

6 NOVEMBER 2014

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**NOTICE OF MEETING**

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You are advised of the following meeting:

**TUESDAY 18 NOVEMBER 2014.**

**Planning and Environment Committee Meeting No. 12/14**

**Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde - 5.00pm**

## **English**

If you do not understand this letter, please come to the Ryde Civic Centre, Devlin Street, 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 Council for you. Council's phone number is 9952 8222. Council office hours are 8.30am to 4.30pm, Monday to Friday.

## **Arabic**

إذا كنت لا تفهم محتويات هذه الرسالة، فالرجاء الاتصال بمركز مجلس بلدية رايد Ryde Civic Centre، وعنوانه: Ryde، Devlin Street، لمناقشتها مع العاملين في المجلس عن طريق مترجم، يستعين به العاملون لمساعدتك. أو يمكنك، بدلا من ذلك، أن تتصل بمكتب خدمات الترجمة TIS على الرقم 131 450 وأن تطلب من أحد المترجمين أن يتصل بالمجلس نيابة عنك. رقم تليفون المجلس هو 9952 8222، وساعات العمل هناك هي من الساعة 8.30 صباحا إلى 4.30 بعد الظهر من يوم الاثنين إلى يوم الجمعة.

## **Armenian**

Եթէ այս նամակը չէք հասկնար, խնդրեմ եկէք՝ *Բայր Սիվիք Սենթրը, Տելվին փողոց, Բայր, խոսակցելու* Բաղաքապետարանի պաշտօնետաներուն հետ, որոնք թարգմանիչ մը կրնան կարգադրել: Կամ, կրնաք հեռաձայնել Թարգմանութեան Ապասարկութեան՝ 131 450, եւ խնդրել որ թարգմանիչ մը Բաղաքապետարանին հետ կապ հաստատէ ձեզի համար: Բաղաքապետարի հեռաձայնի թիւն է՝ 9952 8222: Բաղաքապետարանի գրասենեակի ժամերն են՝ կ.ա. ժամը 8.30 - կ.ե. ժամը 4.30, Երկուշաբթիէն Ուրբաթ:

## **Chinese**

如果您看不懂這封信，請到位于 Devlin Street, Ryde 的禮特區市府禮堂 (Ryde Civic Centre) 與區政廳工作人員討論，他們將會給您安排傳譯員服務。或者您自己打電話給“翻譯及傳譯服務”，電話：131 450，請他們替您與區政廳聯係。區政廳的電話號碼是：9952 8222。區政廳工作時間是：周一至周五，上午 8.30 到下午 4.30。

## **Farsi**

اگر این نامه را نمی فهمید لطفاً به مرکز شهرداری رايد در Devlin Street مراجعه کنید. کارمندان شهرداری ترتیب استفاده از يك مترجم را براي شما خواهند داد. یا میتوانید به سرویس ترجمه کتبی و شفاهی شماره 131 450 تلفن بزنیید و بخواهید که يك مترجم از جانب شما با شهرداری تماس بگیرد. شماره تلفن شهرداری 9952 8222 و ساعات کار از 8.30 صبح تا 4.30 بعد از ظهر می باشد.

## **Italian**

Le persone che hanno difficoltà a capire la presente lettera, sono pregate di presentarsi al Ryde Civic Centre in Devlin Street, Ryde, e parlarne con gli impiegati municipali che provvederanno a richiedere l'intervento di un interprete. Oppure possono chiamare il Translating & Interpreting Service al 131 450 e chiedere ad uno dei loro interpreti di mettersi in contatto con il comune di Ryde. Il numero del comune è 9952 8222. Gli uffici comunali sono aperti dalle 8.30 alle 16.30, dal lunedì al venerdì.

## **Korean**

이 편지를 이해할 수 없으시면 Ryde의 Devlin Street에 있는 Ryde Civic Centre로 오셔서 카운슬 직원과 상담하여 주십시오. 저희 직원이 통역 서비스를 연결해 드릴 것입니다. 아니면 131 450번으로 통번역 서비스(TIS)에 전화하셔서 통역사에게 대신 카운슬에 연락해 주도록 부탁하셔도 됩니다. 카운슬 전화 번호는 9952 8222번입니다. 카운슬의 업무 시간은 오전 8:30부터 오후 4:30, 월요일에서 금요일까지입니다.

**Meeting Date:** Tuesday 18 November 2014  
**Location:** Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde  
**Time:** 5.00pm

**NOTICE OF BUSINESS**

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**1 CONFIRMATION OF MINUTES - Meeting held on 4 November 2014**

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**Report prepared by:** Section Manager - Governance**File No.:** CLM/14/1/3/2 - BP14/1092

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**REPORT SUMMARY**

In accordance with Council's Code of Meeting Practice, a motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.

**RECOMMENDATION:**

That the Minutes of the Planning and Environment Committee 11/14, held on Tuesday 4 November 2014, be confirmed.

**ATTACHMENTS**

1 Minutes - Planning and Environment Committee - 4 November 2014

**ITEM 1 (continued)**

**ATTACHMENT 1**

Planning and Environment Committee  
**MINUTES OF MEETING NO. 11/14**

**Meeting Date:** Tuesday 4 November 2014

**Location:** Committee Room 2, Level 5, Civic Centre, 1 Devlin Street, Ryde

**Time:** 5.00pm

**Councillors Present:** Councillors Chung (Chairperson), Laxale, Simon and Yedelian OAM.

**Apologies:** Councillor Salvestro-Martin.

**Staff Present:** Acting Group Manager – Environment and Planning, Manager – Assessment, Senior Town Planner, Team Leader – Assessment, Senior Development Engineer, Planning Consultant (Creative Planning Solutions), Business Support Coordinator – Environment and Planning and Section Manager - Governance.

**DISCLOSURES OF INTEREST**

There were no disclosures of interest.

**1 CONFIRMATION OF MINUTES - Meeting held on 7 October 2014**

**RESOLUTION:** (Moved by Councillors Yedelian OAM and Laxale)

That the Minutes of the Planning and Environment Committee 10/14, held on Tuesday, 7 October 2014, be confirmed.

**Record of Voting:**

For the Motion: Unanimous

Note: This is now a resolution of Council in accordance with the Committee's delegated powers.

**2 46-48 GLADSTONE AVENUE, RYDE. LOTS F and G DP 32873. Local Development Application for demolition of existing structures and construction of a 3 storey residential flat building containing 12 apartments and car parking for 16 vehicles. LDA2013/0173.**

Note: Stacey Ireland (objector), Karen Wang (objector), Deanne Hinton (objector) and Tony Pratt (objector on behalf of himself and other residents of Princes Street), Andrew Martin (applicant's planner) and Tony Legge (applicant) addressed the meeting in relation to this Item.

**ITEM 1 (continued)**

**ATTACHMENT 1**

Note: A Memorandum dated 3 November 2014 from the Acting Group Manager – Environment and Planning was tabled in relation to this Item and a copy is ON FILE.

**RECOMMENDATION:** (Moved by Councillors Yedelian OAM and Laxale)

- (a) That consideration of LDA2013/0173 at 46-48 Gladstone Avenue, Ryde be deferred for the Acting Group Manager – Environment and Planning to undertake a mediation between the applicant and the objectors.
- (b) That the matter then be reported back to the Planning and Environment Committee.

**Record of Voting:**

For the Motion: Unanimous

Note: This matter will be dealt with at the Council Meeting to be held on **11 NOVEMBER 2014** as substantive changes were made to the published recommendation and Councillor Salvestro-Martin requested that the matter be referred to the next Council Meeting.

**3 492 BLAXLAND ROAD, DENISTONE. Development Application for a multi dwelling housing development comprising four (4) dwellings pursuant to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009. LDA2014/0220.**

Note: David Tyrrell (applicant's lawyer) addressed the meeting in relation to this Item.

**RECOMMENDATION:** (Moved by Councillors Simon and Yedelian OAM)

- (a) That Local DA No. 2014/0220 at 492 Blaxland Road, Denistone (LOT 36 Section 4 In DP 7997) be refused for the following reasons:
  - 1) The proposed development is incompatible with the character of the local area, and as per clause 16A of State Environmental Planning Policy (Affordable Rental Housing) 2009 cannot be supported.
  - 2) The proposed development provides an unacceptable dwelling size for Dwelling 4, such that it will fail to provide an adequate level of amenity to occupants of this dwelling.
  - 3) The proposed development fails to achieve consistency with the provisions of the Seniors Living Policy: Urban Design Guidelines for Infill Development as required by clause 15 of the ARHSEPP.
  - 4) The proposed development is considered to be contrary to the objectives of the R2 Low Density Residential zoning of the site under the Ryde Local Environmental Plan 2010;

**ITEM 1 (continued)**

**ATTACHMENT 1**

- 5) The proposed development fails to achieve compliance with the principal development standards contained within clause 4.3 - 'Height of Buildings', and clause 4.5A – 'Density Controls for Zone R2 Low Density Residential' of the Ryde Local Environmental Plan 2010. No written request has been submitted pursuant to clause 4.6 of the Ryde Local Environmental Plan 2010.
- 6) The proposed development is inconsistent with the applicable development controls for multi dwelling housing development as prescribed by Part 3.5 of the Ryde Development Control Plan 2014;
- 7) The proposed development will have an unacceptable impact on the built environment;
- 8) The proposed development is unsuitable for the site;
- 9) The proposed development is not in the public interest.

(b) That the persons who made submissions be advised of Council's decision.

**Record of Voting:**

For the Motion: Councillors Chung, Simon and Yedelian OAM

Against the Motion: Councillor Laxale

Note: This matter will be dealt with at the Council Meeting to be held on **11 NOVEMBER 2014** as dissenting votes were recorded.

The meeting closed at 6.20pm.

CONFIRMED THIS 18TH DAY OF NOVEMBER 2014.

Chairperson

- 2 21 GORDON STREET, EASTWOOD - LOT 10 SECTION 4 IN DP 7076. DA for a multi dwelling housing development with 4 units - 1 x 2-storey 5 bedroom dwelling at the front and 3 x single storey 3 bedroom dwellings at the rear. LDA2014/0089.**

**INTERVIEW: 5.00pm**

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**Report prepared by:** Team Leader - Assessment; Creative Planning Solutions

**Report approved by:** Manager Assessment; Acting Group Manager - Environment and Planning

**Report dated:** 27/10/2014

**File Number:** GRP/09/5/6/2 - BP14/1302

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## 1. Report Summary

**Applicant:** Yue Jiao Lin

**Owner:** Yue Jiao Lin

**Date lodged:** 17 March 2014 (amended plans received 11 July 2014)

This report considers a development application (DA) for demolition of the existing buildings and structures on the subject site, and construction of a multi dwelling housing development comprising four (4) dwellings consisting of one (1) x 2-storey five (5) bedroom dwelling at the front of the allotment, and three (3) x single storey three (3) bedroom dwellings at the rear of the allotment. All dwellings are attached and contained within a single building.

The subject site is located in an area of Eastwood where there is a diversity of residential accommodation types, including detached dwelling houses interspersed with dual occupancy and multi dwelling housing development.

The originally lodged DA was notified in accordance with the then Ryde Development Control Plan 2010 (now superseded by Ryde DCP 2014). In response, a total of five (5) submissions (three (3) of which were petitions signed by a cumulative total of sixty-seven (67) local residents) of objection were received by Council.

Following a request for additional information and amended plans by Council, amended plans were received on 11 July 2014, which were re-notified to neighbours in accordance with Ryde DCP 2010 for a period of three (3) weeks from 11 August to 2 September 2014 (refer to the body of the report for details of the amendments proposed). In response, a further two (2) submissions were received by Council, which generally contained queries in relation to the proposed development rather than specific objections.

The issues raised in both rounds of notification be broadly grouped as follows:

- Non-compliance with a range of development controls for multi dwelling housing development as detailed in Part 3.5 of the Ryde DCP 2014;



**ITEM 2 (continued)**

- Traffic generation and car parking demand arising from the development would result in a traffic hazard;
- Creation of a substandard residential development;
- Privacy impacts;
- Overshadowing impacts;
- Landscaping concerns;
- Water and sewerage issues; and
- Errors in the notification letter.

The proposal has been assessed against the provisions of the Ryde Local Environmental Plan 2010 and now applicable Ryde DCP 2014. Some minor areas of non-compliance with these planning documents remains and can be summarised as follows:

- Building Height;
- Topography and excavation;
- Garbage bin storage and location;
- Acoustic amenity;
- Retention of existing trees; and
- BASIX Certificate issues.

Overall, despite the minor areas of non-compliance with Council's Planning Controls and submissions received, the proposal is considered acceptable subject to conditions, as discussed in the body of the report. Importantly, it is recommended that a Deferred Commencement consent be issued requiring the applicant to undertake minor modifications to the roof design to reduce the overall height of 'Dwelling 2' to comply with the provisions of the Ryde LEP 2010, and also to submit a revised BASIX Certificate that is consistent with the amended plans and correctly identifies the legal description of the subject site.

**Reason for Referral to Planning and Environment Committee:** Requested by Councillor Li.

**Public Submissions:** A total of five (5) submissions received in relation to the original notification of the proposed development. Three (3) of these submissions were in the form of a petition signed by a cumulative total of sixty-seven (67) local residents.

Following a submission of revised plans, the amended application was re-notified. In response, two (2) further submissions were received by Council (no further petitions).

**SEPP 1 (or clause 4.6 RLEP 2014) objection required?** None required.

**Value of works:** \$825,000

**ITEM 2 (continued)**

A full set of the plans is **CIRCULATED UNDER SEPARATE COVER** as additional information provided to Councillors - subject to copyright provisions.

**RECOMMENDATION:**

- (a) That LDA 2014/0089 at 21 Gordon Street, Eastwood being LOT 10 SECTION 4 DP 7076 be approved subject to the **ATTACHED** conditions (Attachment 1).
- (b) That the persons who made submissions be advised of Council's decision.

**ATTACHMENTS**

- 1 Draft Conditions
- 2 Ryde DCP 2014 Compliance Table
- 3 Map
- 4 A4 Plans
- 5 A3 Plans - subject to copyright provisions - **CIRCULATED UNDER SEPARATE COVER**

Report Prepared By:

**Chris Young**  
**Team Leader – Assessment**

**Ben Tesoriero Planning Consultant**  
**Creative Planning Solutions**

Report Approved By:

**Liz Coad**  
**Manager Assessment**

**Meryl Bishop**  
**Acting Group Manager - Environment and Planning**

**ITEM 2 (continued)****2. Site (Refer to attached map below)**

- Address** : 21 Gordon Street, Eastwood  
(Lot 10 Section 4 in Deposited Plan 7076)
- Site Area** : 1,296m<sup>2</sup> (Deposited Plan 7076).
- Site frontage to Gordon Street of 20.115m (DP)  
Rear boundary of 20.165m (DP)  
Northern side boundary of 65.27m (DP)  
Southern side boundary of 50.06m (DP)
- Topography and Vegetation** : The subject site has a steady fall of approximately 4.33m from the rear boundary the front boundary to Gordon Street. Given this occurs over a distance of around 60m, the average gradient across the site has been calculated at approximately 1:14.  
Existing vegetation on the subject site consists of several small trees and shrubs within the front setback, and perimeter planting. A larger tree is located on the rear boundary. There are also two (2) recently planted street trees on the nature strip in front of the property.
- Existing Buildings** : There is currently a single storey dwelling house of brick construction with a tiled roof, carport, and in-ground pool on the subject site. Site access is via a concrete layback, crossover and driveway located parallel to the northern side boundary.  
A concrete footpath extends across the verge in front of the property parallel to the front boundary and Gordon Street.
- Planning Controls Zoning** : R2 – Low Density Residential under Ryde LEP 2010;  
R2 – Low Density Residential under Ryde LEP 2014.
- Other** : Ryde DCP 2014,  
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

**ITEM 2 (continued)**



**Figure 1: Aerial image of the subject site and surrounding development. Noted in this image is the prevalence of multi dwelling housing and dual occupancy development in the local area which is identifiable from the more expansive roof forms on select allotments.**

**ITEM 2 (continued)**



**Figure 2: Photograph of the subject site taken from Gordon Street. Noted in this photograph is the existing single storey brick dwelling house with tiled roof screened by garden shrubs and small trees planted within the front setback area. Also noted in this image is the gun barrel type driveway access to the right of frame.**

**3. Councillor Representations**

Name of Councillor: Councillor Li

Nature of the representation: Call-up to Planning & Environment Committee

Date: 14 August 2014

Form of the representation (e.g. via email, meeting, phone call): Email to Councillor Help Desk

On behalf of applicant or objectors? Unknown

Any other persons (e.g. consultants) involved in or part of the representation: None.

**4. Political Donations or Gifts**

None disclosed in applicant's DA submission or in any submission received.

**ITEM 2 (continued)****5. Proposal**

The following outlines the scope of works proposed as part of the DA at 21 Gordon Street, Eastwood:

***Demolition***

Development consent is sought for the demolition of all existing structures on the subject site, which includes a detached dwelling house, associated structures, and an in-ground swimming pool.

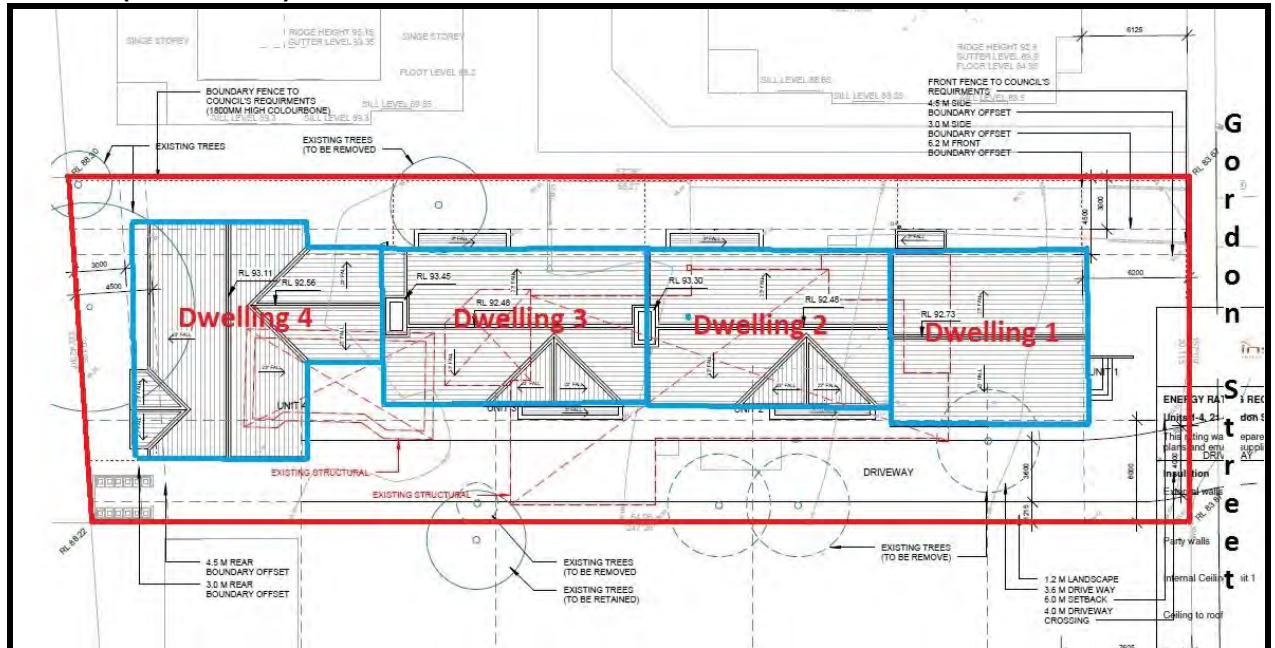
***Construction***

Development consent is sought for the construction a multi dwelling housing development comprising four (4) dwellings consisting of one (1) x 2-storey five (5) bedroom dwelling at the front of the allotment, and three (3) x single storey three (3) bedroom dwellings at the rear of the allotment. All dwellings are attached and contained within a single building.

The development generally proposes construction of a common driveway to service the development along the southern side, with the private open space of the units to be located along the northern side of the development (and western side for unit 4).

It is noted that no subdivision is proposed as part of the subject DA.

**ITEM 2 (continued)**



**Figure 3: Site Plan extract of the proposed development with each of the four (4) dwellings proposed highlighted in blue and labelled in red. The red perimeter represents the boundary of the subject site at 21 Gordon Street, Eastwood.**



**Figure 4: Perspective view of the proposed development from the Gordon Street verge adjacent to the south-east corner of the site. Again noted in this diagram is the two (2) storey presentation to Gordon Street and the lower single storey presentation to the rear boundary.**

**ITEM 2 (continued)****6. Background**

The following is a brief overview of the development history relating to the proposed development:

- LDA2014/0089 was lodged with Council on 17 March 2014;
- Notification of the subject DA in accordance with Part 2.1 of the Ryde DCP 2010 took place for a period of three (3) weeks from 8 April to 1 May 2014. Due to an error in the proposal description in the notification letters, the DA was re-notified for a further three (3) week period from 6 to 28 May 2014;
- In response five (5) submissions that generally objected to the proposed development were received. It is noted however that three (3) of these submissions were in the form of a petition containing a cumulative total of sixty-seven (67) signatures were included;
- A letter requesting additional information and revised plans was sent to applicant on 21 May 2014. This was because the following issues were identified as part of Council's preliminary assessment and neighbour notification process:
  - The proposed development failed to comply with the maximum number of storeys permitted in multi dwelling housing developments under the provisions of the Ryde DCP 2014 (unit 2 – which was a two-storey unit in the original plans);
  - The proposed development failed to comply with the site coverage controls contained within the Ryde DCP 2014;
  - The proposed development failed to comply with the ceiling height control contained within the Ryde DCP 2014;
  - The proposed development failed to comply with the location of garbage bin enclosures control contained within the Ryde DCP 2014;
- On 11 July 2014, additional information was submitted to Council from the applicant which included a revised set of plans in response to Council's issues raised, along with an amended Statement of Environmental Effects and BASIX Certificate. In summary, the amended proposal included the following amendments
  - Deletion of the second storey/attic level previously proposed in unit 2;
  - Reduction in overall (ridge) height of the development by up to 510mm;
  - Adjustments to pervious area and site coverage calculations throughout the development;
  - Provision of common bin storage area at the rear of the site.



**ITEM 2 (continued)**

- In accordance with Council policy, the amended application was re-notified for a period of three (3) weeks from 11 August to 2 September 2014.
- A further two (2) submissions were received by Council, one of which requested the time and date for the determination of the DA, and the other objecting to the retention of a tree and the location of the new location of the garage bin storage.

**7. Submissions**

The subject DA and subsequent amended plans were notified to surrounding property owners and residents in accordance with the then Part 2.1 'Notice of Development Applications' of Ryde DCP 2010 (now Ryde DCP 2014). In response, five (5) submissions (three (3) of which were petitions with a total of 67 signatures) were received in response to the notification of the original DA, and two (2) submissions were received in response to the notification of the amended plans.

The issues raised in the submissions are summarised as follows, along with the Assessing Officer's comments to each issue:

**A. Ryde Development Control Plan 2014 non-compliances**

*One (1) of the submissions raised general/broad concerns that the proposed development did not comply with a range of controls of the Ryde DCP 2014, including the number of storeys proposed, privacy impacts, site coverage, removal of trees, driveway width and overshadowing.*

**Assessing Officer's Comment**

The proposed development has been assessed against the provisions of Ryde DCP 2014 given this plan came into force upon the gazettal of the Ryde LEP 2014 on 12 September 2014 (refer to Section 9 of this report for further details on the relevant planning policies now applying to the subject development).

The Ryde DCP 2014 still includes controls in regard to the number of storeys, site coverage, landscaping, driveway width and overshadowing for multi dwelling housing developments that are generally consistent with the controls contained within the previous Ryde DCP 2010 which the objectors have referred to.

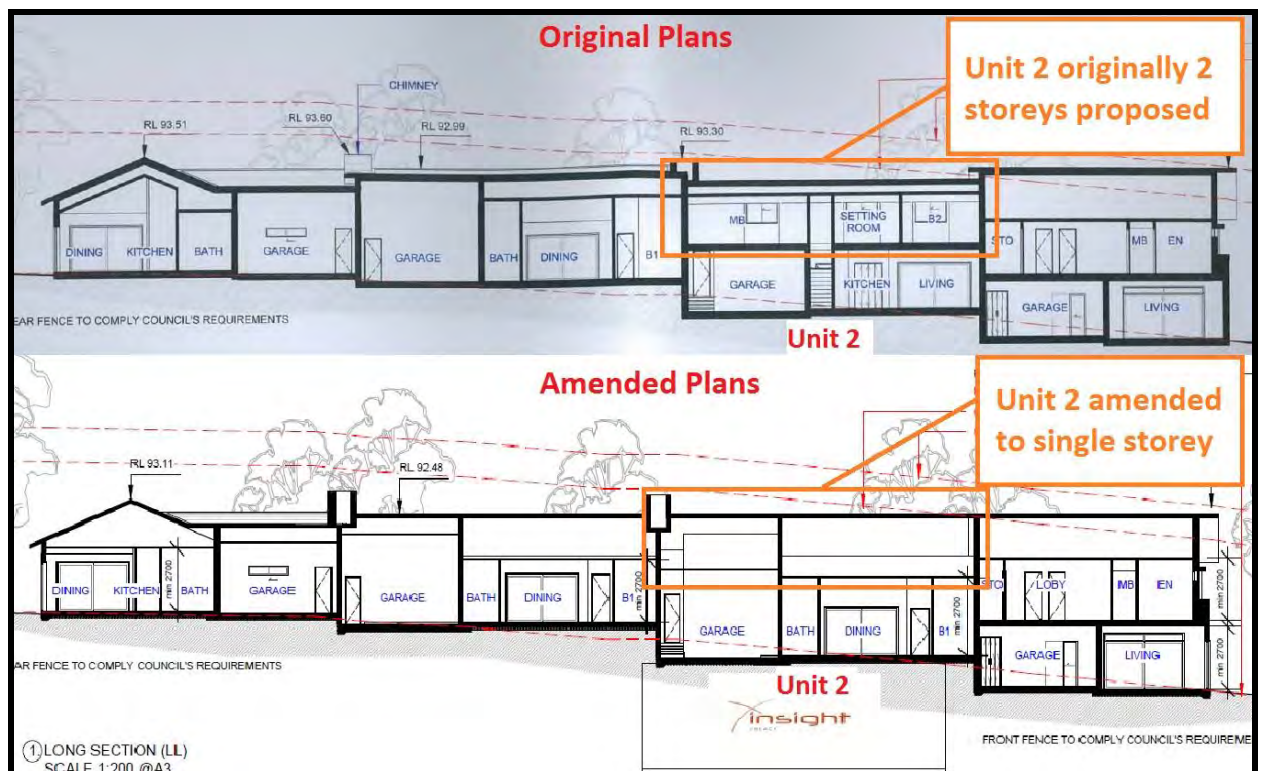
**ITEM 2 (continued)**

The assessment has determined that the amended proposal will be generally compliant with all of these provisions. Below, each of the issues raised in relation to the Ryde DCP 2014 by the objectors is explored with comments on how the revised proposal performs against each of these Ryde DCP 2014 objections.

