developments along the Victoria Road Corridor that exceed the height of buildings control including: <ul style="list-style-type: none"> <li>• Approved 5 &amp; 9 storey mixed-use development at 39 - 41 Devlin St, Ryde, with an approved 36.5% variation to the standard (LDA2016/0359).</li> <li>• Five (5) storey mixed-use development at 265 Victoria Road, Gladesville, with an approved 20% variation to the standard (LDA2016/0023);</li> <li>• Six (6) storey mixed-use development at 717 Victoria Road, Gladesville, with an approved 7.8% variation to the standard (LDA2015/0472); and</li> </ul>

ITEM 2 (continued)

ATTACHMENT 2



Question	Comment
	<ul style="list-style-type: none"> <li>Seven (7) storey mixed-use development at 723-731 Victoria Road, Gladesville, with an approved 10.7% variation to the standard (LDA/2015/0654).</li> </ul> <p>Consistent with the objectives of Clause 4.6 of the RLEP 2014, Council has supported flexibility in the application of the height of buildings control in circumstances where the variation will result in the delivery of a public benefit and a better planning outcome.</p>
<p><i>Is the "zoning of particular land" unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently compliance with that development standard is unnecessary and unreasonable?</i></p>	<p>No, the B4 Mixed Use zone is appropriate. Compliance with the standard is unreasonable and unnecessary for the reasons outlined in this submission.</p>

Table 4 – Additional considerations arising from *Four2Five Pty Ltd*

Question	Comment
<p><i>Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP.</i></p>	<p>As discussed above, the proposed variation satisfies the relevant considerations of clause 4.6 of RLEP 2014</p>
<p><i>That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity).</i></p>	<p>The planning grounds specific to the site and development have been considered, these include:</p> <ul style="list-style-type: none"> <li>The proposed variation to the height of buildings control is a site specific design measure. The proposed siting of the development and distribution of the floor space above the permitted height control enables the extension of Gerard Lane through the site. The extension to Gerard Lane will increase the amenity and functionality of the roadway for residents and the broader public.</li> <li>The proposal has been set back from the southern boundary at Levels 5 and 6 adjacent to the local heritage item to respect the significance of the local heritage item.</li> </ul>

**ITEM 2 (continued)**

**ATTACHMENT 2**



**7. CONCLUSION**

The proposed mixed-use development is consistent with the objectives of both the height of buildings control and the B4 Mixed Use zone. The proposed variation to the height of buildings control is considered appropriate for the following reasons:

- The proposal is compliant with RLEP 2014 FSR control and RDCP 2014 setback controls. The siting of the proposed development allows the extension of Gerard Lane through the site. The lane extension is considered a public benefit which will increase the amenity and functionality of the roadway for local residents and the broader community once completed on the adjacent Dan Murphys site.
- The proposal will provide a high level of amenity for future residents. Level 6 of the development includes a sizable terrace (416sqm) for the use by residents. The terrace is accessible via an elevator, ensuring the space is accessible for all residents. The landscaped terrace includes seating and barbeque facilities and offers expansive views to the east and south east towards the Parramatta River. The communal open space is orientated away from traffic noise on Victoria Road, however is afforded considerable solar access due to its location on the roof of the development.
- The proposed built form provides an appropriate height transition from lower density residential uses to the east. The building elements associated with the variation to the height of buildings control (apartments and lift overrun) are located towards Victoria Road. This design initiative provides an appropriate height transition from lower scale residential uses to the east of Gerard Lane, which is consistent with the intent of the split height of buildings control across the site.
- The additional shadowing created by the built form elements on Level 6 and the associated lift overrun is minimal when compared to the shadowing resulting from a height complaint scheme for the site. There are no additional visual impacts or privacy impacts associated with Level 6 of the proposed development. The shadow impacts of the amended scheme are reduced compared with the original submission of LDA/2017/0312. The lesser impact is a result of the increased side setbacks and reduced building bulk at the southern façade of levels 5 and 6.