Number of Storeys

Concern was originally raised that the proposal did not comply with the Number of Storeys control contained in Ryde DCP 2014 – in particular because Unit 2 was proposed to be a two-storey development (in the original DA plans) whereas the DCP control states that dwellings that do not front the street are to be single-storey only.

This has been rectified by the amended plans submitted on 11 July 2014 (in response to Council’s letter dated 21 May 2014), and the development now complies with the height/number of storeys provisions of Ryde DCP 2014. See **Figure 5** below.



**Figure 5. Diagram comparing the original section of the proposed multi dwelling housing development with the amended section. This diagram demonstrates that the non-compliant 2 storey ‘Unit 2’ has been reduced to single storey as a result of the design amendments sought by Council as part of the additional information request to the applicant on 21 May 2014.**

**ITEM 2 (continued)***Privacy*

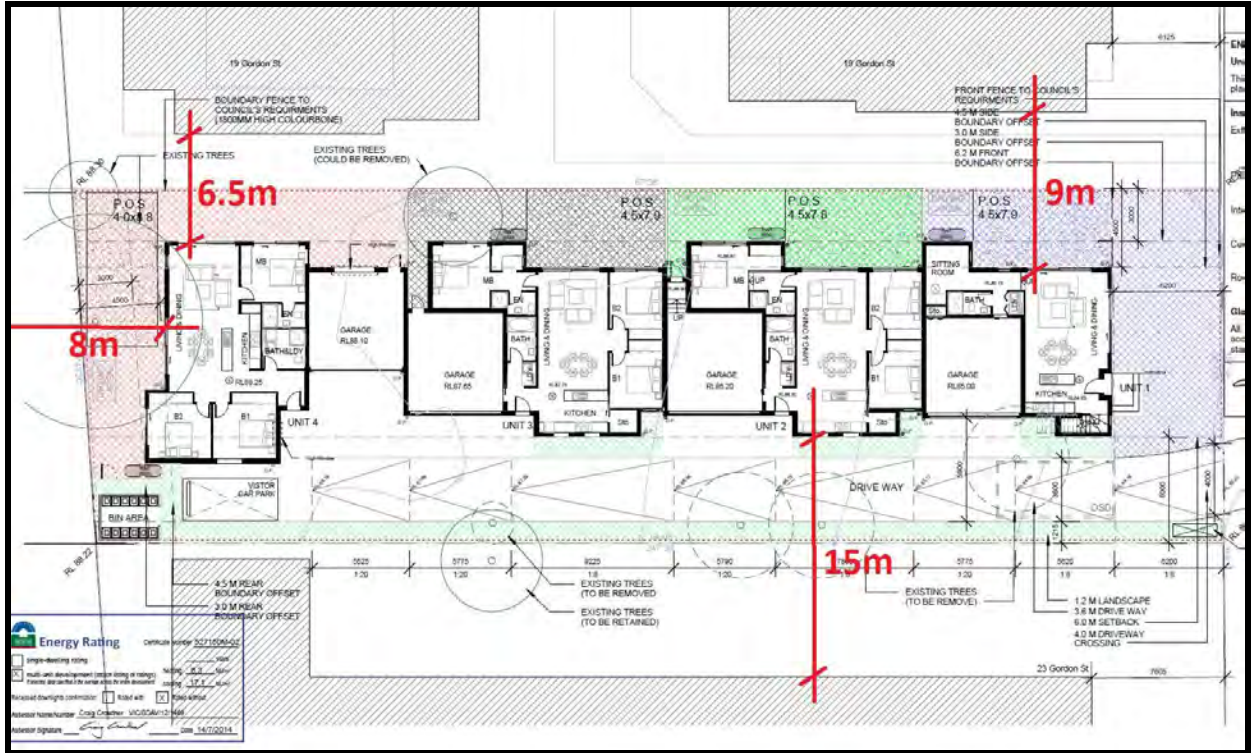
It is noted that privacy concerns raised by the objectors were primarily concerned with the originally proposed north side facing dormer windows of the originally proposed two- storey 'Unit 2'. As discussed above, the amended plans have removed the second storey of 'Unit 2' making this unit now single storey.

The privacy impacts of the proposed development on the neighbouring properties has been assessed with specific regard for Section 3.10 of Part 3.3 of the Ryde DCP 2014 which prescribes development controls for visual and acoustic privacy. An assessment of the proposed development has found it to be in compliance with all relevant controls of the visual and acoustic privacy section (compliance table held in **ATTACHMENT 2**).

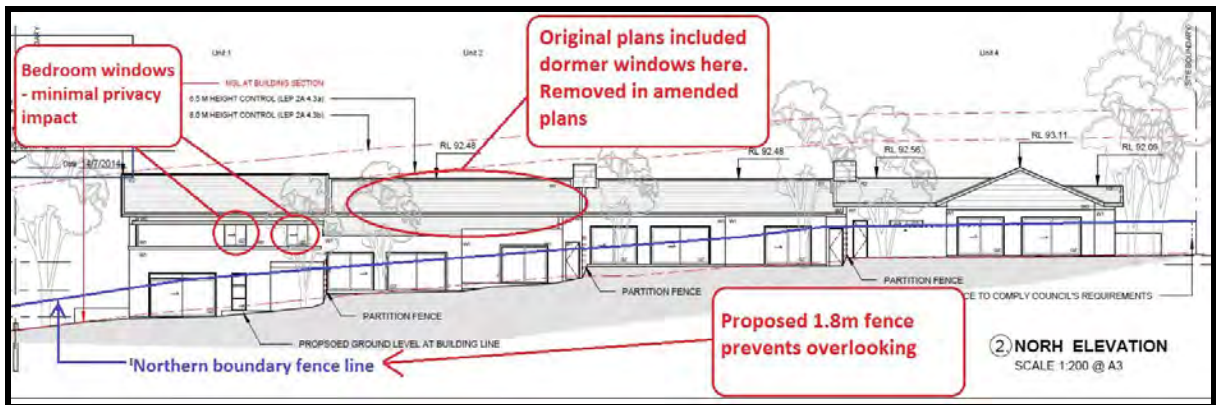
The proposed development incorporates a range of privacy measures. As demonstrated in **Figure 6**, the siting of the proposal is such that the separation with neighbouring dwellings is significant at up to 15m on the southern side. **Figure 7, 8 & 9** demonstrate that in addition to the significant separation, privacy is achieved due to the fact that the rear units are only single storey which means that the proposed 1.8m high boundary fencing almost completely prevents any overlooking. It is acknowledged that there are some windows that may afford overlooking due to their height slightly above the fence line, however these windows are not to living spaces and as such are not considered to present a significant privacy concern.

The amended proposal fully complies with the visual and acoustic privacy section of Part 3.4 of the Ryde DCP 2014. Furthermore the privacy assessment, as illustrated in the diagrams below, has determined that the proposal will have a minimal privacy impact on the neighbouring dwellings. In this regard the objectors concerns regarding privacy impacts with the original design are considered to have been satisfactorily addressed by the applicant in their revised design.

**ITEM 2 (continued)**

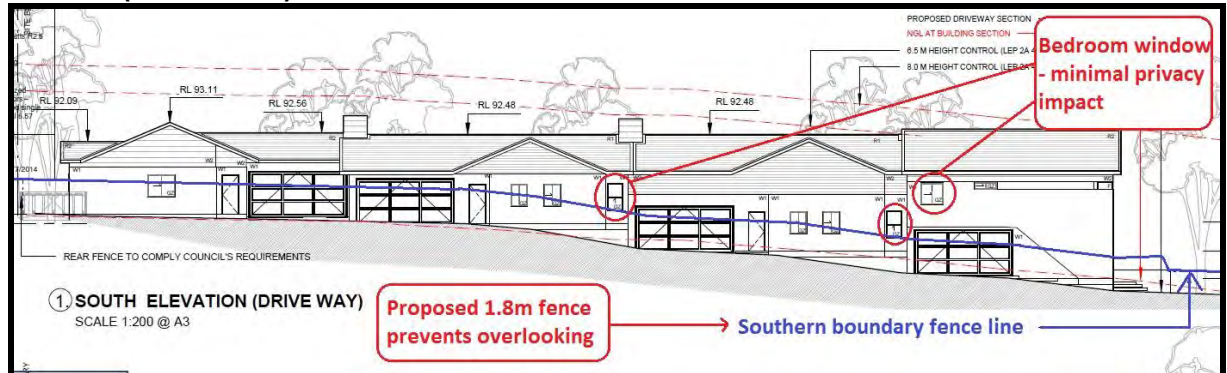


**Figure 6. Extract of the revised ground floor plan demonstrating the significant separation distances between sensitive areas of the proposed development and the neighbouring dwellings.**

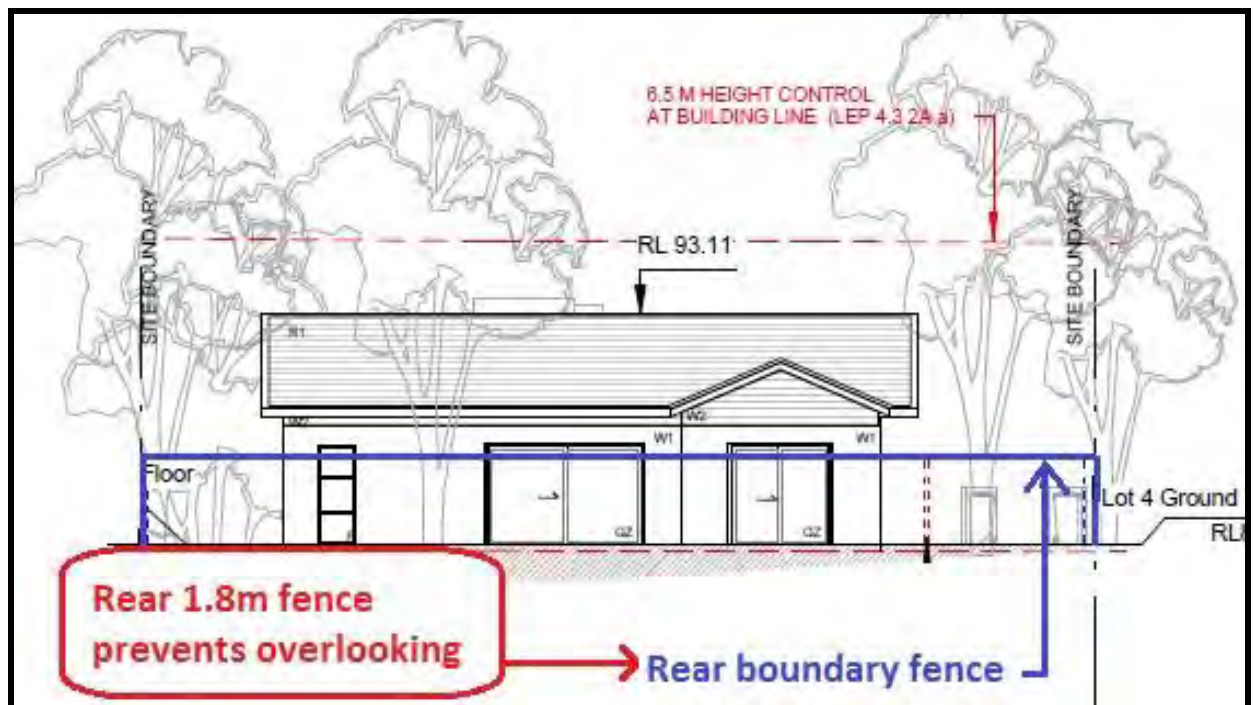


**Figure 7. Extract of the revised northern elevation plans demonstrating the removal of the second storey to Unit 2 and its associated dormer windows which were principally the subject of the objector’s privacy concerns. This diagram also shows that due to the single storey nature of the rear units, the 1.8m boundary fence satisfactorily prevents overlooking. The only windows above the fence line are two (2) bedroom windows of Unit 1 which are not considered to be an issue as they are to bedrooms, not living areas, and are also well separated from the property to the north as demonstrated in Figure 6 above.**

**ITEM 2 (continued)**



**Figure 8. Southern elevation diagram showing minimal privacy impacts to the south as the 1.8m high fence provides adequate privacy to the lower level windows. Those windows above the fence line are considered to present a minimal privacy impact as they are modestly sized bedroom windows rather than living room windows.**



**Figure 9. Rear elevation diagram showing that there will be no privacy impact at the rear due to the single storey nature of the dwelling and the effect of the proposed 1.8m high boundary fence which will prevent overlooking.**

Site coverage

Section 3.4 of Part 3.4 of Ryde DCP 2014 prescribes the following controls for site coverage:

- a. Site coverage must not exceed 40%
- b. Pervious area of the site must not be less than 35%

**ITEM 2 (continued)**

An assessment of the original plans determined that the proposal was to have a site coverage of 39.35% and a pervious area of 25.28%. Accordingly, the site coverage was compliant, but the pervious area was non-compliant with the above mentioned controls. Subsequently, the amount of pervious area was raised as an issue by Council in the additional information letter dated 21 May 2014.

In response to Council's request for additional information, the applicant submitted revised plans which were assessed to have a site coverage of 39.7% and a pervious area of 37%. Accordingly, both these areas are now compliant with the abovementioned controls.

As such, the amended plans are considered to have adequately addressed the site coverage issues raised by the objectors.

**Removal of trees**

The submissions raised concerns that the proposed development could possibly damage plantings on the adjoining property to the south, No. 23 Gordon Street. In addition, concerns were raised about the proposed removal of two (2) Jacaranda trees located along the southern boundary of the site.

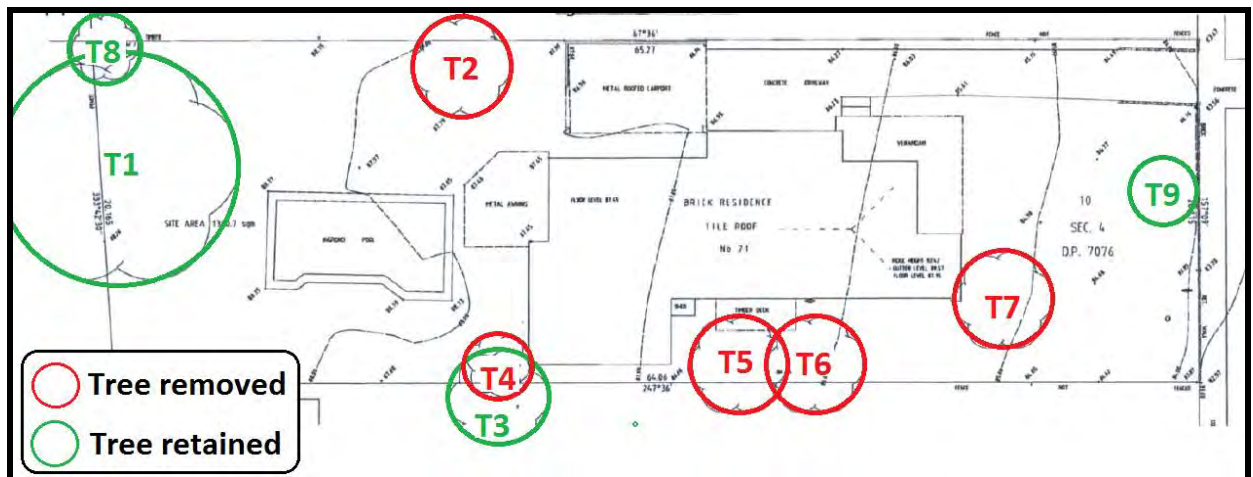
In total, the proposed development includes the removal of five (5) trees. An Arborist report was submitted with the DA and the application was referred to a consultant Landscape Architect/Arborist. The Landscape Architect/Arborist referral considered the proposed tree removal and landscaping, and subsequently raised no objection to the proposed development subject to a number of conditions. The following is an extract from the Landscape Architecture/Arborist referral comments:

*Tree removal proposed on the subject site is generally supported given that those to be removed are either exempt species, of low landscape significance, poor form or contributing little to the amenity of the allotment. Additionally, a number of replacement trees of mature sizes at planting have been proposed as part of the updated landscaping scheme to offset the tree loss across the site.*

In regards to the possible damage to plantings on the adjoining properties the Landscape referral has considered the *Callistemon viminalis* (Tree 3) located within No. 23 Gordon Street, adjacent to the southern boundary of the subject site, and has imposed a condition of consent to ensure appropriate protection of this tree. The condition is as follows:

**ITEM 2 (continued)**

**Project Arborist** - A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on the subject site and neighbouring allotments and that recommendations contained within Arboricultural Impact Assessment dated 6 March 2014 prepared by Redgum Horticulture are carried out. All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised throughout construction. Details of the Project Arborist are to be submitted to Council prior to the commencement of construction.



**Figure 10. Diagram illustrating the proposed trees to be retained and those trees to be removal on the subject site (from Landscape Assessment).**

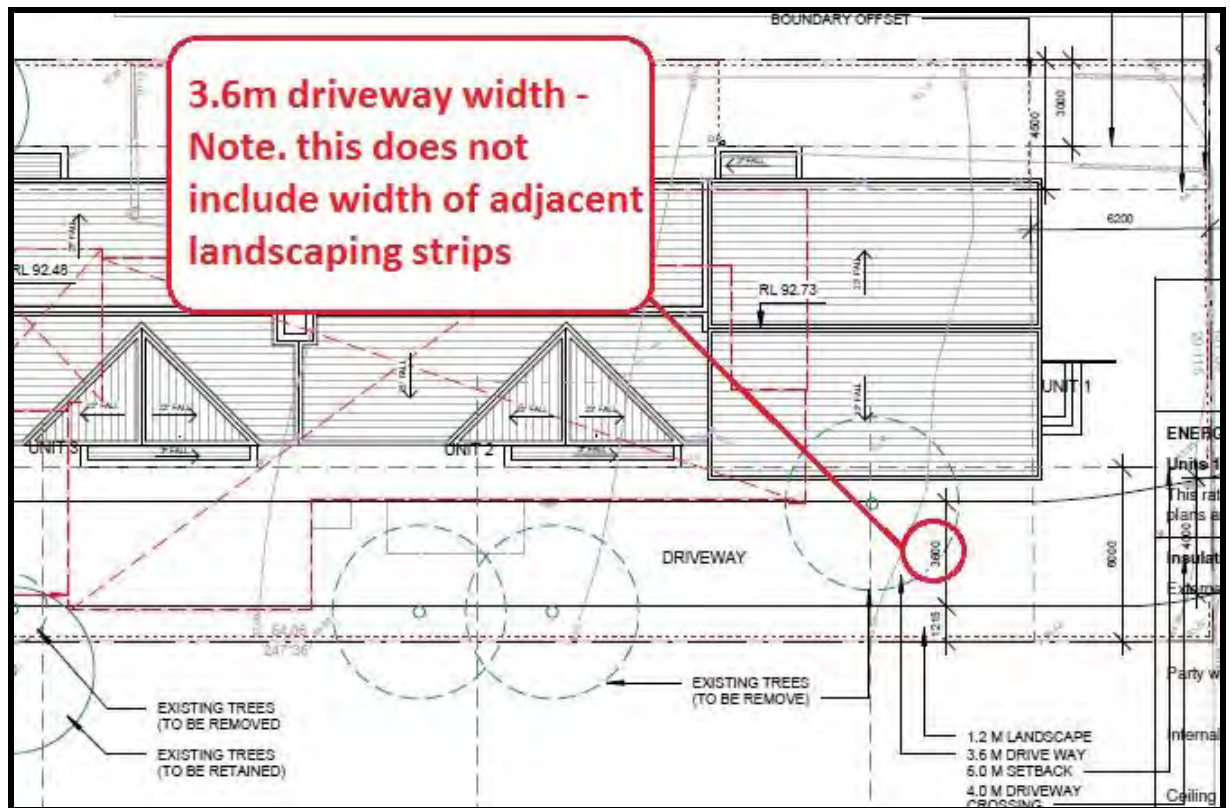
Given the above, the proposed removal of trees and protection of neighbouring trees is considered to be appropriate subject to the recommended conditions of consent.

**Driveway width**

Concerns were also raised that the proposed driveway would be too narrow (1.6m) due to the required 1.2m landscaping strip along the boundary and the 1m landscaping strip required between the driveway and the dwelling walls.

An assessment of the proposed development has determined that the proposed driveway width is to be 4m at the front boundary and then narrowing to 3.6m adjacent to the proposed dwellings (see **Figure 11**). The application has been referred to Council's Senior Development Engineer who has raised no objection to the proposed width of the driveway. It appears that the objectors have misread the plans believing the landscaping strip adjacent to the driveway are included in the driveway width.

**ITEM 2 (continued)**



**Figure 11. Site plan extract showing that the proposed driveway width is 3.6m which does not include the width of the adjacent landscaping strips.**

**Overshadowing**

The sunlight and overshadowing impacts of the proposed development on the neighbouring properties has been assessed with specific regard for Section 3.9 of Part 3.4 of the Ryde DCP 2014 which prescribes development controls for overshadowing and access to sunlight. Specifically, the Ryde DCP 2014 stipulates the following:

- b. Sunlight to at least 50% of each courtyard within the development and the principal area of ground level private open space of adjacent properties must not be reduced to less than two hours between 9am and 3pm on June 21.*

As demonstrated in **Figure 12 and 13**, the shadow diagrams indicate that the shadows of the proposed development will not have a significant impact on the neighbouring properties.



## ITEM 2 (continued)

Due to the east-west orientation of the site, the shadows will only impact on the neighbouring property to the south at No. 23 Gordon Street. In regards to this property, it is apparent from the shadow diagrams that it will only be affected between 12pm and 3pm on June 21. **Figure 13** demonstrates that at the worst time at 3pm, the shadows will only have a very minor impact on the actual dwellings at No. 23 Gordon Street. The majority of the shadows will fall on the driveway of No. 23 Gordon Street which runs along the adjoining boundary with the subject site.

Furthermore, as demonstrated in **Figure 14**, the ground level private open spaces of No. 23 Gordon Street will not be affected at all by shadows of the proposal as they are located on the far southern side of that property.

Given the above, it is clear that the proposed development will easily achieve compliance with the minimum solar access requirements for the multi dwelling houses on the adjoining allotments as required by the abovementioned control of the Ryde DCP 2014.

This is largely achieved through the favourable orientation of the allotment, the generally complying building envelope as a result of the amended plans, and the increased setback from the southern side boundary by virtue of the access driveway located parallel to the fence line.

Given the above, the objectors issues with the overshadowing of the proposed development are not supported in this instance.

ITEM 2 (continued)

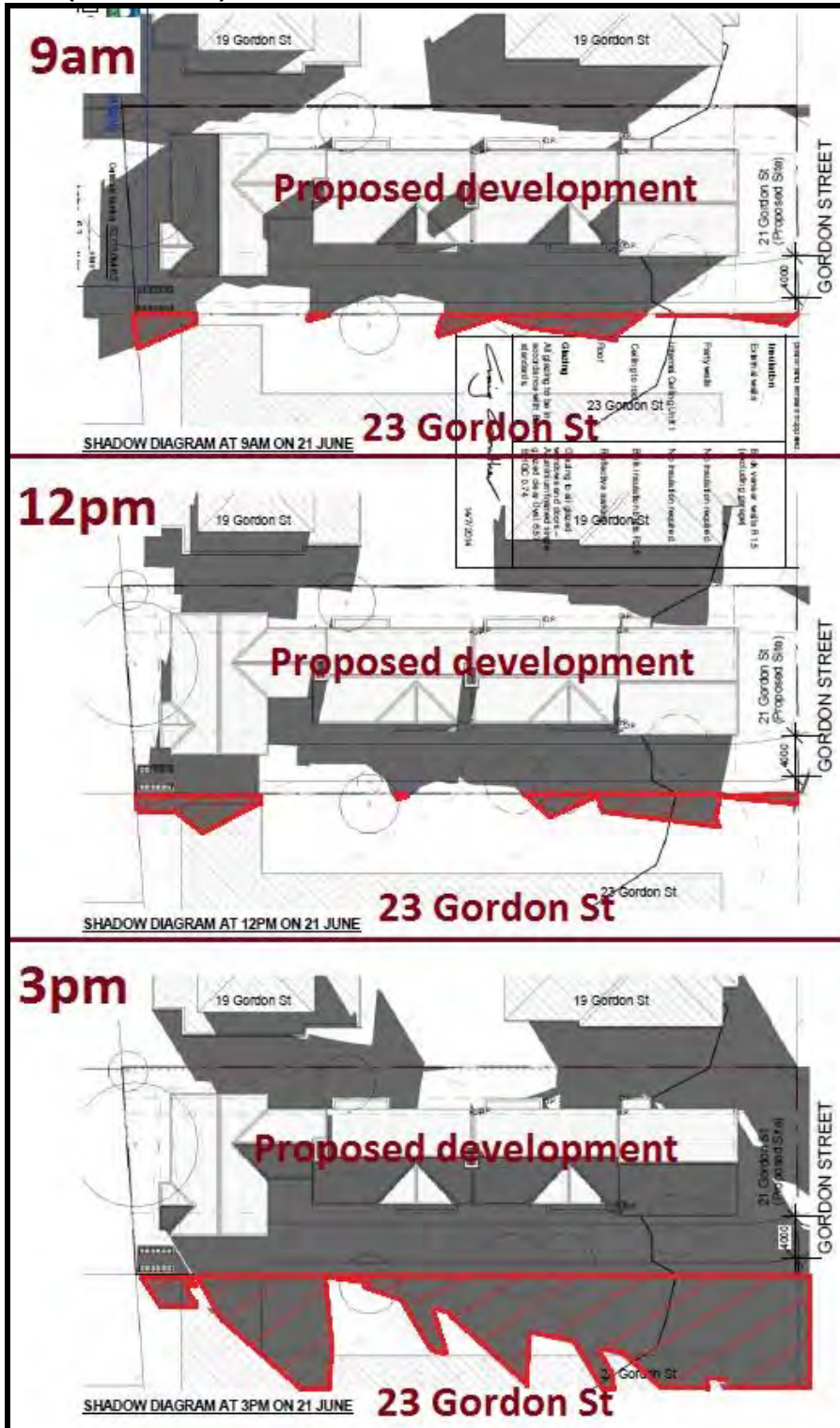


Figure 12. Diagram indicating the shadows cast by the proposed development and the portion of that shadow that will affect the neighbouring property to the south of the subject site at No 23 Gordon Street.

ITEM 2 (continued)

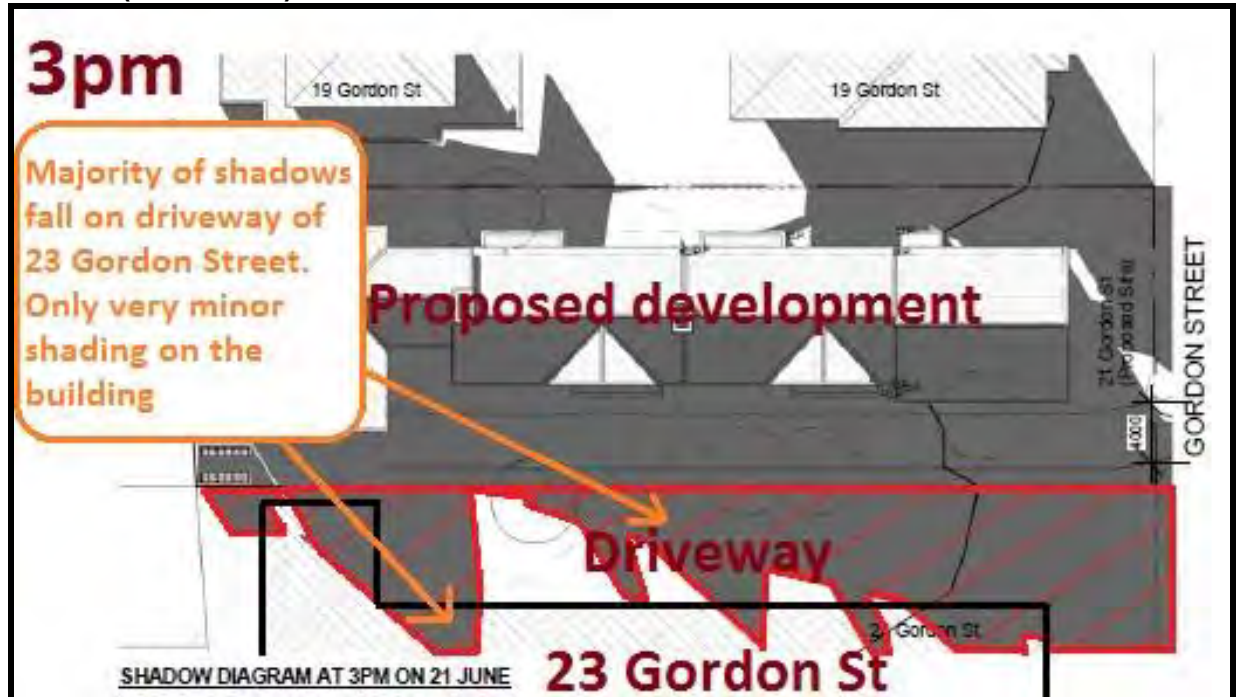


Figure 13. Diagram indicating the shadows at 3pm on June 21 from the proposed development on No. 23 Gordon Street. It is demonstrated that the majority of the shadows will fall on the driveway and only a minor amount of shadow will fall on the dwellings of No. 23 Gordon Street.



Figure 14. Photograph of the front of No. 23 Gordon Street with the subject site on the right. It can be seen in this image that the northern side No. 23 Gordon Street is dominated by the driveway. The development on the subject site proposed the driveway along the southern boundary meaning a substantial separation distance is provided between buildings, thus helping to minimise overshadowing impacts.

**ITEM 2 (continued)**



Figure 15. Aerial photograph of the site and the neighbouring property to the south, No. 23 Gordon Street. Photograph identifies that the private open space areas of No.23 Gordon Street are located on the southern side of that property and will be unaffected by the proposed development's shadowing which will primarily fall on the driveway area of the subject sit an adjoining property at No.23 Gordon Street.

**B. Incorrect description of the proposal in the original notification letter.**

*Two (2) of the submissions identified that the proposed development's description stated that Unit 2 was one storey and that Unit 1 contained 4 bedrooms. This was incorrect as the originally submitted plans included a two storey dwelling for Unit 2 and a 5 bedroom dwelling for Unit 1.*

Assessing Officer's Comment:

As previously discussed in Section 6 of this report, due to the errors in the description of the proposal in the original notification letters, the DA was re-notified with the correct description in accordance with Part 2.1 of the then Ryde DCP 2010 for a further period of three (3) weeks from 6 May 2014 to 28 May 2014.

Accordingly, the objectors issue in regard to the error has been appropriately addressed by Council with local residents getting ample opportunity to make a submission in relation to the proposed development.

**ITEM 2 (continued)****C. Concentration of medium density developments.**

*Four (4) of the submissions raised concerns that the proposed development will increase residential density in an area that already is too dense. The concerns revolved around the potential impacts associated with increased density including traffic and parking, safety, non-compliance with Council's Ryde LEP 2010 and the then Ryde DCP 2014. As such it was claimed that the proposal will set a poor precedent for future development.*

Assessing Officer's Comment:

The objector's concerns in relation to the impact of the proposed increased density on other factors such as traffic and parking are addressed separately within this submission section. As such, this comment will focus purely on the objection to increased density on the subject site.

There are a range of provisions contained within both the Ryde LEP 2010 and the Ryde DCP 2014 which effectively control density.

Clause 4.5A of the Ryde LEP 2010 provides the primary development standard that specifically controls the density of multi dwelling housing on land in Zone R2 Low Density Residential. This clause states that the consent authority must not consent to the erection of multi dwelling housing on land in Zone R2 Low Density Residential unless:

- (a) *The site area for the building is not less than:*
  - i. *For each 1, 2 or 3 bedroom dwelling – 300sqm, and*
  - ii. *For each 4 bedroom dwelling – 365sqm.*

The proposed development consists of one (1) x five (5) bedroom dwelling and three (3) x three (3) bedroom dwellings. Accordingly, the site area required for the proposed development is 1,265sqm. The subject site area from the deposited plan is 1,296sqm which exceeds the minimum site area requirement.

It is noted that a maximum floor space ratio (FSR) does not apply to the proposed development as per clause 4.4A(1) which states that the maximum FSR in Zone R2 only applies to development for the purposes of a dwelling house or dual occupancy. Nevertheless, the FSR of the proposed development has been calculated to be 0.427:1 which is well below the standard 0.5:1 set for most low density residential areas in the City of Ryde. Accordingly, the FSR indicates the relatively modest density of the proposed development in terms of floor space which is consistent with the bulk and scale character of the low density residential areas.

**ITEM 2 (continued)**

In terms of the relevant Ryde DCP 2014 controls that cover density, firstly it is important to note that the Section 2.4 of Part 3.5 of the Ryde DCP 2014 which provided controls for the separation of medium density developments, known as linear separation, has been repealed from the Ryde DCP 2014. As mentioned in further detail later in this report, when the DA was first submitted the relevant DCP applying to the development was then Ryde DCP 2010. However since this time, the Ryde LEP 2014 has come into force and as such is the relevant DCP applying to the subject DA is the Ryde DCP 2014. Accordingly, the linear separation provision of the Ryde DCP 2010 is no longer relevant for the proposed development.

Given the above, it is considered that the proposed development is fully compliant with the density related controls contained within the Ryde LEP 2010 and the Ryde DCP 2014. In this regard, the objector issues in relation to the proposed residential density of the development are not supported.

**D. Wrong location for increased density**

*One (1) submission stated that the increase in residential density permitted in the area appears random and short sighted. In addition, there was concern raised that the new clause (referring to Cl. 4.1B Ryde LEP 2014) to allow development of MDH on properties with +20m frontages will endanger the character of the area.*

**Assessing Officer's Comment:**

The above objector issue is considered to be an issue with the residential housing strategy and strategic direction for land use planning in the City of Ryde, rather than particular issue with the subject DA.

The proposed development for a multi dwelling housing development within the R2 Low Density Residential Zone is permissible with consent. The proposed development has also been assessed as achieving the minimum site area required for such a development, as well as the other mandatory provisions contained within the relevant environmental planning instruments applying to the land.

Section 2.3 of Part 3.4 of Ryde DCP 2014 identifies specific sites that are unsuitable for multi dwelling housing developments. The subject site has been assessed as not being an unsuitable site with regard to these controls.

Given that the proposed development is permissible on the subject site, satisfactorily compliant with the relevant development controls, and has not been identified as a non-preferred location for multi dwelling housing, the objectors concerns cannot be supported in this instance.

**ITEM 2 (continued)**



**Figure 16. Aerial photograph of the development surrounding the subject site demonstrating that the area consists of a mix of single dwelling houses, dual occupancy's and multi dwelling housing.**

**E. Traffic and parking**

*Four (4) of the submissions raised concerns of the impact the proposed development will have on traffic and parking on what is considered by the objectors to be a narrow and overly busy street. Specific reference was made to the fact that only one (1) visitor's space is proposed and there were concerns over the small size of the proposed garages compounded by the garbage bin storage located within the garages.*

Assessing Officer's Comment:

Section 3.8 of Part 3.4 of Ryde DCP 2014 prescribes the following parking rates for multi dwelling housing. Specifically, 1 space is required for each 1 or 2 bedroom dwelling; 2 spaces for each 3 or more bedroom dwelling; and 1 visitor space for each four (4) dwellings.

**ITEM 2 (continued)**

An assessment of the proposed development's dwelling and bedroom arrangements has revealed that the required amount of car parking spaces is eight (8) spaces and one (1) visitor space. The proposed development includes a double garage enabling two (2) parking spaces per dwelling and a single separate visitor space located in the rear south-western corner of the site. Accordingly, the parking requirements of the Ryde DCP 2014 are met.

In regards to the size of the proposed double garages, Council's Senior Development Engineer has reviewed the plans and has not raised any objection to the size of the garages. Accordingly, they are considered to meet the required Australian Standards and as such are considered to be acceptable.

Since the proposed development provides the required amount of car parking on site, the neighbouring objections in relation to parking are not supported.

In terms of traffic generation from the proposed development, the proposal needs to be considered in context of the traffic that the proposed development would generate compared to the existing detached dwelling. In this regard, according to the Roads and Traffic Authority's *Guidelines for Traffic Generating Development*, the dwelling house would generate an average of 9 vehicle trips per day (0.9 in each peak hour).

Medium density housing developments (of 3 or more bedrooms such as the subject proposal) generate an average of between 5 and 6.5 vehicle trips per dwelling (0.5 – 0.65 in each peak hour), and therefore this development could generate between 20 and 26 trips per day (2 to 2.6 in each peak hour). This development proposal would therefore only generate around 11-17 additional trips per day compared to what a single dwelling would generate (on average, using the RTA Guidelines). Therefore, the proposal would generate only a small increase in traffic compared to the existing situation, and objections on the grounds of additional traffic are not supported.

**F. Increased pressure on essential services**

*Three (3) of the submissions raised concerns of the localised impact that the proposed increased density will have on essential services such as the sewerage network.*



**ITEM 2 (continued)**Assessing Officer's Comment:

Continued provision of essential services in the local area are largely addressed through conditions of consent imposed on the DA approval. These conditions include the requirement for the applicant to obtain a Section 73 Certificate from Sydney Water prior to the issue of a Construction Certificate. This enables Sydney Water to undertake an assessment to determine the servicing needs of the development. If there are any requirements, a response is then prepared by Sydney Water to the developer. The developer would then be advised through Sydney Water's Notice of Requirements. Where Sydney Water finds there are no requirements, a Section 73 Certificate is issued to the developer.

Given the above, it is considered that the applicant's concerns over servicing are satisfactorily covered via the imposition of conditions of consent and the Senior Development Engineer's assessment.

**G. Quality of the proposed development**

*Two (2) of the submissions raised concerns that the proposed development will replace a high quality freestanding home with cheap low cost housing. There were concerns that the cost estimates are particularly low for this type of development and that this indicates that the development will be of low quality.*

Assessing Officer's Comment:

The City of Ryde provides information to applicants of DAs on estimating the cost of works for development as part of their online Fact Sheets. This includes guidance on what Council considers to be genuine estimated cost of works for development based on Reed Construction Data's *Cordell's Housing Building Cost Guide* and Australian Institute of Building Surveyor's (AIBS) *Guide to Building Costs*.

At lodgement of the subject DA, Council's staff assess the estimated cost of works for development.

Given the DA has been accepted by Council, and DA fees charged based on the submitted estimated cost of development, the cost estimates for the proposal are considered to be satisfactorily adequate.

In this regard, the objectors concerns relating to the cost estimates of the proposed development are not supported.

**ITEM 2 (continued)****H. Loss of landscaping**

*One (1) of the submissions raised concerns that the proposed development will result in a loss of landscaping and that this will have negative impacts on the streetscape.*

Assessing Officer's Comment:

A consultant Landscape Architect/Arborist has been referred the originally submitted and modified DA and has assessed the proposed tree removal and landscaping. Below is an extract from the assessment:

*Tree removal proposed on the subject site is generally supported given that those to be removed are either exempt species, of low landscape significance, poor form or contributing little to the amenity of the allotment. Additionally, a number of replacement trees of mature sizes at planting have been proposed as part of the updated landscaping scheme to offset the tree loss across the site.*

Given that the Landscape Architect/Arborist has raised no objection to the proposed development subject to a number of conditions, neighbouring objections in relation to landscaping are not supported, particularly as it has been determined that sufficient compensatory planting has been proposed.

**I. Tree retention and bin storage area location**

*One (1) of the submissions raised concerns over the proposal to retain an existing 'Camphor Laurel' tree located adjacent to the rear boundary of the site. There was concern that due to the proximity of this tree to the proposed building that construction works may damage the tree and thus would present a safety hazard. In addition, the submission raised concern that the proposed bin storage area located in the rear south-western corner would negatively impact the adjoining dwelling to the rear, No. 4/17 Edgar Street.*

Assessing Officer's Comment:

Tree retention

The submission specifically raised concerns over the safety of retaining the Camphor Laurel tree located along the rear boundary. This tree is proposed to be retained on the site plan and landscaping plan submitted with the DA. The Landscape Architecture/Arborist assessment has reviewed the proposal for the retention for this tree and has advised that this tree has a high amenity value and does assist to retain privacy between the two properties.

**ITEM 2 (continued)**

Appropriate conditions of consent have been provided if this tree is to be retained.

However, this tree's large size makes it unsuitable to retain in the relatively small rear yard of a multi-dwelling housing unit. It is also noted that this type of tree is "exempt" under Council's Tree Preservation DCP (Part 9.6 DCP 2014), meaning it can be removed without Council's approval being required. Given that it would be difficult to remove this tree if this development is approved and constructed, and also given that the tree has been specifically requested to be removed by the neighbour, it is recommended that the tree be removed and replaced with a more suitable type of tree (or large shrub) appropriate for a multi-dwelling housing development. See Deferred Commencement condition 1(b), which requires amendment to the submitted Landscaping Plan for the removal and replacement of this tree.

**Garbage bin storage location**

The proposed bin storage area is locating in the rear south-western corner of the subject site. This area is located immediately adjacent to the dwelling at 4/17 Edgar Street to the rear and 4/23 Gordon Street to the south. Section 4.8 of Part 3.4 of the Ryde DCP 2014 provides controls for the location of bin enclosures. Specifically, it is required that each dwelling is provided with its own separate bin storage area and that this area should be behind each dwelling and not in common areas. Accordingly, the proposed bin storage area does not comply with these controls.

Given the above assessment of the proposed bin storage location, the neighbours' concerns are supported. It is recommended that this issue be rectified via a condition of consent that will ensure that proposed garbage bin storage area in the rear south-western corner of the site is deleted from the design. In lieu of this arrangement each dwelling is to be provided with its own garbage bin storage areas located to the rear of the dwellings away from the neighbouring properties. The recommended condition is as follows (deferred commencement condition 1(d)):

***Location of garbage bin enclosures.*** *The proposed bin storage area located in the south-western corner of the site be deleted and replaced with separate bin storage areas for each dwelling in accordance with Section 4.8 of Part 3.4 of the Ryde Development Control Plan 2014.*

**8. Clause 4.6 Ryde LEP 2014 objection required?**

None required.

**ITEM 2 (continued)****9. Policy Implications****(a) Relevant Provisions of Environmental Planning Instruments etc:**Ryde Local Environmental Plan 2014

The Ryde LEP 2014 commenced on 12 September 2014 as the new environmental planning instrument applicable to the City of Ryde. In relation to existing DAs un-determined as of 12 September 2014, this instrument contains a Savings Provision (clause 1.8A), which states:

*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*

The DA was made (lodged) on 17 March 2014, before the commencement of this Plan and so it must be determined as if Ryde LEP 2014 had not commenced. What this means is that Ryde LEP 2014 is treated as a Draft.

Ryde Local Environmental Plan 2010**Zoning**

Under Ryde LEP 2010 the subject site is zoned R2 Low Density Residential. The proposal is permissible with Council's development consent in this zone.

**Mandatory Requirements**

The following mandatory provisions under Ryde LEP 2010 apply to the development.

Clause 4.3 Height of buildings

Clause 4.3 of Part 4 of the Ryde LEP 2010 prescribes development standards for the height of buildings. Specifically, clause 4.3A(2) states the following:

*(2A) despite subclause (2) (which relates to the Height of Buildings Map), the maximum height of multi dwelling housing in Zone R2 Low Density Residential is:*

- (a) for dwellings in the building that do not have a frontage to the street – 6.5m, and*

**ITEM 2 (continued)**

*(b) for dwellings with a frontage to the street, if adjoining lots containing dwellings houses that are less than 9.5m high – 8m*

An assessment of the proposed development's dwelling heights has revealed the following:

- Dwelling 1 which fronts the street – 7.98m (complies);
- Dwelling 2 which does not front the street – 6.646m (non-compliance);
- Dwelling 3 which does not front the street – 5.48m (complies); and
- Dwelling 4 which does not front the street – 4.96m (complies).

Proposed 'Dwelling 2' does not have a street frontage so the relevant maximum building height is 6.5m. Accordingly, at 6.646m, the height of this dwelling fails to comply with the aforementioned development standard contained within the Ryde LEP 2010 (see **Figure 17-18** below).

It is also noted that the amended plans are inconsistent as to the ridge level of 'Dwelling 2'. The 'northern elevation' as shown on the 'notification plans' shows the ridge level of 'Dwelling 2' at RL 92.53 (see **Figure 18**). The remaining plans including the separate 'northern elevation' shows the ridge level at RL 92.48. In either case, the height of 'Dwelling 2' exceeds the 6.5m maximum height as stipulated in the aforementioned controls.

This non-compliance with Council's development standard cannot be supported for the following reasons:

- No formal Clause 4.6 Variation has been submitted with the subject DA from the applicant demonstrating that strict compliance with the standard, in this particular case, would be unreasonable or unnecessary. Furthermore there has been no demonstration that there are sufficient environmental planning grounds to justify contravening the Ryde LEP 2010 development standard.
- The recently gazetted Ryde LEP 2014 has included some significant changes to the height development standards for multi dwelling housing in the R2 zone. The Ryde LEP 2014 has reduced the maximum permissible height of dwellings with no frontage to the street to 5m. Accordingly, the proposed height of 'Dwelling 2' would be a more significant non-compliance at 1.646m in excess of the development standard contained in the Ryde LEP 2014. In addition, the height of 'Dwelling 3' at 5.48m would also be non-compliant 0.48m in excess of the abovementioned development standard.

**ITEM 2 (continued)**

- It is considered that a reduction in height of this ridge level could be undertaken without impacting on the floor plan or layout of the development. Additionally, the slight reduction in height of this ridge level which is needed for the dwelling to comply with the development standard is not considered to be to the detriment of the architectural aesthetic of the building.
- The proposed building height is not considered to achieve the key objectives of the standard. Provided below is a list of each of the objectives of the 'height of buildings' development standard, along with a comment on how the proposed development performs against each of these objectives by the Assessing Officer.

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

**Assessing Officer's comment:** An assessment of the surrounding local area has identified a range of multi dwelling houses, principally of older construction with the dwellings that do not front the street with heights approximately equal to or less than the current 6.5m maximum permitted under the Ryde LEP 2010. Accordingly, the proposed development, with a building height of 6.646m is considered to be inconsistent with the proportions of the surrounding streets, and also not in accordance with the desired future character of dwellings.

b) *to minimise overshadowing and ensure a desired level of solar access to all properties,*

**Assessing Officer's comment:** It is acknowledged that the east-west orientation of the subject allotment means that any building on the subject site that complies with Council's bulk and scale controls would likely cause some overshadowing the adjoining property to the south at 23 Gordon Street.

Nevertheless, the proposed height non-compliance only serves to further exacerbate this inherent overshadowing potential rather than put forward a proposal that would create no more overshadowing than that which a complying multi dwelling house would create.

In this regard, it is considered that the minor reduction in building height necessary for the multi dwelling house to comply with the building height standard would help minimise the overshadowing of adjoining property.

**ITEM 2 (continued)**

- c) *to enable the built form in denser areas to create spatial systems that relate to human scale and topography,*

**Assessing Officer's comment:** This specific objective is not considered to relate to the development on the subject site, as the subject site is located within the R2 Low Density Residential zone under the Ryde LEP 2010, and not in a 'denser area' such as the R4 High Density Residential zone or town centre areas.

- d) *to enable focal points to be created that relate to infrastructure such as train stations or large vehicular intersections,*

**Assessing Officer's comment:** Again, this specific objective is not considered to relate to the development on the subject site, as the subject site is located within an existing suburban low density area where there are no specific focal points that need to be reinforced by built elements, such as train stations or large vehicular intersections.

- e) *to reinforce important road frontages in specific centres.*

**Assessing Officer's comment:** Once again, this specific objective is not considered to relate to the development on the subject site, as the subject site is not located within a specific centre, but rather an existing suburban low density residential area.

As the proposed building height fails to achieve the objectives of the development standard, and also given compliance with the development standard is not considered to be unnecessary or unreasonable in the circumstances of this case, the proposed building height of 6.646m is not supported.

As such, the following condition of consent is recommended to be imposed by way of deferred commencement to ensure the building height of the proposed development complies with the mandatory requirements of the Ryde LEP 2010, and also the development controls contained within the Ryde DCP 2014.

- **Building Height.** *The building height (as defined in the Ryde LEP 2010) of the proposed 'Unit 2' is to be reduced by 146mm (limited to maximum building height of 6.5m) to ensure compliance with the maximum building height for dwellings that do not have a frontage to the street prescribed in the Ryde LEP 2010.*

**ITEM 2 (continued)**

The deferred commencement conditioning of this building height development standard is considered feasible as it could be undertaken without impacting on the floor plan of the dwelling beneath. See Deferred Commencement condition 1(a).

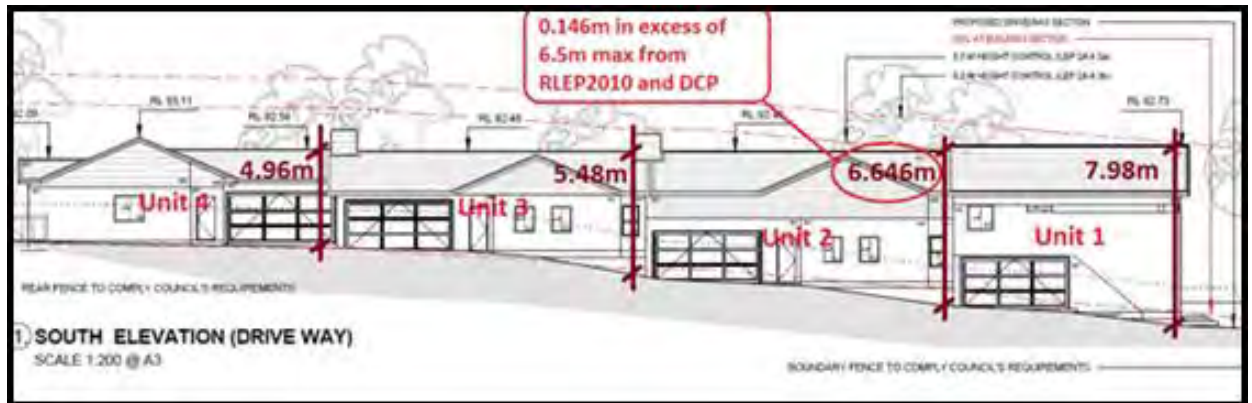


Figure 17. Southern elevation extract indicating the assessed height of each of the proposed units within the multi dwelling housing development. The only unit that does not comply with the maximum building heights contained in the Ryde LEP 2010 is 'Unit 2' which exceeds the development standard by 14.6cm.

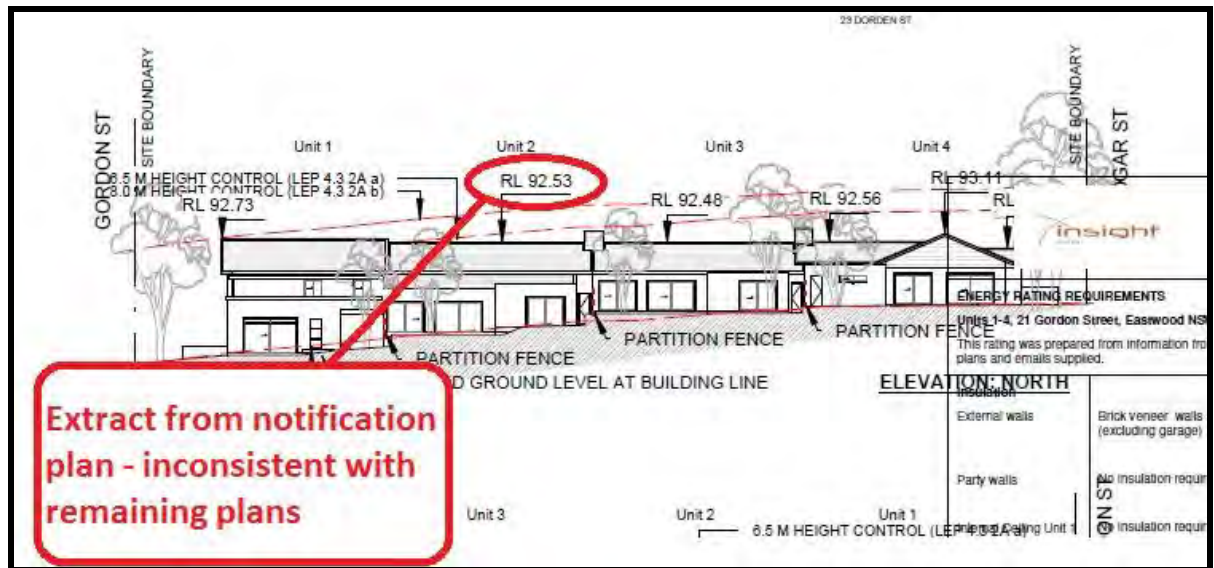


Figure 18. 'Northern elevation' as shown on the 'Notification Plan' indicates a ridge level of Unit 2 at RL 92.53 whilst the remaining plans indicate the level at RL 92.48. In either event, Dwelling 2 fails to comply by a minor amount with the building height controls contained within the Ryde LEP 2010 and therefore the proposed deferred commencement condition has been imposed to lower the building height of this unit.



**ITEM 2 (continued)**Clause 4.5A Density controls for Zone R2 Low Density Residential

Clause 4.5A stipulates that consent cannot be granted to multi dwelling housing in the R2 zone if the site area is less than 300sqm for each 1, 2 or 3 bedroom dwelling and 365sqm for each 4 or more bedroom dwelling.

Given the proposed development consists of one (1) x five (5) bedroom dwelling and three (3) x three (3) bedroom dwellings the required site area is 1,265sqm. The subject site area of 1,296sqm and therefore meets the requirement of this development standard.

**(b) Relevant State Environmental Planning Policies (SEPPs)**SEPP (Building Sustainability Index: BASIX)

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. A BASIX Certificate has been submitted (BASIX Cert 527150M dated 5 February 2014) with the original DA and subsequent to the amended plans a revised BASIX certificate (BASIX Cert 527150M\_02 dated 17 July 2014) was submitted.

An assessment of the revised BASIX certificate that reflects the amended plans has found that the legal description of the subject site has been incorrectly described on the BASIX Certificate. In addition, the BASIX certificate indicates that one (1) bathroom of Dwelling 2 will have natural lighting. A review of the plans has revealed that no bathrooms of Dwelling 2 will have natural lighting.

Given the above, it is recommended that the following condition of consent be imposed by way of Deferred Commencement Condition 2 – requiring a revised BASIX certificate be submitted that is consistent with the plans and the requirements of the SEPP (BASIX).

- **BASIX.** *A revised BASIX certificate is to be submitted to Council for approval that is consistent with the plans to be amended as part of this deferred commencement. The revised BASIX certificate is also to ensure the correct description of the property is included.*

SEPP No. 55 – Remediation of Land

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has a history of residential use and as such it is unlikely to contain any contamination and further investigation is not warranted in this case.

**ITEM 2 (continued)****(c) Any draft LEPs**

None relevant.

**(d) The provisions of any development control plan applying to the land**Ryde Development Control Plan 2014

Ryde DCP 2014 was adopted by Council on 28 May 2013 to come into effect on the same date as the commencement of Ryde LEP 2014 (ie 12 September 2014). As there are no "Savings" provisions in Ryde DCP 2014, as of 12 September 2014, this DCP must be considered for all outstanding DAs, even those lodged before the date when DCP 2014 came into effect.

The proposed development has been assessed against the controls of the Ryde DCP 2014. The Ryde DCP 2014 Compliance Table for this development proposal is held at **Attachment 2** to this Report.

The following is an assessment of those development controls which have been identified as failing to comply with the provisions of the Ryde DCP 2014. These non-compliances have been categorised into those controls which are considered to be justifiable in the circumstances of the development, those controls which would ordinarily be addressed by way of condition, and those controls which are neither justifiable nor capable of being conditioned.

*Non compliances – justifiable***1. Altering the Levels of the Site**

Section 3.2 of Part 3.4 of the Ryde DCP 2014 prescribes development controls for altering the levels of the site. Specifically, the controls state:

*b. The levels of the site should not be altered by more than 300mm. This relates to all areas of the site not covered by the building floor envelope e.g. driveways, courtyards, setback areas, landscaped areas.*

An assessment of the proposed levels across the site reveals that some minor alteration of levels is proposed within the courtyards of Dwelling's 1, 2 and 3 along the northern boundary and within the driveway along the southern boundary. The maximum level of excavation has been assessed at 600mm in the driveway adjacent to the garage of Dwelling 1. The maximum height of fill has been assessed at 450mm in the Dwelling 3 courtyard. Accordingly, the levels of the site are to be altered by more than 300mm which does not comply with the aforementioned control.

**ITEM 2 (continued)**

Although exceeding the maximum level of alteration permitted, this non-compliance can be supported for the following reasons:

- Given the considerable slope of the site, the exceedance of a maximum of 300mm above the control is considered to be minimal.
- As demonstrated in **Figure 19**, a combination of cut and fill has been utilised to minimise the level of land alteration.
- The alteration of levels in the Dwelling 1, 2 and 3 courtyards along the northern boundary will make them flatter and hence more usable spaces. This will provide future residents with an enhanced level of amenity.
- The alteration of the levels along the driveway on the southern side is practical reasons to provide even access to the attached garages.
- The proposed levels of cut and fill will not result in any privacy impacts for the neighbouring properties. Refer to the 'submissions' section of this report for a full discussion of the privacy impacts of the proposed development.

As covered by Section 79C(3A)(b) of the Environmental Planning and Assessment Act 1979, if a development control plan contains provisions that relate to the development that is the subject of a DA, the consent authority is to be flexible in applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development.

In this regard an assessment of the proposed development against the objectives of the altering the levels of the site controls contained within the Ryde DCP 2014 is provided below followed by the assessing officer's comment as to how the proposed development performs against each of these objectives:

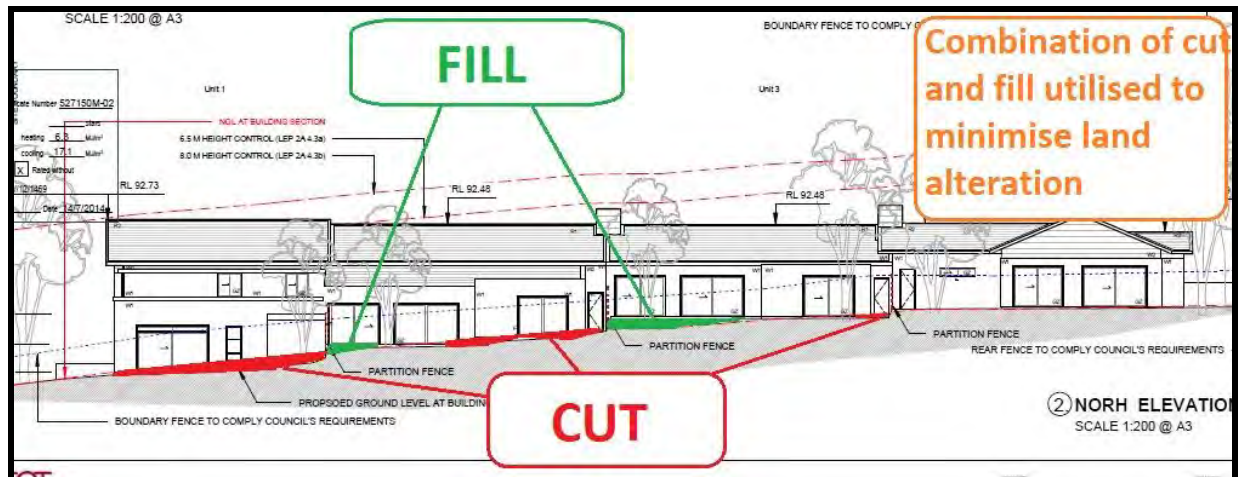
- *To ensure development is sympathetic with the natural topography of the site resulting in improved accessibility, better street impacts, improved solar access for private open space and living areas, protection of privacy of adjoining properties and less impact on ground water.*

Assessing Officer's Comment

As described above, the proposed levels of cut and fill are considered to be minor given the slope of the site. In addition, as demonstrated in **Figure 21**, the proposal has included a balanced combination of cut and fill which minimises the alteration to the natural topography of the site. Given that the alteration of the land will be minimal, that the proposal is generally compliant with the Ryde DCP 2014, and

**ITEM 2 (continued)**

Council's Senior Development Engineer has raised no objection subject to conditions, the proposed site alterations are considered satisfactory. Additionally, it is considered that there will not be any significant impact on the streetscape, solar access, privacy or ground water as a result of the minor site alterations.



**Figure 19. Northern elevation diagram demonstrating that the proposal includes a combination of cut and fill to minimise the level of land alteration.**

*Non compliances – resolvable via conditions:*

- **Height of 'Dwelling 2'**

Section 3.3 of Part 3.4 of the Ryde DCP 2014 prescribes development controls for storey and height. Specifically, the controls state:

- Refer to Clause 4.3 Height of buildings and Clause 4.3A (2) Exceptions to height of buildings in Ryde LEP 2014.*

An assessment of the proposed building heights has been undertaken and is shown in Section 9 of this report in the discussions on compliance with the Ryde LEP 2010. Reference to this section should be made for further details.

- **Garbage bin storage location**

Section 4.8 of Part 3.4 of the Ryde DCP 2014 prescribes development controls for the location of bin enclosures. Specifically, the controls state:

- For developments of up to 5 dwellings on sites which are not steeply sloping and which have a wide road frontage:*
  - Each dwelling must be provided with a storage area for Council's standard rubbish and recycling bins.*

**ITEM 2 (continued)**

- ii. The storage area should be behind the dwelling and not visible from public spaces, common areas within the development and habitable room windows (from dwellings within the development and on other properties).*

The proposed development consists of four (4) dwellings. Furthermore, the site is not considered to be steeply sloping and is considered to have a wide road frontage. As such, the aforementioned control applies to the proposed development.

An assessment of the plans has revealed that the bins are proposed to be stored in a bin area located in a common area in the rear south-western corner of the site (demonstrated in **Figure 20**). Accordingly, each dwelling will not be provided with a bin storage area and the storage area will be located within a common area of the development. This arrangement is a non-compliance with the abovementioned control and as such is unacceptable as it will pose a visual impact and impose odours on adjoining property.

Accordingly, it is recommended that the following condition be imposed to ensure that each dwelling is provided with its own bin storage area and that this area is in a location consistent with the requirements of Section 4.8 of Part 3.4 of the Ryde DCP 2014 (see Deferred Commencement condition 1(d)):

***Location of garbage bin enclosures.*** *The proposed bin storage area located in the south-western corner of the site be deleted and replaced with separate bin storage areas for each dwelling in accordance with Section 4.8 of Part 3.4 of the Ryde DCP 2014.*

**ITEM 2 (continued)**

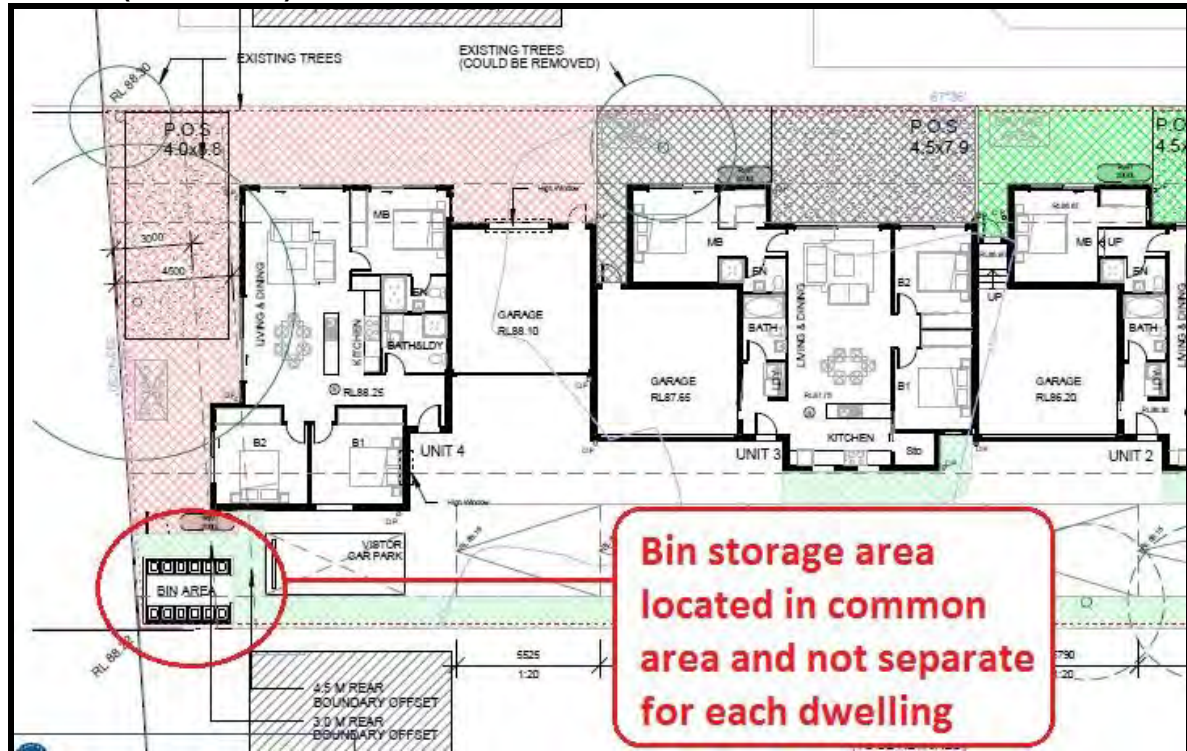


Figure 20. Extract of Ground Floor Plan showing the location of the bin storage area located within a common area in the south-western corner of the site and adjacent to two (2) adjoining properties.

- **Separation of living/sleeping areas and garages**

Section 3.10 of Part 3.4 of the Ryde DCP 2014 prescribes development controls for visual and acoustic privacy. Specifically, the controls state:

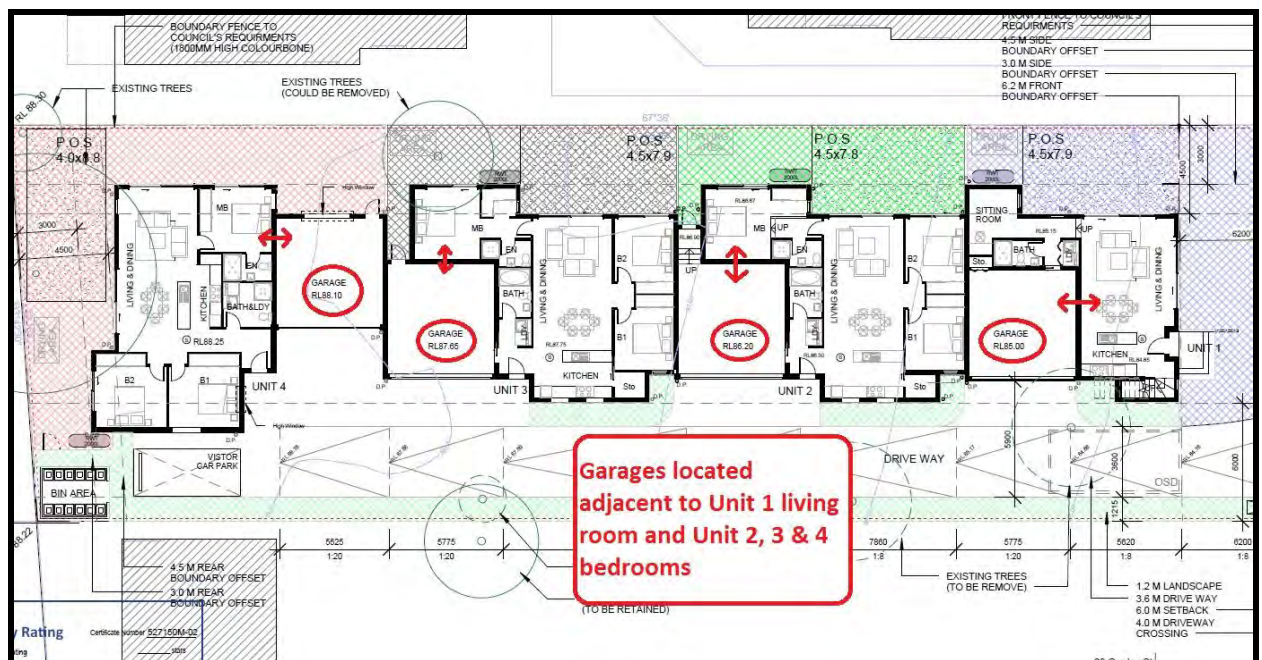
*e. Site layout and building design should protect the internal living and sleeping areas from high levels of external noise. Building design and layout should minimise transmission of structural borne sound.*

An assessment of the plans has revealed that each of the proposed garages will share a wall with either a living or sleeping area of an adjoining dwelling. (demonstrated in **Figure 21**). There is concern that this arrangement may give rise to have negative acoustic privacy implications for the future residents of the development.

Accordingly, it is recommended that the following condition (34) be imposed to ensure that the transmission of noise from the garage areas is minimised as required by Section 3.10 of Part 3.4 of the Ryde DCP 2014:

**ITEM 2 (continued)**

**Garage walls.** Garage walls are to be lined with acoustically absorptive material or equivalent to that minimise the transmission of noise to the adjacent living and sleeping areas of the dwellings. Plans including details of the materials and their installation arrangements are to be prepared and submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.



**Figure 21. Extract of Ground Floor Plan demonstrating that the garages share walls with adjacent living and sleeping areas of dwellings. There is concern of the potential acoustic privacy impacts that may result from this arrangement, and as such a condition of consent requiring installation of acoustically absorptive material or equivalent has been proposed.**

*Non compliances – not justifiable:*

- Nil

Section 94 Contributions Plan 2007

Council's current Section 94 Development Contributions Plan 2007 (2010 Amendment - adopted 16 March 2011) requires a contribution for the provision of various additional services required as a result of increased development.

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:

**ITEM 2 (continued)**

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$10,137.63
Open Space & Recreation Facilities	\$24,956.70
Civic & Urban Improvements	\$8,488.27
Roads & Traffic Management Facilities	\$1,157.86
Cycleways	\$723.23
Stormwater Management Facilities	\$2,298.82
Plan Administration	\$194.99
<b>The total contribution is</b>	<b>\$47,957.49</b>

A condition for the payment of a Section 94 Contribution of \$47,957.49 has been included in the draft conditions of consent.

**Note:** The above calculation has been reviewed by two Assessment Officers. A detailed copy of rates and calculation spreadsheet has been placed on the relevant DA file.

**10. Likely impacts of the Development**

The impacts of the proposed development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, have been addressed in the issues discussed throughout this report in response to the proposed development's performance against the relevant planning controls and objector submissions.

The proposed development is considered to be satisfactory in terms of impacts subject to the imposed conditions of consent.

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

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies that no constraints affect the subject property. Accordingly, given that the proposed development is permissible with consent, the subject site is considered suitable for the development.

**12. The Public Interest**

The assessment of the proposed development has established that the proposed development would be consistent with:

- the aims of the Ryde LEP 2010; and
- the key development controls under the Ryde DCP 2014.

On the basis of the proposal's consistency with the above planning instruments, plans and policies, approval of this development would be in the public interest.



**ITEM 2 (continued)****13. Consultation – Internal and External****Internal Referrals**

Senior Development Engineer: Council's Senior Development Engineer has undertaken an assessment of the proposed development and made the following comments. Conditions of consent have been provided and are contained in the Draft Conditions (in **Attachment 1**).

*A review of the internal engineering components identifies the following matters;*

- *The revised Stormwater Management Plan received on the 17 July 2014 is generally acceptable however the design of the OSD has not utilised the coefficients for the Eastwood area. This will require a relatively minor increase in the storage volume of the OSD unit which can be readily accommodated in the driveway area. This is addressed in the standard condition of consent concerning Stormwater Management.*
- *The location of the proposed visitor space at the far end of the driveway is such that a vehicle greater than a B85 may require more than a 2 point turn to exit the space. AS this is contained well within the site in a location with little pedestrian or vehicle traffic, it does not warrant great concern.*
- *There is a sewer service lid located in the verge in the region of the proposed driveway crossover. The plans have proposed a slight deviation of the driveway around this service. Whilst this is not ideal, the angle of deviation is slight and does not warrant further concern or modification of the plans.*
- *Whilst there is low potential for conflicting flow on the driveway, the proposal presents an opportunity to widen the driveway at the entry to 5.5m wide to allow for vehicles to overtake at the property boundary. The applicant has proposed a 4.0m wide driveway and therefore the extent of change required to implement this measure is minimal and has been addressed as a condition of consent.*

Landscape Architect: The consultant Landscape Architect (Creative Planning Solutions Pty Ltd) has raised no objection to the proposed development subject to a number of conditions. The following comments were provided in relation to the subject application:

*Tree removal proposed on the subject site is generally supported given that those to be removed are either exempt species, of low landscape significance, poor form or contributing little to the amenity of the allotment. Additionally, a number of replacement trees of mature sizes at planting have been proposed as part of the updated landscaping scheme to offset the tree loss across the site.*

**ITEM 2 (continued)****External Referrals**

No external referrals undertaken as part of the assessment of the proposed development.

**14. Critical Dates**

There are no critical dates or deadlines to be met.

**15. Financial Impact**

Adoption of the option(s) outlined in this report will have no financial impact.

**16. Other Options**

None relevant.

**17. Conclusion**

The proposal has been assessed against the heads of consideration of Section 79C of the Environmental Planning and Assessment Act 1979 and the following has been determined:

- The proposal can comply with the mandatory requirements and objectives of the relevant environmental planning instruments pertaining to the subject site, including the Ryde LEP 2010;
- The proposal is satisfactorily complying when assessed against the provisions and objectives of the Ryde DCP 2014;
- The likely environmental impacts of the proposed development have been considered and determined to be satisfactory when having regard to both the natural and built environment, and social and economic impacts in the locality;
- The proposed multi dwelling housing development is considered to be suitable for the site on which it is to be constructed; and
- The proposed development is considered to be in the public interest, subject to the recommended conditions of consent as outlined in the recommendation.

**ITEM 2 (continued)**

On this basis, the subject DA is recommended for deferred commencement approval subject to conditions. Specifically, it is recommended that a Deferred Commencement consent be issued requiring the applicant to undertake minor modifications to the roof design to reduce the overall building height of 'Dwelling 2' and to submitted a revised BASIX certificate that is consistent with the plans and correctly identifies the legal description of the subject site. It is also recommended that amended plans be submitted to address neighbour concerns regarding the existing Camphor Laurel tree and the garbage bin enclosure.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**DRAFT CONDITIONS OF CONSENT  
21 GORDON STREET EASTWOOD  
LDA2014/89**

**DEFERRED COMMENCEMENT**

The following are the Deferred Commencement condition(s) imposed pursuant to Section 80(3) of the Environmental Planning & Assessment Act 1979.

1. **Plan amendments.** The submission of amended plans for Council's approval which provide the following plan amendments:
  - (a) **Building Height.** *The building height (as defined in the Ryde LEP 2010) of the proposed 'Unit 2' is to be reduced by 146mm (limited to maximum building height of 6.5m) to ensure compliance with the maximum building height for dwellings that do not have a frontage to the street prescribed in the Ryde LEP 2010.*
  - (b) **Removal of Camphor Laurel tree.** *The existing Camphor Laurel tree at the rear of the site shall be removed, and replaced with an additional *Eleocharis reticulatus* ("Blueberry Ash") in the courtyard of Unit 4. All relevant DA plans (site plan and landscaping plan) shall be amended accordingly.*
  - (c) **Driveway.** *To enable conflicting vehicle flows to overtake one another at the vehicle entry to the property, the clear width of the internal driveway must be no less than 5.5m wide for the initial 6m back from the front property boundary alignment.*
  - (d) **Location of garbage bin enclosures.** *The proposed bin storage area located in the south-western corner of the site be deleted and replaced with separate bin storage areas for each dwelling in accordance with Section 4.8 of Part 3.4 of the Ryde Development Control Plan 2014.*
2. The submission of an amended BASIX Certificate for Council's approval which provides the following amendments:
  - **BASIX.** *A revised BASIX certificate is to be submitted to Council for approval that is consistent with the plans to be amended as part of this deferred commencement. The revised BASIX certificate is also to ensure the correct description of the property is included.*

The conditions in the following sections of this consent shall apply upon satisfactory compliance with the above requirements and receipt of appropriate written confirmation from Council.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**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:

<b>Document Description</b>	<b>Date</b>	<b>Plan No/Reference</b>
Site / Roof Plan	05.06.2014	DA-200 / Revision B
Ground Floor Plan	05.06.2014	DA-201 / Revision B
First Floor Plan	05.06.2014	DA-202 / Revision B
Cross Sections	05.06.2014	DA-300 / Revision B
Long Sections	05.06.2014	DA-301 / Revision B
Elevation South and North	05.06.2014	DA-500 / Revision B
Elevation East and West	05.06.2014	DA-501 / Revision B
Sediment and Erosion Control Plan	05.06.2014	DA-103 / Revision B
Landscape Plan	07.07.2014	L01/1 / Revision D
Demolition Work Plan	February 2014	Prepared by ARC Renovation and Construction
Site Waste Minimisation and Management Plan	June 2014	Emailed to Council 17.07.2014
Stormwater Drainage Plan and Details – Roof and Ground Floor Plan	06.02.2014	H-01 / Revision D
Arboricultural Impact Assessment	06.03.2014	9208 Report prepared by Redgum Horticultural

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 the revised BASIX Certificate to be submitted as required by deferred commencement Condition 1.
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.

**ITEM 2 (continued)**

**ATTACHMENT 1**

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.
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.

Engineering Conditions

12. **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.

**ITEM 2 (continued)**

**ATTACHMENT 1**

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.

**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.

16. **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.
17. **Compliance with Australian Standards.** All demolition work is to be carried out in accordance with the requirements of the relevant Australian Standard(s).

**ITEM 2 (continued)**

**ATTACHMENT 1**

**18. 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.

**19. 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.

**20. 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.

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

**22. 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.



**ITEM 2 (continued)**

**ATTACHMENT 1**

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

<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$10,137.63
Open Space & Recreation Facilities	\$24,956.70
Civic & Urban Improvements	\$8,488.27
Roads & Traffic Management Facilities	\$1,157.86
Cycleways	\$723.23
Stormwater Management Facilities	\$2,298.82
Plan Administration	\$194.99
<b>The total contribution is</b>	<b>\$47,957.49</b>

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

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

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

24. **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**.
25. **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**.
26. **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**. (category: dwelling houses with delivery of bricks or concrete or machine excavation)

**ITEM 2 (continued)**

**ATTACHMENT 1**

27. **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
28. **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**.
29. **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**.
30. **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.

31. **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**.
32. **Fencing.** Fencing is to be in accordance with Council's Development Control Plan and details of compliance are to be provided in the plans for the **Construction Certificate**.
33. **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.

**ITEM 2 (continued)**

**ATTACHMENT 1**

34. **Garage walls.** Garage walls are to be lined with acoustically absorptive material or equivalent that minimise the transmission of noise to the adjacent living and sleeping areas of the dwellings. Plans including details of the materials and their installation arrangements are to be prepared and submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.

Engineering Conditions

35. **Boundary Alignment Levels.** The applicant is to apply to Council for site specific boundary alignment levels prior to the issue of the Construction Certificate. The application would need to be accompanied by engineering plans of any civil works along the frontage of the development site. Fees are payable in accordance with Council's Schedule of Fees & Charges at the time of the application.
36. **Vehicle Footpath Crossing(s).** Concrete footpath crossings and associated gutter crossovers must be constructed fronting the approved vehicle access location(s). 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 incorporated into the design of the driveway access and clearly delineate on plans submitted with the Construction Certificate application.
37. **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).

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

38. **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 from the development shall be collected and piped by gravity flow to the kerb fronting the site in Gordon Street, generally in accordance with the plans by A K Y Civil Engineering (Refer to Project No. 14001 Dwg H-01 Rev D dated 17 July 2014) subject to the following variation;

- The OSD parameters must be revised to apply the co-efficient for the Eastwood catchment. By preliminary calculations, the revised design have a SSR rate of  $.03 \text{ m}^3 / \text{m}^2$  and PSD of  $.0199 \text{ L/s/m}^2$ .

**ITEM 2 (continued)**

**ATTACHMENT 1**

The detailed plans, documentation and certification of the system must be 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 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 2014 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.

39. **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.

**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.

**ITEM 2 (continued)**

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**40. Site Sign**

- (c) 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.
- (d) 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.

41. **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.

42. **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).

43. **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.

**ITEM 2 (continued)**

**ATTACHMENT 1**

Engineering Conditions

44. **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. Any doors/ gates on the boundary must be installed so they do not open onto any footpath.
45. **Footpath Paving Construction.** The applicant shall, at no cost to Council, construct standard concrete footpath paving across the frontage of the property. Levels of the footpath paving shall conform with levels issued by Council's Engineering Services Division and generally match existing.

**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.

46. **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*.
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.
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.

**ITEM 2 (continued)**

**ATTACHMENT 1**

**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. Project Arborist.** A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on the subject site and neighbouring allotments and that recommendations contained within Arboricultural Impact Assessment dated 6 March 2014 prepared by Redgum Horticulture are carried out (with the exception of the Camphor Laurel tree at the rear of the site). All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised throughout construction. Details of the Project Arborist are to be submitted to Council prior to the commencement of construction.

**57. Tree Retention.** The existing *Ceratopetalum gummiferum* located within the front yard of the allotment and the existing *Araucaria* sp. located within the north-western corner of the rear yard are to be retained and adequately protected during construction. The Project Arborist is to monitor these trees to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised throughout construction.

**ITEM 2 (continued)**

**ATTACHMENT 1**

Engineering Conditions

58. **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.
59. **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 A K Y Civil Engineering (Refer to Project No. 14001 Dwg H-01 Rev D dated 17 July 2014) 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.

60. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in the revised BASIX Certificate to be submitted as required by deferred commencement condition 1.
61. **Landscaping.** All landscaping works approved by condition 2 are to be completed prior to the issue of the final **Occupation Certificate**.
62. **Sydney Water – Section 73.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.



**ITEM 2 (continued)**

**ATTACHMENT 1**

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim/Final Occupation Certificate.

63. **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.

Engineering Conditions

64. **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.
65. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to Section 88 E of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention 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 88 E instrument are to be in accordance with the Council's draft terms for these systems as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7, and to the satisfaction of Council, and are to be registered on the title prior to the release of the Occupation Certificate for that title.
66. **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 the Final Occupation certificate.

**ITEM 2 (continued)**

**ATTACHMENT 1**

67. **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.
- 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 2014, Part 9.3 “Car Parking”.
  - b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with the City of Ryde DCP 2014, 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) 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 the City of Ryde DCP 2014, Part 8.1 “Construction Activities”.
  - d) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council’s satisfaction.
68. **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 City of Ryde, Development Control Plan 2014: - Part 8.2; Stormwater Management. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

**ITEM 2 (continued)**

**ATTACHMENT 2**

**COMPLIANCE TABLE**

**LDA2014/0089**

**Proposed: Multi-Dwelling housing development containing four dwelling – 1 x 2 storey 5 bedroom unit at the front of the site and 3 x single storey 3 bedroom units at the rear of the site AT:- 21 Gordon Street, Eastwood**

**Constraints: None Identified**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
<b>2.1 Site Analysis</b>		
<ul style="list-style-type: none"> <li>○ Must have a SA</li> <li>○ SA should relate dwgs to surrounds + minimise amenity impacts</li> </ul>	<p>Site analysis drawings have been submitted however lack detail and do not address the criteria outlined in Schedule 1 of the Part 3.5 of the Ryde DCP 2010.</p> <p>Although lacking detail, it is considered the site analysis combined with the thorough site investigation undertaken is sufficient to assess the impacts on the surrounding development and streetscape. Additionally, although many elements of Schedule 1 are not shown on the site analysis drawing, this information can be found elsewhere on other drawings submitted.</p>	Yes
<b>2.2 Minimum allotment size</b>		
Area: (not <900m <sup>2</sup> )	1296m <sup>2</sup> (DP 7076)	Yes
Primary Frontage: (not <20m)	20.12m	Yes
Not hatchet shaped	Regular shaped	Yes
<b>2.3 Non-Preferred Locations</b>		
Is the proposed development within a non-preferred location?	Site is not located in a non-preferred location.	Yes
<b>2.4 Retention of Existing Dwellings</b>		
Retention of existing dwelling will not be approved. Except may occur if existing dwelling is heritage significant.	Retention of existing dwelling is not proposed.	Yes

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
<b>2.5 Density</b>		
As per clause 4.5A RLEP2010 – which state: (a) Site Area: ○ 300m <sup>2</sup> per 1,2,3br dwg ○ 365m <sup>2</sup> per 4br+ dwg	3 x 3 br = 900m <sup>2</sup> 1 x 5 br = 365m <sup>2</sup> Total required = 1265m <sup>2</sup>  Current Site area= 1296m <sup>2</sup>	Yes
(b) Each dwg has its own POS and sep access to that space from unbuilt portion of site	Each dwelling has its own Private Open Space, and separate access to each POS is provided either from pedestrian gates or via the garages.	Yes
<b>2.6 Number of Dwellings</b>		
Not more than 12 Dwellings	4 dwellings	Yes
<b>2.7 Type of Dwellings</b>		
If 4 or more dwellings on site, <75% with same number of bedrooms (rounded down) e.g. 6d= 4x3B + 2x2B	4 units: 3 x 3 bed (75%), 1 x 5 bed (25%)	Yes
<b>3.1 Slope of Site</b>		
At least one dwelling must present to the street	Unit 1 faces Gordon Street	Yes
Slope must be <1:6 either up or down from street frontage	Fall from rear towards street frontage. Largest fall is of 5.25m along southern rear boundary RL88.22 to southern front corner RL82.97 over a distance of 64.06m which is a gradient of approx. 1:8, therefore <1:6.	Yes
Cross-fall <1:14	Minimal cross fall. Largest fall is of 590mm between NE corner of the site (RL83.67) and SE corner RL82.97 over a distance of 20.115m which is a gradient of 1:34, therefore <1:14.	Yes
<b>3.2 Altering the Levels of the Site</b>		
No imported Fill	None shown	Yes
<300mm Cut or Fill outside building envelope.	Some areas of the site experience cut and fill >300mm outside the building envelope.	No – Justifiable

ITEM 2 (continued)

ATTACHMENT 2

DCP 2014	Proposed	Compliance
No basement garages, minimal steps, minimal retaining walls	No basement garages, minimal steps , minimal retaining walls proposed	Yes
POS generally at NGL.	POS has generally been provided at NGL.	Yes
<b>3.3 Storey and Height</b>		
<b>3.3.1 Storeys</b>		
Dwg with frontage to street can be 2 storeys provided: <ul style="list-style-type: none"> <li>○ 2 st dwg not attached to any other 2 st dwg</li> <li>○ 2 st dwg is suitable re streetscape</li> </ul>	Unit 1 is 2 storeys in height, and has a frontage to Gordon Street and not attached to another 2 storey dwelling. The proposed Unit 1, 2 storey dwelling is considered to be consistent with the surrounding streetscape and suitable within Gordon Street.	Yes  Yes
<b>3.3.2 Height</b>		
As per Clause 4.3(2a) in Ryde LEP 2010 – which states the maximum height is: (a) for dwgs in bldg with no frontage to street – 6.5m	Units 2, 3 & 4 do not have a frontage to Gordon Street. Unit 2 exceeds the 6.5m maximum height.  <b>Unit 2: 6.646m (Ridge RL 92.48 – EGL below RL 85.834)</b> Note: ‘North elevation’ on ‘notification plan’ inconsistent with other plans showing the ridge height at RL92.53. All other plans show ridge height at RL 92.48. Regardless, the height of Unit 2 is non-compliant with DCP and LEP.  Unit 3: 5.48m Unit 4: 4.96m	No – To be conditioned
(b) for dwgs with a frontage to street, if adj lots have dwgs that are <9.5m high – 8m	Unit 1 has a frontage to Gordon Street and the adjoining dwellings have been assessed as having building heights of less than 9.5m.  Unit 1, proposed ridge height of RL92.73, EGL below is RL84.75, therefore overall height of 7.98m.	Yes

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
<b>3.4 Site Coverage</b>		
Site coverage < 40%	39.7% (approx. 514.48m <sup>2</sup> )	Yes
Pervious area > 35%	37% (approx. 479.34m <sup>2</sup> )	Yes
<b>3.5 Setbacks</b>		
<b>3.5.1 Front Setbacks</b>		
<u>Front Setbacks:</u> Similar to adjoining buildings - same as adjoining if <2m (in West Ryde Character Area where should be similar to adjoining)	6.2m front setback proposed– which is 0.875m more than 19 Gordon Street and 1.405m less than 23 Gordon Street.	Yes
Setback of 1m less than the above std for not more than 50% of the front elevation for interest in the streetscape	Setback is 6.2m along front of site.	N/A
Council may vary this requirement if streetscape is likely to change: >7.5m for 50% of frontage, >6.5m for 50% of frontage.	Streetscape unlikely to change.	N/A
<b>3.5.4 Side and Rear Setbacks</b>		
Min 4.5m unless vehicular access is included in this area, then min 6m. To promote variation & interest up to 50% may be not less than 3m	<ul style="list-style-type: none"> <li>• North (side) – 4.5m except for 34.17% at 3m</li> <li>• South (side) – 6m except for 12.18% at 4.5m</li> <li>• West (rear) – 4.5m except for 20.83% at 3m</li> </ul>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Must provide appropriate solar access.	Courtyards & living areas have access to northern sunlight where possible	Yes
Ensure existing substantial trees not within proposed courtyard areas.	Existing trees are retained in the courtyards of units 3 and 4. Considering the size of the courtyards, well in excess of the minimum required, the retention of these trees will not adversely impact the amenity of these POS areas. Accordingly, retention is considered acceptable.	Yes
<b>3.5.5 Internal Setbacks</b>		
Habitable room windows don't overlook	In general, development has been designed to ensure no overlooking between proposed units due to adequate setbacks and arrangement of dwellings.	Yes

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
	Also, amended plans removed second storey of Unit 2 which provides for improved privacy.	
9m separation between facing dwellings habitable room windows?`	At least 9m, separation provided between facing dwellings windows.	Yes
<b>3.6 Private Outdoor Space</b>		
Min 30m <sup>2</sup> for 2B Min 35m <sup>2</sup> for 3+B	Unit One = 43.87m <sup>2</sup> Unit Two = 57.12m <sup>2</sup> Unit Three = 59.34m <sup>2</sup> Unit Four = 121.41m <sup>2</sup>	Yes
Min dimension 4m and generally at NGL	Courtyards minimum dimensions exceed 4m and are generally at NGL.	Yes
Solar access: 50% for ≥2hrs	According to the shadow diagrams submitted, all Units within the development receive the minimum 2hrs of sunlight to 50% of their courtyards.	Yes
Do not contain ex'g big trees	Private open spaces Unit 4 contain 1 existing big tree. Tree in unit 4 to be removed via condition as discussed in report.	Yes
Access to courtyard other than through dwg?	Access to courtyard provided either from pedestrian gates or via the garages.	Yes
Securely enclosed (not roofed) + visible from liv rms	Securely enclosed, Living areas face courtyards	Yes
Not within front setback	Behind building line	Yes
<b>3.7 Landscaping</b>		
Extent of landscaping, existing trees retained in common areas?	Existing trees are retained in the courtyards of units 3 and 4. Considering the size of the courtyards, well in excess of the minimum required, the retention of these trees will not adversely impact the amenity of these POS areas. Accordingly, retention is considered acceptable.	Yes
If landscaping used for privacy: <ul style="list-style-type: none"> <li>• ≥1.2m landscaped strip</li> <li>• Shrub mature height 3-4m, if possible small trees mature</li> </ul>	Minimum 1.2m strip has been provided to the boundary to provide sufficient screening to	Yes

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
height 5-m in combination with screen planting	adjoining development, from unit's 1 and 2 and along the driveway.  Boundary plantings ( <i>Callistemon 'Slim and Viburnum odoratissimum</i> ) have been assessed as being capable of reaching 2-2.5m in height.  Considered acceptable as these plantings are not required to maintain privacy.	Yes
1m strip between driveway and wall of dwgs	Minimum 1m strip has been provided between the driveways and walls of Unit's 1, 2 and 3 and the boundary but not Unit 4.	Yes
Nature Strips: Street trees retained and protected?	No street trees to be affected as part of proposed development.	Yes
<b>3.8 Car Parking, Manoeuvrability and Driveway Crossings</b>		
<b>Car Parking</b>		
Number of Parking Spaces 1 space per 1 or 2 B dwelling 2 spaces per 3+B dwelling 1 visitor space per 4 dwgs (at least 1 space per dwg must be lockable garage)  Total No of spaces req'd: 8 resident spaces 1 visitor space.	8 resident spaces proposed  1 visitor space proposed	Yes
Garage/parking space location: - Not between dwelling and street frontage - No tandem parking in front of garage - Conveniently located for occupants - Located so they separate dwellings.	Visitor parking space located at the rear of the proposed driveway.  No tandem parking proposed.  Garages have been located in convenient locations that are easily accessible from the dwellings.	Yes  Yes  Yes



**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
	Garages have been located so as to adequately separate dwellings.	Yes
Manoeuvrability: Enter and leave garage/parking area with single 3pt turn, in a forward direction (unless safe to reverse - corner allotment only).	Acceptable, see Senior Development Engineer's referral	Yes
Driveways Suitably paved, extent minimised, to avoid excessive amounts of hard paving.	Driveways have been suitably paved with the extent minimised to only the required area for sufficient turning and manoeuvrability.	Yes
Driveway Crossings Width: <10 spaces, min 4m >10 spaces, max 6m Driveways <30% of frontage	Driveway crossover is 4m wide	Yes
<b>3.9 Overshadowing and Access to Sunlight</b>		
Habitable room windows face courtyard or other outdoor space open to the sky, no closer than 1.5m to facing wall.	All habitable room windows face either a courtyard, the street or driveway. No habitable rooms are within 1.5m of a wall.	Yes
Sunlight to at least 50% of each courtyard, and principal ground level open space >2hrs between 9am and 3pm on June 21 <b>or</b>	According to the shadow diagrams submitted, all Units within the development receive the minimum 2hrs of sunlight to 50% of their courtyards.	Yes
Where existing overshadowing by buildings and fences is greater than this on adjoining properties, sunlight must not be further reduced by more than 20%	Overshadowing to adjoining properties is considered to be minimal with shadows cast by the proposed development being contained mostly within the subject site.	Yes
Shadow diagrams must indicate extent of shadowing within development and adjoining properties.	Shadow plans provided indicate the extent of shadowing within both the development and neighbouring properties.	Yes
<b>3.10 Visual and Acoustic Privacy</b>		
Min 9m separation between facing habitable room windows	At least 9m, separation provided between facing dwellings windows.	Yes
No direct views between living area windows or adjacent dwellings	Generally there are no direct views between living area	Yes

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
(otherwise screening or obscuring necessary)	windows and adjacent dwellings windows due to the 6.5m separation between the neighbouring dwellings and the proposed boundary screen planting.	
Direct views from living areas to private open space of other dwellings should be screened or obscured within privacy sensitive zone of 12m radius.	Sufficient boundary screen planting has been implemented to provide privacy to a 12m zone from windows with views towards neighbouring private open space.	Yes
No balconies.	No balconies proposed.	Yes
Elevated landings (or similar associated with stairs into courtyard) max 1m wide	No elevated landings proposed.	Yes
Living and sleeping areas protected from high levels of external noise?	<p>Living and sleeping areas have generally been protected from high levels of external noise however it is noted that some bedrooms and living areas share common walls with garages.</p> <p>Concern is raised over the floor plan layout with regards to acoustic amenity and the location of the garages sharing common walls with bedrooms. In particular, unit 2's garage and the adjoining bedroom of unit 2, unit 2's garage and the adjoining bedrooms of unit 3, unit 3's garage and the adjoining bedroom of unit 3, unit 4's garage and the adjoining bedroom of unit 4 and the visitor parking space and the adjoining bedrooms of Unit 4.</p> <p>Condition to be imposed to require sound resistant walls in these locations.</p>	No – To be conditioned
Noise levels of air con pool pumps etc must not exceed background noise level by more than 5dB(A)	No information shown on plans in regards to location of air con. etc.	N/A

**ITEM 2 (continued)**

**ATTACHMENT 2**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
<b>3.11 Accessibility</b>		
<b>3.11.1 Pedestrian Access</b>		
Pedestrian access provided, separate to vehicle access where possible.	Separate pedestrian access has been provided to Unit 1 from Gordon Street. Access to other dwellings is to be shared with vehicular access	Yes
<b>4.1 Appearance</b>		
Complement streetscape	The design of the proposed multi-unit housing development is considered to complement and enhance the existing streetscape character of Gordon Street through providing a dwelling and site design that is consistent with the emerging character of the Eastwood area and immediately adjacent properties.	Yes
Includes pitched roof, eaves, vertically oriented windows, verandahs, rendered and face brick	According to the plans provided the design includes pitched roof forms, eaves, vertically orientated windows, dormer windows as well as weatherboard and face brick facades. Given the above is considered sufficient interest and variety is provided in both design and materiality.	Yes
At least 1 dwg must face street	Unit 1 faces Gordon Street	Yes
<b>4.2 Ceiling Height</b>		
Floor to Ceiling min 2.7m	Plans indicate minimum 2.7m floor to ceiling heights.	Yes
<b>4.3 Roofscape and Roof Materials</b>		
Pitch 22-30° (35° where 2 <sup>nd</sup> floor is within roof)	According to the plans submitted the roof pitch of all units is 23°	Yes
Min 300mm eaves overhang for roofs & verandas	400mm min overhang proposed	Yes
Gables to street frontage?	Gable roof to Gordon Street frontage proposed.	Yes

**ITEM 2 (continued)**

**ATTACHMENT 2**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
Variation to roof line?	Roof lines sufficiently varied across all units of the development	Yes
Roof materials consistent with traditional ones in the street?	Dark roof proposed. Given that there is no consistent roof materials or colours in streetscape, proposed roof is acceptable.	Yes
<b>4.4 Building materials for Walls</b>		
In keeping with the traditional materials for the locality. Detailing to break up large areas of wall adding interest and individuality	Face brick proposed with weatherboard gables in accordance with materials in locality. Adequate windows and doors provided to add interest and individuality.	Yes
Proportion of windows and other openings consistent with character of locality. (windows generally 2:1 and 3:1 vertical proportion)	Proposed proportions of windows and other openings is considered to be consistent with the character of locality.	Yes
<b>4.5 Fences</b>		
<b>4.5.1 Front fence</b>		
Max ht 1m, and 70% visually permeable, return to be similar to front fence	Front fence is 600mm high solid brick fence, in keeping with the existing front fence designs of Gordon Street.	Yes
Materials compliment dwelling e.g. wooden pickets, masonry with infill panels, wrought iron or similar etc	Face brick wall compliments dwelling.	Yes
<b>4.5.3 Other boundary fences</b>		
Min ht 1.8m	1.8m high colourbond / timber paling fence proposed.  Standard condition to be imposed that ensures the proposed fence is min. 1.8m high lapped and capped timber fence.	To be conditioned
Lapped and capped timber	As above	To Be Conditioned
<b>4.6 Clotheslines and drying area</b>		
External clotheslines (not visible from adjoining properties or public areas)	All external clotheslines are suitably screened through boundary landscaping and are	Yes

**ITEM 2 (continued)**

**ATTACHMENT 2**

DCP 2014	Proposed	Compliance
	not visible from adjoining properties or public areas	
Each dwelling must have its own laundry	Laundries provided to all units	Yes
<b>4.7 Lighting</b>		
Front yard lighting and lighting for the front of dwellings is to be provided	None provided. Lighting details to be conditioned	No – To Be Conditioned
Location of external lighting must not have adverse effect on adjoining properties.	None provided. Lighting details to be conditioned.	No – To Be Conditioned
<b>4.8 Garbage bin enclosures</b>		
For developments of up to 5 dwellings on sites which are not steeply sloping and which have a wide road frontage: i. Each dwelling must be provided with a storage area for Council’s standard rubbish and recycling bins. ii. The storage area should be behind the dwelling and not visible from public spaces, common areas within the development and habitable room windows (from dwellings within the development and on other properties).	Common bin storage area located in common areas.  For condition see Schedule 3 – ‘Waste Bin Storage Area Enclosures’ of MDH DCP	No – To be conditioned
For developments of 6 or more dwellings or that are steeply sloping or which have a narrow road frontage: - A central garbage bin enclosure shall be provided - Storage area should be behind the dwelling and suitably screened by landscaping	Only 4 dwellings proposed	N/A
<b>Drainage</b>		
Refer to Part 8.2 Storm water Management DCP 2010	See Development Engineers comments	Yes
<b>Tree Removal</b>		
Refer to Part 9.6 Tree Preservation DCP 2010	Proposal includes removal of 3 trees and retention of 3 trees. According to the Arborist’s report submitted by Horticultural	Yes

**ITEM 2 (continued)**

**ATTACHMENT 2**

<b>DCP 2014</b>	<b>Proposed</b>	<b>Compliance</b>
	Resources Consulting Group dated 22 May only 3 trees are considered to have a high retention value and these trees are to be retained.	

<b>BASIX</b>	<b>Proposal</b>	<b>Compliance</b>
All ticked "DA plans" commitments on the BASIX Certificate are to be shown on plans <b>BASIX Cert 527150M_02 dated 17 July 2014</b> <b>ABSA Cert. 14690070 dated 05 February 2014</b>	See below	Yes
• RWT 2000L per dwelling	Shown on plans	Yes
• Thermal Comfort Commitments: - Insulation as per schedule - Construction as per schedule	Shown on plans Shown on plans	Yes Yes
• Energy: - HWS 3.5 star gas instantaneous	To comply	Yes
• Fixtures - 3 star showerheads & 4 star taps - Toilets 4 star	Shown on plans Shown on plans	Yes Yes
• Lighting - Natural lighting <ul style="list-style-type: none"> <li>○ Unit 1: 2 bathrooms and kitchen</li> <li>○ Unit 2: 1 bathroom and kitchen</li> <li>○ Unit 3 and 4: kitchen</li> </ul>	Shown on plans  No window to bathroom – amended BASIX required  Shown on plans	Yes  No – To be conditioned  Yes
Water Target 40	Water: 45	Yes
Energy Target 40	Energy: 54	Yes
Correct description of property/proposal on 1 <sup>st</sup> page of Certificate.	Incorrect Lot no. shown. Amended BASIX required	No – To be conditioned

**Summary of Issues/Non compliances:**

**Non-Compliances - Justifiable**

- >300mm cut and fill outside of the building footprint – up to approximately 800mm of cut proposed

**ITEM 2 (continued)**

**ATTACHMENT 2**

*Non-Compliances - To Be Resolved Via Conditions*

- Height of Unit 2 – RLEP2010 development standard (no cl. 4.6)
- Incorrect Lot no. on BASIX
- BASIX commitment not shown on plans
- Garbage bin location
- Acoustic privacy and amenity – separation of living/sleeping areas and garages – walls of garages and unit 4 wall adjacent to visitor car space to be of high acoustic quality

*Non-Compliances – Not justifiable*

- Nil

**ITEM 2 (continued)**

**ATTACHMENT 3**

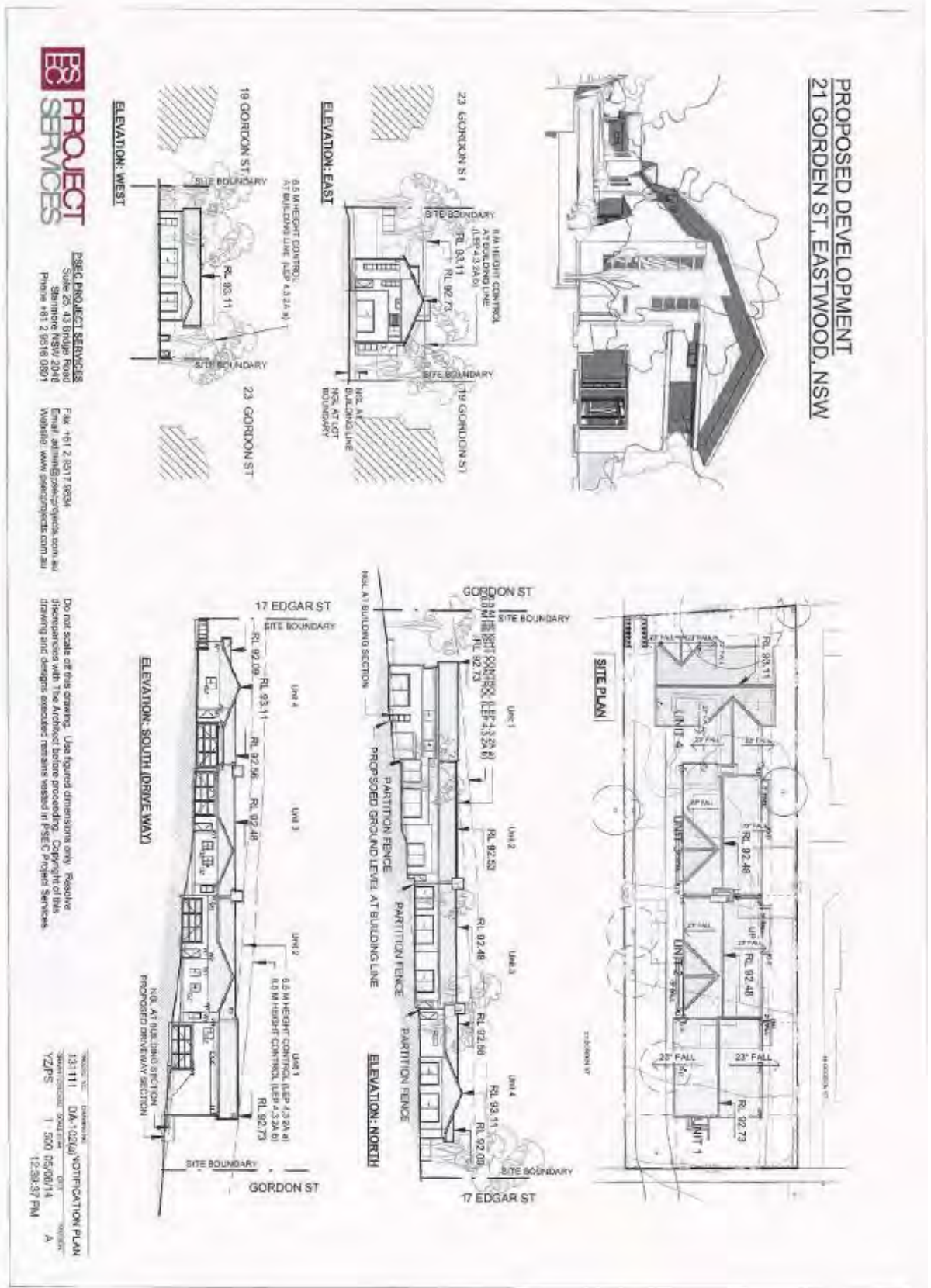
 Indicates submissions received (petitions also received).





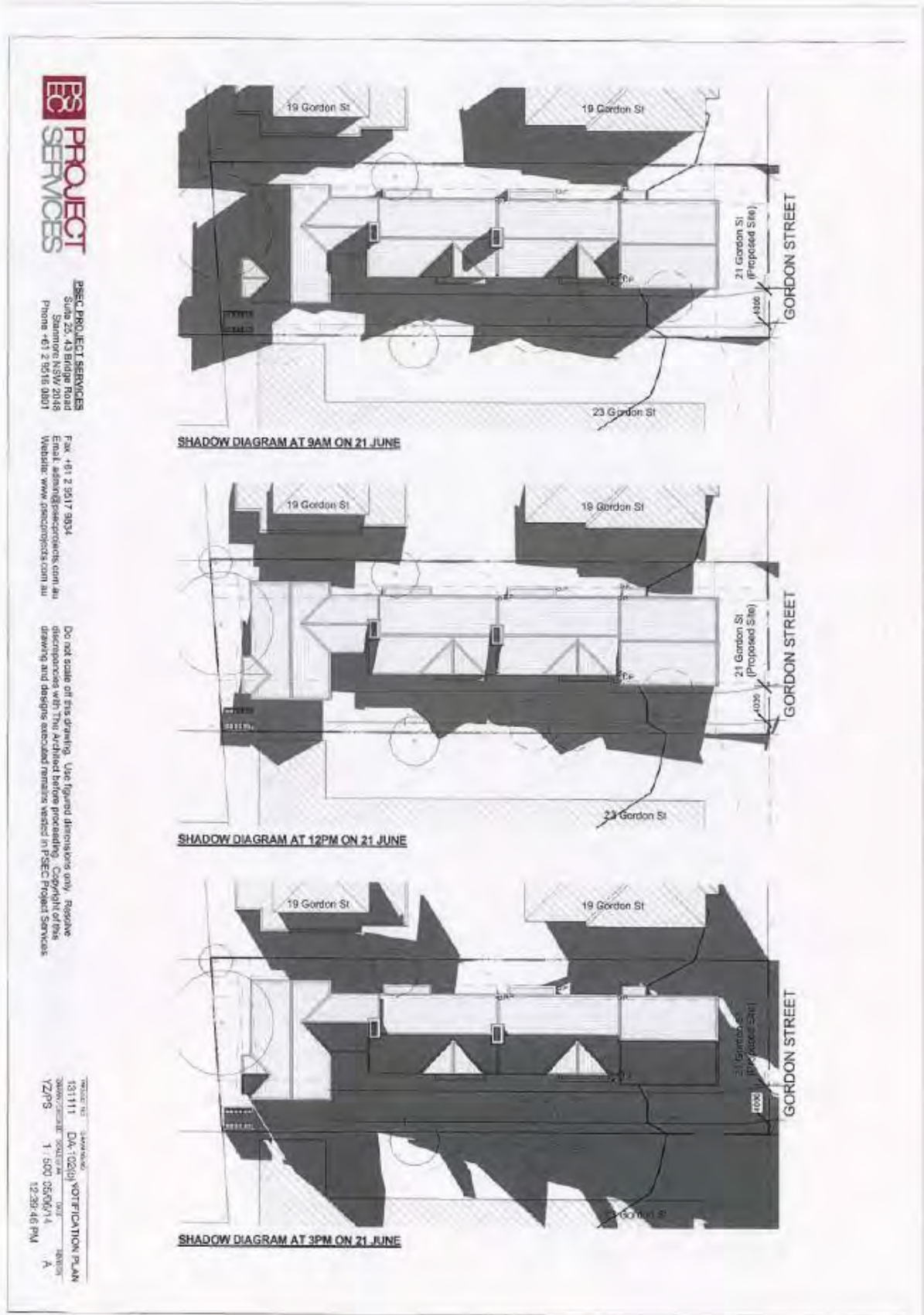
ITEM 2 (continued)

ATTACHMENT 4



**ITEM 2 (continued)**

**ATTACHMENT 4**



**PROJECT SERVICES**

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PROJECT NO: 131111 DA: 10291  
DRAWING NO: 10291-01  
DATE: 11/11/14  
SCALE: A  
NOTIFICATION PLAN  
1:500 05/06/14  
12:30:46 PM

- 3 7-9 RUTLEDGE STREET, EASTWOOD, LOT 1 DP1111051 and LOT 24 DP 653568. Staged Development: mixed use development comprising 613m<sup>2</sup> of retail space and 100 residential apartments upon completion of both stages & strata subdivision. LDA 2011/0612.**

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**Report prepared by:** Senior Town Planner

**Report approved by:** Manager Assessment; Acting Group Manager - Environment and Planning

**Report dated:** 28/10/2014

**File Number:** GRP/09/5/6/2 - BP14/1307

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## 1. Report Summary

**Applicant: Morris Bray Martin Ollmann Architects.**

**Owner: Rutledge Properties Pty Ltd.**

**Date lodged: 28 November 2011.**

This report has been prepared to enable Council's further consideration of a development application (DA) for construction and strata subdivision of a mixed use development.

The original proposal previously considered by Council comprised of 79 apartments (16x1 bedrooms, 43x2 bedrooms, 20x3 bedrooms) and 912.34m<sup>2</sup> of retail space with and associated basement parking for 155 cars and access off the Eastwood Shopping Centre ramp (ROW).

The application was previously recommended for refusal based on a number of non-compliances outlined in the original assessment report dated 28 June 2012 (**Attachment 2**) and was considered by the Planning and Environment Committee on 17 July 2012, Council Meeting held on 24 July 2012 and again on 27 November 2012 where Council resolved to defer consideration of this DA pending receipt of amended application (amongst other things) the following main amendments:

- a. Delete level 10 of the building (deletes 4 apartments);
- b. Submit a revised Voluntary Planning Agreement with increased cash contribution element of \$205,315 by 10% to \$225,000.
- c. The new access driveway approved as part of Development Consent No.2007/0936 for the Eastwood Shopping Centre development, be established;
- e. In relation to the access easement the consent of any other owners of the land that forms part of the easement are obtained for use of the easement (as amended) in relation to the development, where necessary, and evidence of such consent be submitted to Council.
- f. Units 109, 209, 309, 409, 509, 110, 210, 310, 410 and 510 must be reoriented to increase the solar access into the living areas within these units.
- g. Eight adaptable units, and amended BASIX Certificate be provided;

**ITEM 3 (continued)**

- h. Adequate hard waste storage area and collection point for the servicing of the bins shall be provided near the loading dock.

On 19 February 2014, the applicant submitted additional details and an amended access arrangement directly off Trelawney Street. The proposal was amended to include 100 residential apartments (69 x 1 bedroom and 31 x 2 bedroom dwellings), 613m<sup>2</sup> of retail space, and associated basement parking for 159 cars located at 7-9 Rutledge Street. The proposal comprises a Staged Development as follows:

- **Stage 1**
  - Construction of mixed use development with 483m<sup>2</sup> of retail space and 99 residential apartments;
  - Provide a new vehicular crossing and access ramp directly from Trelawney Street frontage;
- **Stage 2**
  - Remove the access ramp and vehicular crossing approved under Stage 1 above and replace it with additional retail space equating to 130m<sup>2</sup> of gross floor space on the lower ground floor level;
  - Construct a new 2 bedroom apartment within the void area above the retail level resulting from the removal of the ramp;
  - Provide new access to the building from the northern corner of the building via Eastwood Shopping Centre access ramp (existing ROW). This is possible when the Eastwood Shopping Centre site is redeveloped in the future;

NOTE: Stage 2 development will require a further Development Consent in accordance with the recommended Conditions once access is available through the Shopping Centre ramp.

**RECOMMENDATION:**

- (a) That Local Development Application No. 2011/0612 comprising staged development as outlined below for the construction and strata subdivision of a mixed use development at 7-9 Rutledge Trelawney Street, Eastwood be approved subject to the **ATTACHED** conditions (Attachment 1).
- i. Stage 1
- Construction of mixed use development with 483m<sup>2</sup> of retail space and 99 residential apartments;
  - Provide a new vehicular crossing and access ramp directly from Trelawney Street frontage;
  - Strata subdivision of the development.

**ITEM 3 (continued)**

## ii. Stage 2

- Remove the access ramp and vehicular crossing approved under Stage 1 above and replace it with additional retail space equating to 130m<sup>2</sup> of gross floor space on the lower ground floor level;
- Construct a new 2 bedroom apartment within the void area above the retail level resulting from the removal of the ramp;
- Provide new access to the building from the northern corner of the building via Eastwood Shopping Centre access ramp (existing ROW). This may be possible if the Eastwood Shopping Centre site is redeveloped in the future;

- (b) That Council accept the Voluntary Planning Agreement received by Council on 12 August 2013 (Reference No. PJAC\_100970\_017.DOC) made by Rutledge Street Pty Ltd in conjunction with the approval of the LDA2011/0612.

**ATTACHMENTS**

- 1 Proposed Conditions
- 2 Original Report
- 3 Report on Voluntary Planning Agreement
- 4 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

Report Prepared By:

**Sanju Reddy**  
**Senior Town Planner**

Report Approved By:

**Liz Coad**  
**Manager Assessment**

**Meryl Bishop**  
**Acting Group Manager - Environment and Planning**

**ITEM 3 (continued)****Background**

On 24 July 2012, Council resolved that the matter be deferred for the Group Manager – Environment and Planning to negotiate with the applicant with particular regard to addressing the following:

- (a) an increase in the Voluntary Planning Agreement;
- (b) the non-compliances as outlined in the officer's report; and
- (c) meeting the needs of both the developer and community with regards to amenity.

On 26 October 2012 a meeting was held between Council's Group Manager Environment & Planning, Team Leader Major Developments and Client Manager and representatives of the applicant – Mr Andy Ludvik, Consultant Town Planner, Mr Terry Morris from Morris Bray Martin Ollmann Architects, Mr William Rothwell and Mr Chris Ryan from Winten Property Group. On 6 November 2012 the applicant agreed to the following:

- Delete the Level 10 (comprising 4 apartments) to reduce the height non-compliance; It was agreed that an effective means of facilitating this would be to use a deferred commencement condition;
- The cash contribution element of \$205,315 of the Voluntary Planning Agreement to be increased by 10% to \$225,000 with the Section 94 Contribution being amended to reflect the reduced number of apartments in the proposal.

Accordingly, a report was forwarded to Council at its meeting held on 27 November 2012. This report was for Council's consideration and gave the Council the following three options:

1. Approve the development application as a Deferred Commencement Consent subject to conditions provided as a separate Attachment to the report and accept the developers current VPA offer generally;
2. Defer the development application pending receipt of the information required by the deferred commencement conditions including amended plans etc and exhibition of this information with a further report to come to Council for consideration 2013.
3. Refuse the development application for the reasons outlined in the original report.

At its meeting of 27 November 2012, Council resolved to defer consideration of this DA pending receipt of the information required by the deferred commencement conditions including amended plans and exhibition of this information with a further report to Council for consideration in 2013. This was in accordance with Option 2 above. The recommended deferred commencement condition required the following:

**ITEM 3 (continued)**

- a. Amended plans are to be submitted which delete level 10 of the building.
- b. The applicant to submit a revised Voluntary Planning Agreement to Council to increase the cash contribution element of \$205,315 by 10% to \$225,000.
- c. An amended BASIX Certificate is to be submitted which reflects the changes in part a above.
- d. The new access driveway approved as part of Development Consent No.2007/0936 for the Eastwood Shopping Centre development, including the removal of the existing ramp along the northern boundary of the site, be established before this Consent can become operative.
- e. In relation to the access easement the consent of any other owners of the land that forms part of the easement are obtained for use of the easement (as amended) in relation to the development, where necessary, and evidence of such consent be submitted to Council.
- f. Units 109, 209, 309, 409, 509, 110, 210, 310, 410 and 510 must be reoriented/ resized in line with the alternate layout plan shown on page 12 of report dated 12 April 2012 submitted by Morris Bray Martin Ollmann Architects. This is to increase the solar access into the living areas within these units.
- g. A total of 8 adaptable units are to be provided within the development. The amended plans are to clearly identify the location of these units.
- h. To facilitate waste disposal from the site, the following shall be incorporated into plans and submitted to Council.
  - i) The hard waste storage area is relocated to a more accessible location for ease of residential access to the lifts as well as for collection.
  - ii) The collection point for the servicing of the bins shall be located on the left side of the loading dock.

On 26 September 2013, the applicant submitted amended plans (showing deleted Level 10 but also showing an increase in the number of apartments within the remaining floor levels). Additional information regarding access arrangement and a revised VPA were also received. The amended proposal was exhibited in accordance with Council's requirements ending on 30 October 2013. No submissions were received.

The amended details were reviewed by Council Officers and major concerns were noted in relation to the proposed access to the site via the Shopping Centre ramp and SEPP65 compliance. Essentially the following issues were unresolved:

- The applicant was not able to provide a satisfactory access to the subject site via the Eastwood Shopping Centre ramp;
- The number of apartments has been increased from 79 to 100. The proposal had changed significantly in terms of the unit mix, number of apartments, unit layout and so on. However, no details were provided in relation to its compliance with the Residential Flat Design Code. The development also required increased number of adaptable apartments.

**ITEM 3 (continued)**

On 18 November 2013, the applicant was requested again to submit additional details to address the above two issues. On 19 February 2014, the applicant submitted additional details and an amended access arrangement directly off Trelawney Street. The proposal was amended to incorporate a Staged Development as follows:

- **Stage 1**
  - Construction of mixed use development with 483m<sup>2</sup> of retail space and 99 residential apartments;
  - Provide a new vehicular crossing and access ramp directly from Trelawney Street frontage;
  
- **Stage 2**
  - Remove the access ramp and vehicular crossing approved under Stage 1 above and replace it with additional retail space equating to 130m<sup>2</sup> of gross floor space on the lower ground floor level;
  - Construct a new 2 bedroom apartment within the void area above the retail level resulting from the removal of the ramp;
  - Provide new access to the building from the northern corner of the building via Eastwood Shopping Centre access ramp (existing ROW). This is possible when the Eastwood Shopping Centre site is redeveloped in the future;

The amended proposal was exhibited again for 14 days in accordance with Council's DCP on 5 March 2014. No submissions were received. Since a new access was being proposed based on the amended proposal, the application was referred to RMS for review as required under the Infrastructure SEPP. The response from RMS was received on 20 March 2014 raising various issues with the amended proposal. The issues raised by the RMS are summarised below:

- *The preferred access option 3 shows a 6.4m SRV and 8.8m MRV will block all entry and exit movements while manoeuvring into the loading dock. RMS raises concern with this scenario due to the impact queued vehicles may have on the traffic lights at Rutledge Street/Trelawney Street. Vehicles may be queued waiting to turn left and right into the site (for a period of time) while a SRV and MRV enter and exit the site. RMS suggests Council request further details on frequency of loading dock usage.*
- *Applicant must submit a more detailed turn path plan showing Trelawney Street lane markings and truck turning path. Require turn paths showing vehicles simultaneously entering and exiting the site.*
- *Considering the site's proximity to services and public transport the surplus parking spaces are not supported.*



**ITEM 3 (continued)**

- *RMS does not support a security roller door being placed at the property boundary. The security roller door shall be placed within the property to allow for vehicles to queue wholly on site.*

In addition to the above, a review of the amended proposal carried out by the Council Officers indicated the following issues:

- a) Insufficient queuing space on the entry ramp since a roller door was proposed at the entry point (front boundary);
- b) Public access to retail and visitor parking spaces were not clear indicated on the plans;
- c) Insufficient area for truck manoeuvring at entry to site and within the loading area;
- d) Inadequate sightlines - a splay will be required on the southern side of the driveway and on the corner of the retail space located adjacent to the Eastwood Shopping Centre ramp;
- e) Flood Protection – the new driveway is proposed in the flood path and there is potential for large overland flows in Trelawney Street during large storm events. Adequate freeboard and head room clearance is required. A driveway profile is required;
- f) A non-compliant service and loading bay.

On 6 May 2014, the applicant requested an extension of time to lodge the amended plans and details requested by Council Officers and the RMS. On 4 June 2014, amended plans were received for further review.

On 15 July 2014, the RMS raised no further objections.

On 23 July 2014, Council's Drainage Engineer advised that the amended plan shows a flood gate at the entrance to the building to address the flood protection issue which is not acceptable for the proposed development. On 24 July 2014, the applicant was advised to amend the proposal to provide a 300mm freeboard above the flood levels to all pedestrian entry points above this level. The basement garage ramp should also provide a crest before descent into the basement garage with 150mm freeboard.

On 16 September 2014, a final set of amended plans were received. These are subject of this report.

**ITEM 3 (continued)**
**2. Details of Amendments to comply with Council Resolution of 27 November 2012.**
**a) Amended plans are to be submitted which delete level 10 of the building.**

Amended plans show that the Level 10 apartments have been deleted. However, it should be noted that in addition to the deletion of Level 10, the unit mix have been changed and as a result 21 additional apartments have been added making it a total of 100 apartments upon completion of the 2 stage development. The proposed retail space has been reduced from 912.34m<sup>2</sup> to 613m<sup>2</sup>. Despite these changes, the building footprint and envelope remains as envisaged by Council with the deletion of Level 10.

The table below shows a comparison between the proposal previously considered by Council and the amended proposed under current consideration:

	<b>Proposal previously considered by Council.</b>	<b>Proposed amended Plans received on 16/9/14</b>	<b>Comments</b>
No. of storeys	Part 7/ Part 13	Part 7/ <b>Part 12</b>	
Height control:	RL114.12 (max)	<b>RL110.635</b> (max)	
Western lot: Max: 18.5m	41.30m (22.8m over)	41.30m (22.8m over)	No change
Eastern Lot: Max:30.5	41.56m (11.0m over)	<b>38.06m (7.5m over the maximum under LEP2010)</b> It should also be noted that LEP2014 has increased the maximum height for eastern lot to 33.5m. Thus under LEP2014, the non-compliance for the eastern lot will be 4.56m.	Height reduced by 3.485m but still exceeds the LEP2010 height restriction by 7.5m.
1 bedroom Units	16	<b>69</b>	N/A
2 Bedroom Units	43	<b>31</b>	N/A
3 Bedroom Units	20	<b>0</b>	N/A
Total bedrooms	162	<b>131</b>	Reduced
Total Apartments	79	<b>100</b>	Increased

**ITEM 3 (continued)**

	<b>Proposal previously considered by Council.</b>	<b>Proposed amended Plans received on 16/9/14</b>	<b>Comments</b>
Area of Retail Floor	912.34m <sup>2</sup>	<b>613m<sup>2</sup></b>	Reduced to allow new driveway ramp.
Proposed car parking	155	<b>159</b> (7 surplus - should convert to storage)	Increased but complies.
Bicycle space	8	<b>16</b>	Improvement
Communal Open Space (>25%)	580m <sup>2</sup> (27% of site)	580m <sup>2</sup> (27% of site)	Complies
FSR	No restriction	No restriction	N/A
Ceiling Height	2.7m	2.7m	N/A
Single aspect units on SW-SE <10%	(11/79 units) 14%	<b>11/100 units</b> <b>11%</b>	Improvement
At least 70% units to have min 2 hours sunlight	51/79 =62%	<b>81/100 = 81%</b>	Now complies

Note:

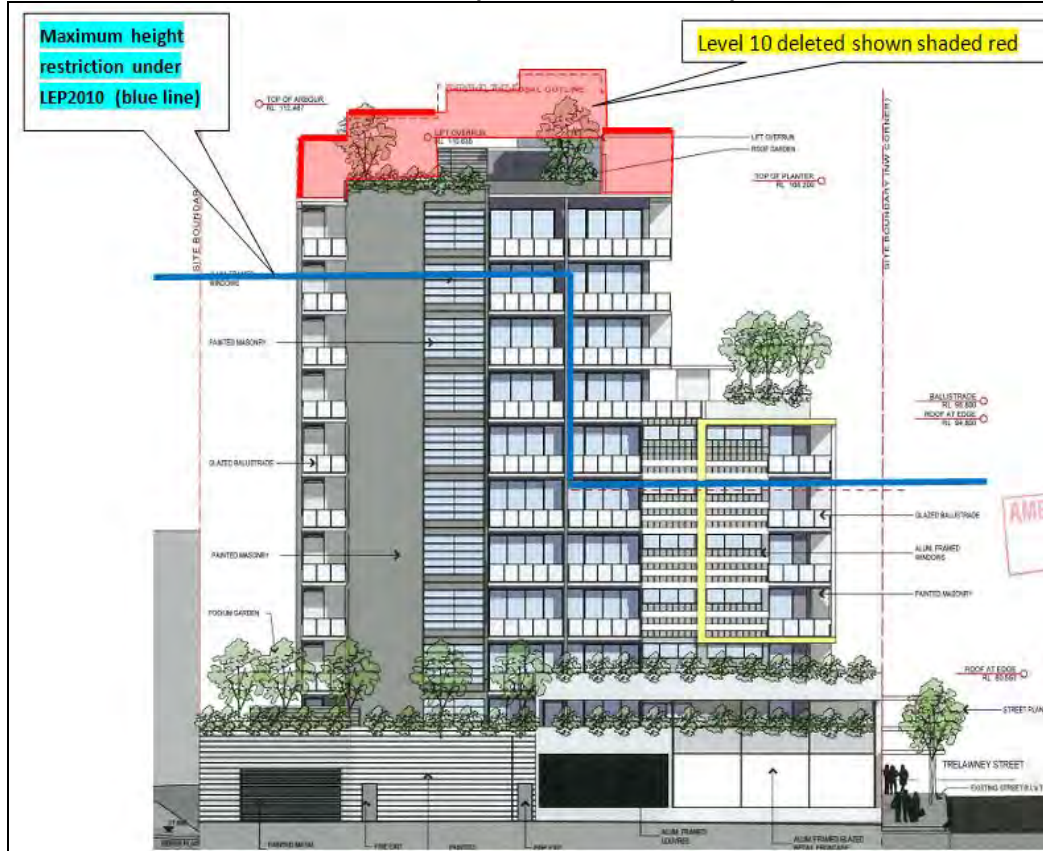
The highlighted figures in the table indicate attributes of the proposal that has changed in the amended plans.

The applicant has advised that the apartment mix has changed due to changes in the residential property market since the original DA was submitted in 2011. There is now a greater demand for smaller apartments.

The plans below show the top most level deleted to reduce the height as demonstrated in the Section and elevation plans. Through the deletion of Level 10 Units (removal of 4 apartments on the topmost floor), the extent of height non-compliance on all elevations are reduced. However, the development still is in breach of the height control as shown in blue line in the following plans.

**ITEM 3 (continued)**

**REVISED NORTH ELEVATION (Level 10 deleted)**



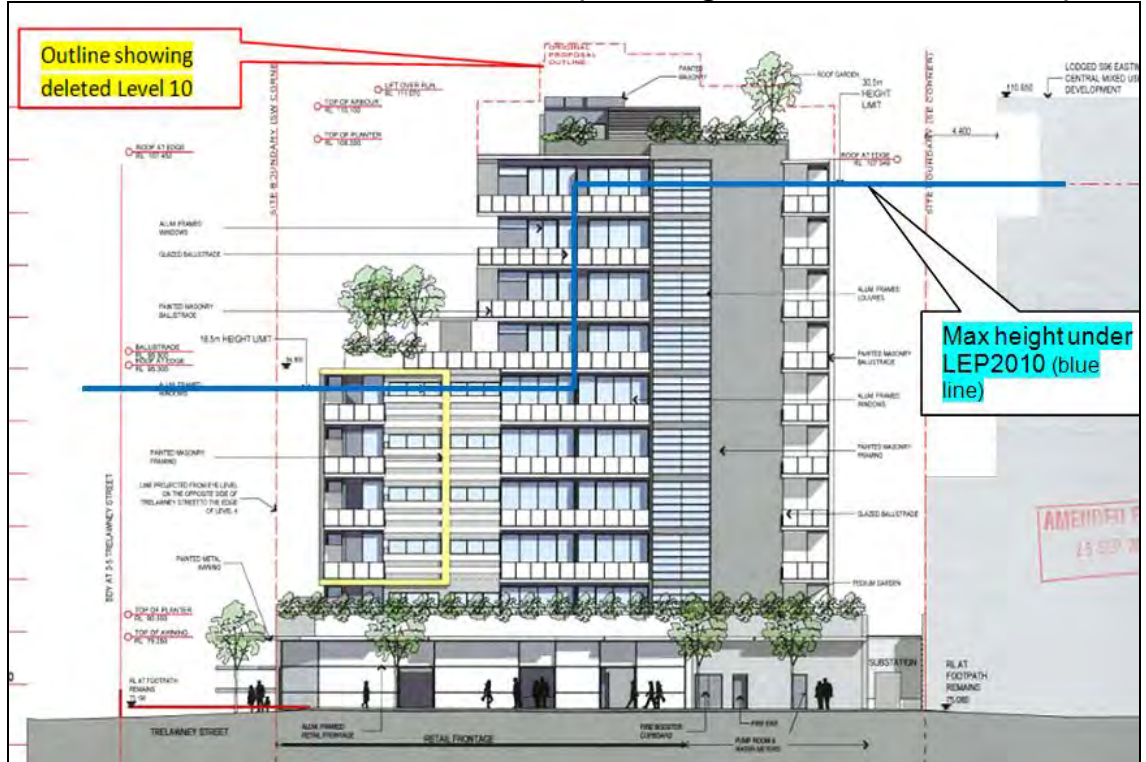
**ITEM 3 (continued)**

**SECTION (north south) showing Level 10 deleted shaded red.**



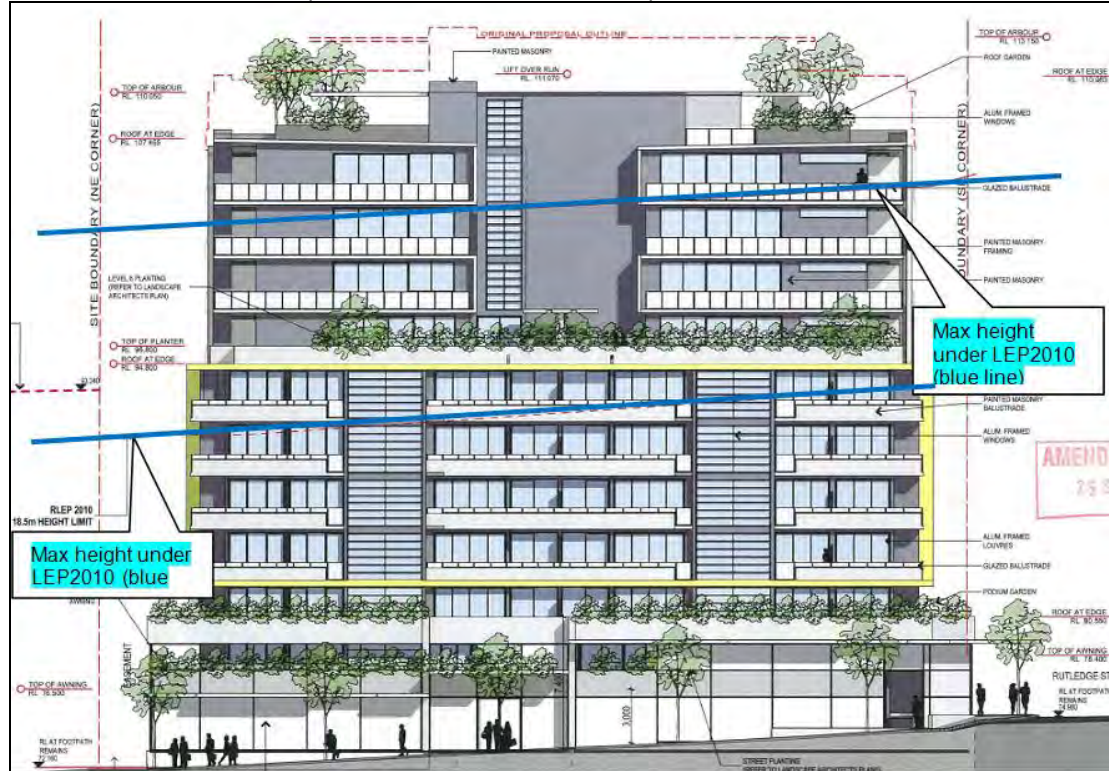
**ITEM 3 (continued)**

**SOUTH ELEVATION - RUTLEDGE ST (Showing Level 10 Units deleted)**



**ITEM 3 (continued)**

**WEST ELEVATION (TRELAWNEY STREET)**



The above plans confirm that the requirement (as per Council Resolution) to delete the top level of the building has been achieved.

- b) The applicant to submit a revised Voluntary Planning Agreement to Council to increase the cash contribution element of \$205,315 by 10% to \$225,000.**

A revised VPA was received by Council with the amended plans on 26 September 2013 which shows an increase in the cash contribution to \$225,000 in accordance with the Council Resolution. The amended VPA was notified together with the amended plan. No submissions were received.

It is noted that the amended proposal increases the number of residential apartments from 79 to 100. However, this does not warrant any further adjustments to the VPA offer for the reasons explained in the VPA Report attached to this report as Attachment 3.

On 24 April 2012, the proponents submitted an amended VPA offer proposing that the one-off cash contribution for the development be raised to \$205,315.00. This equated to approximately 20% of applicable S94 Contributions and was considered acceptable by the Executive Team on 4 May 2012.

**ITEM 3 (continued)**

Council at its meeting on 27 November 2012 resolved the following:

- b. That the applicant shall submit a revised Voluntary Planning Agreement to Council to increase the cash contribution element of \$205,315 by 10% to \$225,000. The wordings of the VPA and the Explanatory Notes must comply with the Environmental Planning and Assessment Act 1979.*

In response to the above resolution a revised VPA with an increased amount of \$225,000 was received on 12 August 2013 along with the amended plans showing increased number of apartments, new access arrangement, reduced retail floor space and various other changes discussed elsewhere in this report.

Even though the number of apartments has increased, the proposal shows a reduction in the total number of bedrooms (from 162 to 131) for the overall development including both stages. The proposal has not resulted in any changes to the building footprint or the envelope. There is a reduction in the retail space as well. The increase in the number of apartments has been achieved by removal of all 3 bedroom apartments and its conversion into predominantly 1 and 2 bedroom apartments.

The amended Staged Development proposal for 100 apartments and 613m<sup>2</sup> of retail space would attract an increased S94 contribution by an amount of \$60,585.42, that is, an increase from \$1,091,969.38 (for 79 apartments) to \$1,152,554.80 (for 100 apartments).

The original VPA offer was worked out on the basis of 20% of the S94 contributions amount. In this instance 20% of \$1,152,554.80 equates to \$230,510.96. Since the VPA offer has already been increased to \$225,000 (as required by Council Resolution) and equates to 19.52% (which is approximately 20%) of the S94 contributions amount that can be applied to the DA. On this basis no further adjustment to the VPA offer is required. On 12 August 2013, the applicant also advised that they did not wish to increase the VPA offer any further. Council will still benefit from the increased Section 94 contribution and the VPA offer of \$225,000.

A separate report providing further details prepared by Council's Client Manager is provided in **Attachment 3**, which provides further details in relation to this matter.



**ITEM 3 (continued)**

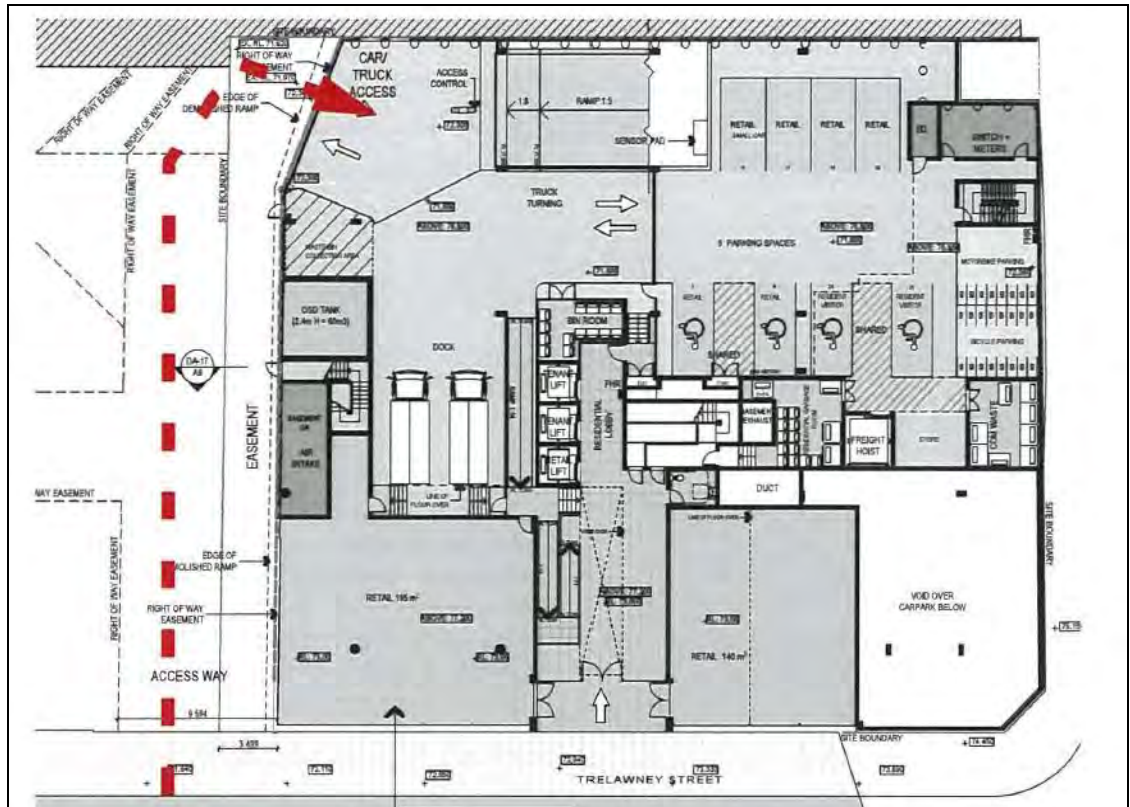
- c) An amended BASIX Certificate is to be submitted which reflects the changes in part (a) above.**

An amended BASIX Certificate No. 387292M\_02 dated 24 July 2013 has been received reflecting the amended proposal. The BASIX Certificate identifies that the amended development will achieve a satisfactory target rating.

- d) The new access driveway approved as part of Development Consent No.2007/0936 for the Eastwood Shopping Centre development, including the removal of the existing ramp along the northern boundary of the site, be established before this Consent can become operative.**

The original application relied on site access via an adjoining access ramp and a ROW that also serves the Eastwood Shopping Centre. The access ramp is elevated and would not be directly accessible from the ground level of the proposed building. Thus it relies on the demolition of this ramp approved as part of the Development Consent No. 2007/0936 for the Eastwood Shopping Centre development (adjoining site). The proposed development relies on the commencement of the adjoining development so that the access could be established.

**ORIGINAL PROPOSAL SHOWING ACCESS VIA RAMP**



**ITEM 3 (continued)**

The Council Resolution required the applicant to provide Council with details and certainty with respect to the demolition of the Eastwood Shopping Centre access ramp to ensure that access to the proposed building can be constructed to allow access from the northern corner of the building at ground level.

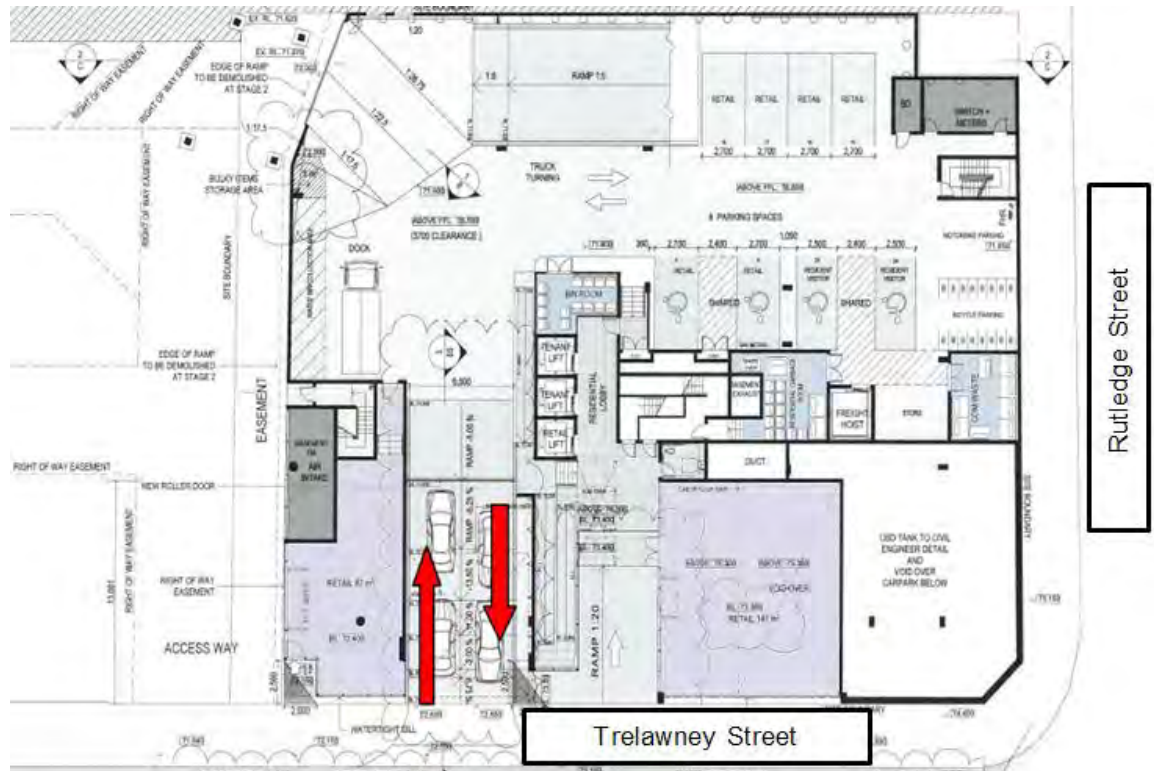
It should be noted that the Development Consent for the redevelopment of Eastwood Shopping Centre (LDA2007/0936) has now lapsed. Due to the existing elevated shopping centre ramp it may not be possible to provide suitable at grade access to the subject site until the shopping centre redevelops in the future. The applicant had presented various options to provide alternative access through part of the existing ramp but none could be fully resolved because of engineering issues. In absence of the demolition of the shopping centre ramp, Council cannot be certain that at grade access to the proposed development at 7-9 Rutledge Street can be provided as proposed.

In light of the above issues the applicant was advised to explore the option of providing a permanent alternate access directly off Trelawney Street. Any access via the shopping centre driveway (ROW) could become a future alternate access should this option be available to the applicant in the future.

**ITEM 3 (continued)**

The amended proposal received on 16 September 2014 proposes vehicular access directly off Trelawney Street in the manner shown in the plan below.

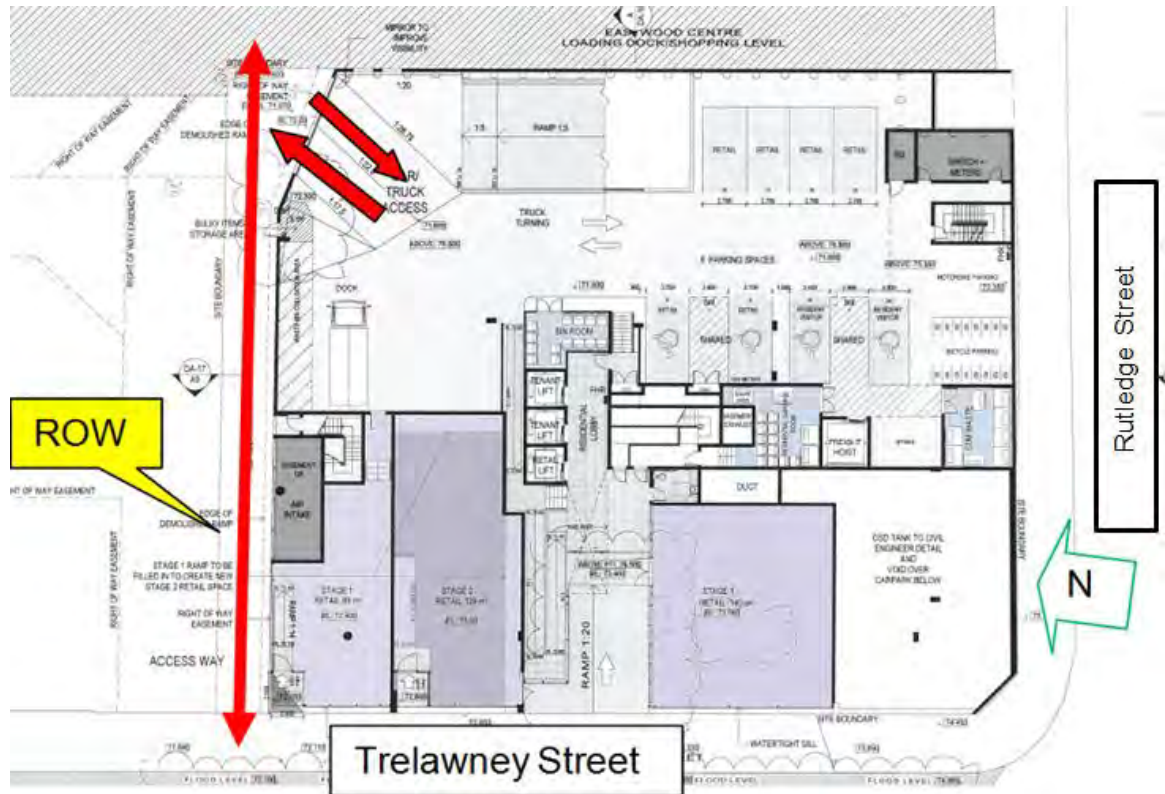
**STAGE 1:  
AMENDED PLAN SHOWING PROPOSED ACCESS FROM TRELAWNEY STREET**



The above access arrangement (new access directly off Trelawney Street) has been reviewed by the RMS and Council’s Traffic Team and Senior Development Engineer and is considered satisfactory.

**ITEM 3 (continued)**

**STAGE 2:  
AMENDED PLAN SHOWING ALTERNATIVE ACCESS FROM ADJACENT  
ROW**



The above plan shows Stage 2 of the proposal for which concept approval is sought. Should the alternative access be available in the future, a further approval will be required by the applicant to change to the new access arrangement as shown under Stage 2 Consent plan. Should the current DA be approved, appropriate conditions have been recommended to allow staged development to accommodate the transition to new access and conversion of approved access ramp into retail space. These matters have been included in the conditions to ensure that no works under Stage 2 is carried out without further assessment of access arrangement via a new DA (see Condition No.127).

- e) In relation to the access easement the consent of any other owners of the land that forms part of the easement are obtained for use of the easement (as amended) in relation to the development, where necessary, and evidence of such consent be submitted to Council.

**ITEM 3 (continued)**

This requirement would be relevant only if access is provided via the shared ROW and the Eastwood Shopping Centre access ramp. Since the proposal has now been amended to provide a separate access directly off Trelawney Street for Stage 1 of the development, this requirement will apply to the Stage 2 of the development.

In relation to this matter, sufficient evidence has not been submitted to Council to confirm that the site has exclusive right to use sections of the ramp to provide access to the site. The alternative access arrangement earlier submitted to Council raised a number of issues such as:

- The Certificate of Title submitted as part of the submission has a “Cancelled” stamp on it. It is unclear whether this plan is still applicable and if the easements have been carried over to a different Deposited Plan;
- The ROW and dealing numbers 1-8 have not been submitted to clarify the status of the “Right of Carriageway” regarding areas marked “A”, “B”, “C”, “D”, “E” and “F” and especially in relation to “Right to Park Motor Vehicles”. It is unclear whether the subject site has a right to displace the parking easement by proposing the driveway solely in favour of the subject site as has been shown in Option 1.
- No documentation or consent of other affected owners of the land that forms part of the easement have been submitted to Council for use of the easement in relation to the development.

In light of the above, if Council were of the mind to approve the application, it is recommended that this matter be dealt with via a condition for Stage 2 of the development as included in **Attachment 1** (see Condition No. 127).

- f) Units 109, 209, 309, 409, 509, 110, 210, 310, 410 and 510 must be reoriented/ resized in line with the alternate layout plan shown on page 12 of report dated 12 April 2012 submitted by Morris Bray Martin Ollmann Architects. This is to increase the solar access into the living areas within these units.**

The internal layout to the residential areas of the project has been redesigned. The units have been re-oriented and the extended wing walls deleted to allow afternoon sunlight to penetrate the relevant units. The reconfigured development has improved solar access ratios for the project from 62% to 81% of the apartments receiving at least 2 hours of daylight access on 22 June. The minimum 2 hours solar access was the benchmark used in the original assessment report in accordance with the Residential Flat Design Code. This exceeds the minimum 70% requirements under SEPP65 (Residential Flat Design Code) and is now considered acceptable.

**ITEM 3 (continued)**

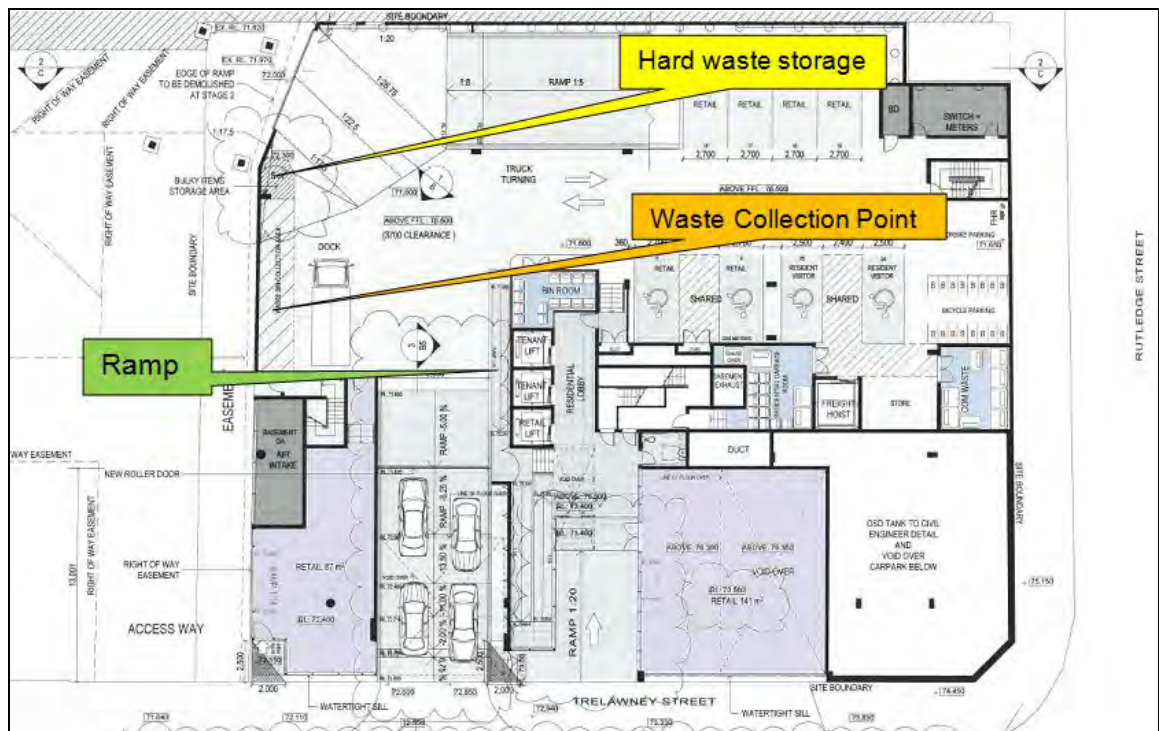
- g) A total of 8 adaptable units are to be provided within the development. The amended plans are to clearly identify the location of these units.**

Eight adaptable units were required based on the application comprising 75 apartments (after deletion of units on Level 10). Given that the application has been amended to increase the number of apartments to 100, the required number of adaptable units would be 10. As only 8 units have been identified as adaptable (G03, 103, 203, 303, 403, 503, 603, 703), if Council were to approve this DA, it is recommended that a condition be imposed requiring provision of at least 10 adaptable units to ensure compliance with Council's DCP (see Condition 2 in **Attachment 1**).

- h) To facilitate waste disposal from the site, the following shall be incorporated into plans and submitted to Council.**
- a. The hard waste storage area is relocated to a more accessible location for ease of residential access to the lifts as well as for collection.**
  - b. The collection point for the servicing of the bins shall be located on the left side of the loading dock.**

An additional 'hard waste' storage area has been created adjacent to the waste bin collection area for ease of loading from within the loading dock. This area is also accessible via an accessible ramp and connects to the lift. The collection point for the servicing of bins has also been located on the left side of the loading dock (refer to plan below). These matters have been satisfied.

**ITEM 3 (continued)**



**3. Additional Assessment Requirements (Based on the amended design)**

**SEPP 65 - Residential Flat Design Code (RFDC)**

The SEPP requires Council to take into consideration the requirements of the *Residential Flat Design Code*. The development generally complies with the requirements provided in this document relating to unit sizes for housing affordability, stormwater management, waste management, bicycle parking, housing choice, driveways, roof designs, and energy efficiency appliances. The original proposal did not fully comply with building depth, building setback, sunlight access and natural ventilation (details of non-compliances with these aspects of the RFDC are shown in the original Assessment Report included in **Attachment 2**). Even though the building depth, footprint and the external separation are not affected by the amended proposal, the following parameters of the proposal have been changed that has resulted in a changed compliance level with the RFDC:

- Increase in the number of apartments from 79 to 100 (Stage 1 and Stage 2);
- Changes to the dwelling mix from (16X1 bedroom, 43X2 bedroom, 20X3 bedroom) to (69X1 bedroom & 31X 2 bedroom) apartments;
- Changes to orientation and layout of a number of apartments to maximise solar access.

**ITEM 3 (continued)**

The applicant has provided a detailed table which demonstrates that the amended development demonstrates an increased compliance with the RFDC.

The table below indicates the aspects of the proposal that has been modified to improve compliance with the Rule of Thumb under the RFDC.

Primary Development Control and Guidelines	Comments	Complies
<b>Building Height</b> Test heights against the number of storeys and the minimum ceiling heights.	LEP Standards: The western lot (facing Trelawney St) has a maximum height limit of 18.5m. Over this lot the maximum height will be 41.3m which is 22.8m over the maximum. The non-compliance is same as the original proposal.  The eastern lot has a height limit of 30.5m. <b>As per Council Resolution, the top floor level has been deleted. This has resulted in a reduction in the overall height by 3.485m. The non-compliance over this lot has been reduced to 7.5m over the maximum.</b>  It should also be noted that LEP2014 has increased the maximum height for eastern lot to 33.5m. Thus, under LEP2014, the non-compliance for the eastern lot will be 4.56m.	<b>No</b>  <b>No</b> , but plans amended as sought by Council Resolution with the top floor level deleted resulting in a decrease in non-compliance.
<b>Apartment building depth: 10-18m.</b>	The proposed building has a range of building depths: - For Ground Level: 16m (residential portion only). - For levels 1-5 the maximum depth is 31.5m and the minimum depth is 26m. - For levels 6-10 the maximum depth is 20m and the minimum depth is 15m.	No  (No Changes)
<b>Building Separation</b> Up to 4 storeys (12m height):	Western Side: Between proposed development at 3-5 Trelawney St: 26m.	Yes





**ITEM 3 (continued)**

Primary Development Control and Guidelines	Comments	Complies
	<p>be catered for via the proposed screening. The only concern is maintaining solar access to west facing units of future Eastwood Shopping Centre Development. <b>However, it should be noted that the Development Consent for the Eastwood Shopping Centre has now lapsed and a new proposal for that site may take a different form.</b></p>	
<p><b>Setbacks</b> In general, no part of a building or above ground structure may encroach into a setback zone.</p> <p>Exceptions are:</p> <ul style="list-style-type: none"> <li>▪ underground parking structures no more than 1.2m above ground, where this is consistent with the desired streetscape (see Ground Floor Apartments)</li> <li>▪ awnings</li> <li>▪ balconies and bay windows.</li> </ul>	<p>The development does not meet the 6m setback requirement of the RFDC from the northern boundary. However this is a minor variance and the easement extends further north which will ensure that built structures on adjoining properties to the north will be setback at least 7m away from the southern side of the easement. (Refer to building separation above with reference to the proposed northern and eastern side setbacks).</p> <p>The setback of the residential Levels 4-10 extend closer to Rutledge Street frontage than the approved residential levels of the Eastwood Shopping Centre development. This will create an inconsistent street setback and add to the bulk and scale of the development and building depth. <b>However, it should be noted that the Development Consent for the Eastwood Shopping Centre has now lapsed and new proposal for that site may take a different form.</b></p>	<p>No (no changes)</p>
<p><b>Apartment Layout</b> Design layouts, which respond to the natural &amp; built environment by maximising opportunities to</p>	<p>The applicant has not submitted information identifying the fixed and operable windows. Despite the recommendation of the acoustic report to provide closed windows, opportunities for natural ventilation need to be maximised given the enclosed central core building layout. Accordingly, if the application</p>	<p>Subject to conditions</p>

**ITEM 3 (continued)**

Primary Development Control and Guidelines	Comments	Complies
facilitate natural ventilation & to capitalise on natural daylight, for example by providing corner apartments; cross-over or cross-through apartments; split-level or maisonette apartments; shallow, single-aspect apartments.	is approved a condition is recommended to require externally facing windows to be operable windows and only frames to be sealed.	
<b>Single-aspect</b> apartments = 8 m max. in depth from a window.	Apartments have been re-oriented based on Council's earlier recommendation resulting in improved solar access and ventilation. The minor variation (up to 1.5m) are accepted in this case given: <ul style="list-style-type: none"> <li>- The percentage to the overall scheme is minimal.</li> <li>- The variances to the unit lengths are minimal.</li> <li>- The variances will provide more functional space.</li> </ul>	Satisfactory
The back of a <b>kitchen</b> = 8m max. from a window.	Most units achieve this requirement. The part of the back of some kitchens will provide a variance of around 0.5m. This is minimal and kitchens can be designed to ensure cooking areas are not located more than 8m from a window.	Satisfactory
<b>Storage:</b> In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the	The reconfigured development with increased number of apartments, have not proportionately increased the storage area in the basement or within the individual apartments. The development would be short of approximately 326m <sup>3</sup> of storage space excluding the kitchen cupboards and	<b>Now Satisfactory Subject to conditions.</b> (See condition 44)

**ITEM 3 (continued)**

Primary Development Control and Guidelines	Comments	Complies
<p>following rates:</p> <ul style="list-style-type: none"> <li>▪ 1 bed apartments 6m<sup>3</sup></li> <li>▪ two-bedroom apartments 8m<sup>3</sup></li> </ul>	<p>wardrobes. This equates to approximately 9 car parking spaces. It is noted that the development provides 11 surplus parking (over the maximum allowed under Council's DCP) and hence, should the application be approved by Council, a condition is recommended to requiring conversion of surplus parking spaces into storage units so that each unit is provided with the following minimum storage areas and such areas to be indicated on the plans, including the division of storage zones:</p> <ul style="list-style-type: none"> <li>• Per 1 bedroom Unit: 6m<sup>3</sup></li> <li>• Per 2 Bedroom Unit: 8m<sup>3</sup></li> </ul>	
<p><b>Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units and increase their window area</b></p>	<p>The original report noted a 14% non-compliance (11 out of 79 units) with matter as unit numbers G01, 107 – 507 and 104-504 had single southerly aspect.</p> <p><b>The amended proposal has made all the southern units dual aspect. The only remaining single aspect units with southerly aspect are Units 108 – 508. These make up 5% of the total apartments and will receive the minimum 2 hour solar access requirement, so no concerns are raised to these units.</b></p>	<p><b>Now complies.</b></p>
<p><b>Sunlight Access</b> Living rooms and private open spaces for at least 70 % of apartments in a development should receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.</p>	<p>The original report noted only 54% of units receiving at least 2 hours of sunlight.</p> <p><b>The amended proposal which shows dual aspect and lesser units on the southern side achieves full compliance with this requirement. A total of 81 units will receive at 2- 3 hours of direct sunlight in mid-winter.</b></p> <p><u>Note:</u> min 2 hour requirement is used to be consistent with the original assessment conducted by Willana Associates.</p>	<p><b>Now complies.</b></p>

**ITEM 3 (continued)**

Primary Development Control and Guidelines	Comments	Complies
<p><b>Natural Ventilation</b> 60% of units should be naturally cross ventilated.</p> <p>Select doors and operable windows to maximise natural ventilation opportunities established by the apartment layout.</p>	<p>The original report noted only 39% of units were naturally cross ventilated.</p> <p><b>The amended proposal which shows increased dual aspect units and articulated facades showing windows on 2 sides achieves full compliance with this requirement. A total of 69 units will achieve cross ventilation.</b></p>	<p><b>Now complies.</b></p>

**Ryde Local Environmental Plan 2014:**

Ryde LEP 2014 commenced on 12 September 2014 as the new environmental planning instrument applicable to the City of Ryde. In relation to existing DAs un-determined as of 12 September 2014, this instrument contains a Savings Provision (clause 1.8A) which states:

*If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application must be determined as if this Plan had not commenced.*

The DA was made (lodged) on 28 November 2011, before the commencement of this Plan and so it must be determined as if Ryde LEP2014 had not commenced. The DA must be determined based on the RLEP2010.

**Ryde Local Environmental Plan 2010 (LEP2010):**

A full assessment of the DA against LEP2010 was included in the original assessment report dated 28 July 2012 (included as **Attachment 2** in this report) was previously considered by the Planning and Environment Committee on 17 July 2012 and at the Council Meeting held on 24 July 2012.

**Bicycle Parking Facilities**

On 28 June 2011 Council adopted a Motion requiring that following matters be considered when conditions of development consent are formulated for bicycle parking requirement:

**ITEM 3 (continued)**

- *for locations where there will be frequent casual users (such as shopping centres), including conditions requiring the bicycle parking area to be highly visible and easily accessible, preferably at ground level adjacent to a pedestrian access and under cover;*
- *for workplace locations where primarily employees will use bicycle parking, including conditions requiring that bicycle parking be secure;*
- *for any premises, particularly where there will be frequent casual users, including conditions requiring that the development provides for bicycle access separate to vehicle access, for example avoiding the need for bicycles to use a vehicle ramp to an underground car park;*
- *for any premises fronting a main road or busy road, including conditions requiring the developer to provide safe rideable approach to the bicycle parking area extending at least along the frontages of the development and beyond, if reasonable and feasible, to reach safe cycling routes identified in the Ryde Bicycle Strategy and Master plan.*

Council's DCP2014 requires that new development provide bicycle parking equivalent to at least 10% of the required car spaces and part thereof. It is considered that cycling is approximately 10% of the journey to and from work. This control provides for a minimum quantum of bicycle parking to cater for anticipated increase in demand and additional space to meet current cycling rates. A total of 115 (minimum) car parking spaces are required for the proposed development. On this basis sufficient area for 12 bicycle parking is required on the site.

The application indicates that provision for the storage of sixteen (16) bicycles is provided in the lower ground level (at the driveway entrance level). This is more than that required based on the above rate. Condition No. 37 has been recommended to ensure compliance with this matter if Council were of the mind to approve this application. In addition Condition 37 will ensure a safe ride-able approach to the bicycle parking area.

**4. Submissions**

The amended proposal was exhibited to comply with Council's Resolution. The notification was carried out between 2 October 2013 and 30 October 2013 in accordance with Council's DCP2010. The amended VPA and Explanatory Notes were also placed on public exhibition concurrently. In response, no submissions were received.

The proposal was amended again by the applicant on 19 February 2014 (showing new access and staged development). The amended application was readvertised on 5 March 2014. Again during this notification period, no submissions were received.

### ITEM 3 (continued)

#### 5. Changes to Section 94 Contribution

With the deletion of the level 10 units, and change in the apartment mix, the Section 94 Contribution will change. The current proposal has been amended to incorporate a Staged Development (Stages 1 and 2). The Stage 2 (new access, an additional 2 bedroom apartment and increased retail space) involves a concept proposal requiring further Development Consent when the alternative access to the site is available. The applicable Section 94 Contribution will be calculated at the time of assessment and determination of that application.

In relation to the Stage 1 development, the development will comprise of 99 apartments comprising of 69 x 1 bedroom and 30 x 2 bedrooms with the retail component of 483m<sup>2</sup>. At this time the Section 94 contributions can only be imposed for the Stage 1 of the development since only Stage 1 of the development can be constructed.

The S94 contribution will be applicable in the matter shown in the table below:

<b>Contribution Category</b>	<b>Contribution Amount</b>
Community & Cultural Facilities	\$240,733.53
Open Space & Recreation Facilities	\$569,663.73
Civic & Urban Improvements	\$208,591.98
Roads & Traffic Management Facilities	\$30,612.27
Cycleways	\$17,773.74
Stormwater Management Facilities	\$58,255.56
Plan Administration	\$4,809.42
<b>The total contribution is:</b>	<b>\$1,130,440.23</b>

Condition 27 has been recommended to ensure the above payment is received prior to the issue of any Construction Certificate.

#### 6. Options for Council:

As was noted in the original assessment report, the development is non-compliant with the applicable height under the LEP2010, setback control under the DCP and a number of requirements under SEPP 65. For these reasons the application was recommended for refusal. Full details of these matters were included in the original assessment report (also included as Attachment 2 to this report). Notwithstanding, the amended proposal shows an improvement with respect to SEPP 65 in regards to reduced number of single aspect southerly oriented apartments, full compliance with sunlight access and natural ventilation and storage (subject to conditions requiring additional storage by conversion of surplus car parking spaces).

**ITEM 3 (continued)**

In light of the amendments carried out by the applicant to comply with the Council Resolution, the following options are provided for Council's consideration:

1. Refuse the LDA2011/0612 in accordance with the recommendation contained in the original assessment report prepared by Willana Associates dated 28 June 2012 (assessment report included under **Attachment 2**) for the following reasons:
  - (a) *That Local Development Application No. 2011/0612 at 7-9 Rutledge Street, Eastwood, be refused for the following reasons:*
    - a. *The proposed development is inconsistent with State Environmental Planning Policy No. 65 with respect to Context, Scale, Built Form, Density and Solar Access and therefore does not represent a good design outcome particularly in the following key areas:*
      - i. *The development does not respect the desired future character of the area as the development clearly extends well beyond the applicable building height and building envelope controls.*
      - ii. *The development does not respect the desired massing and human scale initiatives. It will not be stepped to appropriately address the sites corner location.*
    - b. *The proposed development proposes significant non-compliances with the maximum height standards for the site prescribed under Clause 4.3 – Height of Buildings of the RLEP 2010, which has not been justified.*
    - c. *The design is such that it will not meet the objectives (a), (c), (d) and (e) for building height listed under Clause 4.3 – Height of Buildings of the RLEP 2010 and objectives of the zone listed under the land Use Table of the RLEP 2010 with regard to 'creating an attractive environment for pedestrians' and 'recognising unique location in design'.*
    - d. *The applicant has not adequately demonstrated, that the proposed height variance will be in the public interest.*
    - e. *The proposed development will not meet Objective (b) of Clause 4.6 – Exceptions to development standards of RLEP 2010. It will not achieve a better outcome.*
    - f. *The proposed development does not meet the objectives (a) of Clause 6.5 – Eastwood Urban Village and West Ryde Urban Village of RLEP 2010 with respect to creating an attractive environment for pedestrians given the proposed height, scale and lack of regard to the human scale initiatives for height.*



**ITEM 3 (continued)**

- g. The proposed development does not comply with the maximum permissible height of 18.5m and 33.5 prescribed under Clause 4.3 – Height of Buildings of the LEP2014, which now applies throughout the City of Ryde.*
  - h. The proposed development does not achieve objectives (a), (b), (c) and (d) for building height listed under Clause 4.3 – Height of Buildings of the LEP2014.*
  - i. The proposed development will not meet Objective (b) of Clause 4.6 – Exceptions to development standards of DLEP 2011 as it will not achieve a better outcome.*
  - j. The proposed development seeks significant variation to the applicable RDCP 2010 controls, particularly in relation to the envisaged urban form. The degree of variation has resulted in an excessive design that is inconsistent with the object of the envelope and corner treatment controls. The proposed development does not achieve a design outcome that is sought by Council's controls nor reflect the future character for the Eastwood Shopping Village.*
  - k. The proposed development is not considered to be in the public interest as it will set an inappropriate precedent for overdevelopment with significant departures from the Ryde LEP 2010 maximum height standards and the Ryde DCP 2010.*
2. Approve the development application subject to conditions included in **Attachment 1**. If this option is adopted, Council should also resolve to:
- a. Accept the Voluntary Planning Agreement submitted to Council on 12 August 2013 by Rutledge Properties Pty Ltd as this represents a public benefit and would provide additional funds to Council as outlined in the VPA Report prepared by Council's Client Manager included as **Attachment 3**.
3. Council could also resolve to support the development application; however, resolve to reject the VPA. This option is not supported as Council would not be receiving the additional funding from the developer as proposed in the VPA.

**ITEM 3 (continued)**

**ATTACHMENT 1**

**7-9 Rutledge Street : LDA2011/0612**  
**Proposed Conditions of Consent**

**STAGED DEVELOPMENT CONDITION:**

In accordance with Section 83B of the Environmental Planning and Assessment Act this development comprises a Staged Development. A further Development Consent must be obtained for Stage 2 of the development.

1. **Stage 1:** Stage 1 of the development shall comprise of the following:
  - (a) Construction of mixed use development with 483m<sup>2</sup> of retail space and 99 residential apartments;
  - (b) Provide a new vehicular crossing and access ramp directly from Trelawney Street frontage as per approved plan;

**Stage 2:** Concept approval comprising the following:

- o Removal of the access ramp and vehicular crossing approved under Stage 1 above and replace it with additional retail space equating to approximately 130m<sup>2</sup> of gross floor space on the lower ground floor level;
- o Construction of a new 2 bedroom apartment within the void area above the retail level resulting from the removal of the ramp;
- o Provision of new access to the building from the northern corner of the building via Eastwood Shopping Centre access ramp (existing ROW). This is possible when the Eastwood Shopping Centre site is redeveloped in the future (subject to future details);

**GENERAL CONDITIONS – STAGE 1**

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

2. **Approved Plans.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents except as amended by conditions of this Consent:

<b>Plan Numbers:</b>	<b>Document Description</b>	<b>Date</b>	<b>Issue</b>
DA-01	Colour Scheme – Photomontage	---	C
DA-02	Site Plan	29/08/2013	B
DA-05	Basement 3	2/06/2014	D
DA-06	Basement2	2/06/2014	D
DA-07	Basement 1	2/06/2014	D
DA-08	Lower Ground Floor – Stage 1	30/07/2014	I
DA-09	Ground Floor	23/05/2014	F

**ITEM 3 (continued)**

**ATTACHMENT 1**

DA-10	Level 1	29/08/2013	C
DA-11	Levels 2 to 5 (floor layout)	29/08/2013	C
DA-12	Level 6	29/08/2013	C
DA-13	Level 7-9 (Floor layout)	29/08/2013	C
DA-14	Roof Garden& Landscape	29/08/2013	C
DA-15	Roof Plan	29/08/2013	C
DA-16	Section A	29/08/2013	C
DA-17	Section B	29/08/2013	B
DA-18	North Elevation	29/08/2013	B
DA-19	East Elevation	29/08/2013	B
DA-20	South Elevation	29/08/2013	B
DA-21	West Elevation – Stage 1	30/07/2014	E
DA-31	Solar Access to apartments	23/09/2013	A
DA-33	Material Finishes Board	29/08/2013	B
DA-34	Perspective 1 (with landscape)	29/08/2013	B
DA-35	Perspective 2	29/08/2013	A
DA-36	Perspective 3	29/08/2013	A
DA-37	Perspective 4	29/08/2013	A
387292M_02	BASIX Certificate	24/7/2013	-
	Waste Management Plan	--	
Access Report	Prepared by Mark Relf	26 September 2011	
Doc No.11184 Job No. 2172/5	Acoustic Report by West & Associates Pty Ltd	21 September 2011	

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

- a) **Awning:** The height of the street awning shall not be less than 3 metres or greater than 4.5m measured from the finished pavement level of the footpath. Such awning must:
- a. Be set back from the face of the kerb by 0.6m;
  - b. Have cut-outs of 1m wide by 1m deep to accommodate street trees, where the frontage is proposed to accommodate street trees in relation to proposed public domain improvement works;
  - c. Be weather sealed to the face of the building to which they are attached and to the adjoining awnings;
  - d. Have a height clearance as stated above or consistent with adjacent awnings; and
  - e. Maintain sufficient clearances from any overhead electricity or telecommunications installations.
  - f. The awning must not be glazed.
  - g. The street awning must be constructed along the full length of the retail tenancies in both Trelawney and Rutledge Street and over the residential entry.
  - h. The pergola over the entry area shown on the ground floor plan facing Trelawney Street must not encroach on the road reserve.

**ITEM 3 (continued)**

**ATTACHMENT 1**

- b) **Accessible Ramps:** Adequate *accessible* ramps must be provided at the entrance to all retail tenancies from the Trelawney Street and Rutledge Street frontages. The ramp must be wholly within the site and not encroach on Council's footpath.
- c) **Adaptable Units:** The proposal must provide at least ten (10) apartments designed as adaptable units. These Units must be nominated on the floor layout plans prior to the issue of any Construction Certificate. Each of these units is to be allocated an *accessible* parking bay. Details of compliance must be provided as part of the Construction Certificate plans.
- d) **Amended Landscape Plan:** Amended Landscape Plans prepared by Habitation Reference No. 11\_025 must be amended to reflect the amended architectural plans and submitted to the PCA for approval prior to the issue of any Construction Certificate.

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

- 3. **Voluntary Planning Agreement:** The Voluntary Planning Agreement between City of Ryde and Rutledge Properties Pty Ltd that is subject of this Development Consent must be entered into by the relevant parties and registered on the title for 7-9 Rutledge Street EASTWOOD being Lot 1 DP 1111051 & Lot 24 DP 653568 prior to the issue of any **Construction Certificate**.
- 4. **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.
- 5. **Excavation Works.** 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.
- 6. **Advertising Signs:** 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" or approved under this consent.
- 7. **Security Grill:** 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.
- 8. **Public Domain Works:** The applicant or the owner shall at their own expense carry out the following public domain improvement works on the road reserve fronting the subject site prior to the issue of any Occupation Certificate:

**ITEM 3 (continued)**

**ATTACHMENT 1**

- (a) **Footpath Paving:** Public Footpaths in Trelawney Street and Rutledge Street are to be paved with clay pavers in accordance with the Public Domain Technical Manual Section 3 – Eastwood. The clay paving must comply with the Eastwood section of Council's Public Domain Technical Manual. Details must be submitted for Council's approval prior to issue of any Construction Certificate;
- (b) **Under grounding of overhead power-lines& multifunction poles:** Overhead mains in Trelawney Street shall be placed underground, and Multifunction Poles with new street lighting provided along the Trelawney Street frontage. An Electrical Design for dismantling the existing network and installing the new network shall be prepared and submitted to Council and Ausgrid for approval prior to commencement of work. Such utility modifications will be carried out to the satisfaction of the responsible authority (e.g.AUSGRID/ Energy Australia) and cost borne by the applicant.
- (c) **The street trees on Rutledge Street** road reserve are to be *Angophora floribunda* (Rough Barked Apple) planted at approximately 7m intervals;
- (d) **The street trees on Trelawney Street** road reserve are to be *Acer negundo* planted at approximately 7m intervals;
- (e) **Pit grates:** All pit grates must be bicycle friendly heavy duty grates, as detailed in Aust Roads Publications;
- (f) **Report** - A traffic engineer shall prepare a detailed traffic management plan detailing how the above works can be conducted safely with minimal negative impacts on the existing vehicular and pedestrian movement on and around the site.

The approval of the Public Domain engineering plans and payment of any Council inspection fees (in accordance with Council's Management Plan) must be finalised prior to the issue of a Construction Certificate.

The plans must show works in plan view, longitudinal sections and details at a scale relevant for the level of detail and include all existing services/ infrastructure to be retained in the area of works. Full engineering details prepared by a Civil Engineer or an appropriately qualified person, including plans, sections, finished levels and schedule of materials and finishes complying with the Public Domain Technical Manual City of Ryde Environmental Standards - Development Criteria - Section 4 - Public Civil Works, Council's DCP Part 8.2 (Stormwater Management) and associated annexure shall be submitted to Council for approval must be submitted to Council and approval obtained prior to the issue of any **Construction Certificate**.

**ITEM 3 (continued)**

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9. **Hours of work.** Building construction 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.
10. **Hoardings.**
  - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
  - (b) An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
  - (c) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
11. **Public place kept lit:** 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.
12. **Construction within site boundaries.** The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structures shall encroach onto the adjoining properties including any other public, private or land owned by the Roads and Maritime Services. Gates must be installed so they do not open onto any footpath.
13. **No obstruction to the public way.** The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances, without prior approval from Council.
14. **Works affecting Services.** 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.
15. **Works in public road.** 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.
16. **Design and Construction Standards.** All engineering plans and work shall be carried out in accordance with the requirements as outlined within Council's publication *Environmental Standards Development Criteria* and relevant Development Control Plans except as amended by other conditions.
17. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.

**ITEM 3 (continued)**

**ATTACHMENT 1**

18. **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.
19. **Road Opening Permit.** The applicant shall apply for a road-opening permit where works are proposed to be constructed within the public road reserve, e.g. where connections to public utility services (e.g. telephone, electricity, sewer, water or gas) are required within the road reserve. No work shall be carried out on the road reserve without this permit being paid and a copy kept on the site.
20. **No Stopping Signs:** Full time “No Stopping” restrictions are to be maintained on Rutledge Street and Trelawney Street frontages of the development site.
21. **Design and Geotech Reports:** The developer is to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to RMS for assessment. The developer is to meet the full cost of the assessment by the RMS. The Report would need to address the following key issues:
- (a) The impact of excavation/ rock anchors on the stability of Rutledge Street and detailing how the carriageway would be monitored for settlement.
  - (b) The impact of the excavation on the structural stability of Rutledge Street.

The report and any enquiries should be forwarded to:  
Project Engineer, External Works  
Sydney Asset Management  
Roads and maritime Services  
P O Box 973 Parramatta CBD 2124

Telephone: 8848 2114  
Fax: 8849 2766

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) days notice of the intention to excavate below the base of the footings. The notice is to include complete details of the work.

22. **Existing Driveways:** The redundant driveways along Rutledge Street shall be removed and replaced with kerb and gutter to match existing. The design and construction of the gutter crossing on Rutledge Street shall be in accordance with RMS's requirement. Details of these requirements should be obtained from RMS's Project Services Manager, Traffic Projects Section, Parramatta (Telephone 8849 2496).

Detailed design plans of the proposed gutter crossing are to be submitted to RMS for approval prior to the commencement of any road works.

**ITEM 3 (continued)**

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

23. **Hydraulic Calculations:** Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to RMS for approval, prior to the commencement of any works.

Details should be forwarded to:  
The Sydney Asset management  
Roads and maritime Services  
PO Box 973Parramatta CBD 2124

A plan checking fee will be payable and a performance bond may be required before RMS's approval is issued. With regards to the Civil Works requirement please contact the RMS's Project Engineer on phone 8849 2114 or fax 8849 2766.

24. **Turning areas to be kept clear:** The proposed turning areas within the subject site are to be kept clear of any obstacles, including parked cars, at all times.
25. **Work Zone:** All construction vehicles and activities are to be contained wholly within the site. As no work zone permits will be permitted by RMS on Rutledge Street.
26. **Parking management:** An external (on-street) parking management plan to be prepared by the proponent (to Council's satisfaction which requires Technical Approval via the Ryde Local Traffic Committee) prior to the issue of Occupation Certificate.

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



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<b>A – Contribution Type</b>	<b>B – Contribution Amount</b>
Community & Cultural Facilities	\$240,733.53
Open Space & Recreation Facilities	\$569,663.73
Civic & Urban Improvements	\$208,591.98
Roads & Traffic Management Facilities	\$30,612.27
Cycleways	\$17,773.74
Stormwater Management Facilities	\$58,255.56
Plan Administration	\$4,809.42
<b>The total contribution is</b>	<b>\$1,130,440.23</b>

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

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

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

28. **Study.** All rooms shown in the apartments as study is to be provided with the internal joinery for the construction of a desk and storage areas. At no times these rooms (study) to be used as bedrooms.
29. **Voluntary Planning Agreement.** Prior to the issue of any Construction Certificate, the contribution as identified in the Voluntary Planning Agreement referred to in Condition 3 of the General Conditions of Consent is to be paid to Council.
30. **Damage security.** 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 (category: other buildings with delivery of bricks or concrete or machine excavation).
31. **Payment of fees.** The following fees must be paid to Council in accordance with Council's Management Plan:
  - (a) Infrastructure Restoration and Administration Fee
  - (b) Enforcement Levy

**ITEM 3 (continued)**

**ATTACHMENT 1**

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. **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.
34. **Disabled Access & Adaptable Units:** Disabled access is to be provided within the development in accordance with the recommendations contained in the Access Review Report prepared by Mark Relf (Accessibility Solutions (NSW) Pty Ltd) dated 26 September 2011. A revised access report (to reflect the amended approved proposal) and details indicating compliance with the AS1428 & AS4299, Building Code of Australia and the recommendations contained in the above Report are to be submitted to the Principal Certifying Authority (PCA) prior to the Construction Certificate being issued. Accessible parking spaces are to be allocated to the adaptable units and shown on the strata plan.
35. **Reflectivity.** Roofing and other external materials must be of low glare and reflectivity. Visible light reflectivity from building materials used on the façades of new buildings should not exceed 18%. Details of the approved finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority.
36. **BASIX Commitments.** The development must comply with all commitments listed in BASIX Certificate referred to in this Development Consent. The fittings, fixtures and materials installed in association with the retail tenancy (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**.
37. **Bicycle parking.** Sufficient area shall be designated for bicycle parking on the site within the lower ground level (the entrance level) and the ground floor level in accordance with the following:
  - (a) Secure bicycle parking racks and manoeuvring area must be provided for at least 16 bicycles.
  - (b) The bicycle parking area must be highly visible, adequately lit and easily accessible by residents and customers.
  - (c) Bicycle parking and access must be designed so as to ensure potential conflicts with vehicles are minimised.
  - (d) All entry ramps, pit grates, layback and paths leading to the bicycle parking area must be designed to enable rideable approach to the bicycle parking area.Bicycle parking must be designed in accordance with AS2890.3 Parking Facilities- Bicycle Parking Facilities and the NSW bicycle guidelines. Details are to be submitted on the **Construction Certificate**.

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**ATTACHMENT 1**

38. **Services & Substation:** All service infrastructure/utilities including electrical substations, fire hydrants, gas meters and the like shall be located within the building envelope. Where this is not possible and subject to Council approval such infrastructure shall be located on the subject site and appropriately screened from view. Any doors associated with the electrical substation must not open outwards into the public domain/ footpath area. Details of all service infrastructure/utilities are to be approved prior to issue of the Construction Certificate.
39. **Garbage Room Exhaust:** The garbage room exhaust must be designed so that it is suitably screened from view. Satisfactory screening device must be used and integrated with the architectural feature of the building. Details of all service infrastructure/utilities are to be approved prior to issue of the Construction Certificate.
40. **Adequate Sightlines:** Any part of the building, vegetation or proposed landscaping/ fencing must not hinder sight lines to and from the proposed access driveways and with respect to the existing access ramp to the Eastwood Shopping Centre. The following measures must be provided in order to ensure adequate sightlines and the vehicular entrance of the proposed development located at the north western corner of the building:
- (a) Overhead signage to be provided at the vehicular entry to clearly differentiate the subject site, entry & exit lanes.
  - (b) Provide sufficient splay at the entrance to allow clear sightlines for drivers leaving the site.
  - (c) The entry gate and access control must be moved to allow sufficient queuing by vehicles.
  - (d) Appropriate access arrangement must be in place to allow garbage collection trucks to access the site.
41. **Underground Gas Pipeline:** All excavation (including pot-holing by hand) should be performed in accordance with 'Work Near Underground Assets Guidelines' published in 2007 by the Work Cover Authority.
42. **Soil Depths:** Minimum soil depth of 800mm must be provided in all planter beds provided throughout the development
43. **Operable Windows:** Windows to the units must be operable where necessary to allow adequate cross ventilation and improved amenity.
44. **Storage Facility:** All residential units must be provided with sufficient secure storage facility (other than the kitchen cupboard areas and wardrobes) at the following rates:
- one-bedroom apartments 6m<sup>3</sup> X 69
  - two-bedroom apartments 8m<sup>3</sup> X 31

The surplus 7 parking spaces must be converted to storage areas and allocated to the residential apartments in order to comply with Residential Flat Design Code. The Storage facilities must be lockable and allocated to individual units. The allocated storage facility must be shown on the Construction Certificate plans prior to approval and the strata plans prior to the issue of Subdivision Certificate.

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45. **Seating:** Adequate seating, shading structures and BBQ facility must be provided within the communal open space area. Details to be provided in the plans submitted for Construction Certificate.
46. **Shop front:** The retail/commercial tenancies must have clear glazing along the street frontage.
47. **Grease Trap:** 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.
48. **Grease Trap Room:** The grease trap room must be constructed in accordance with the following requirements:
- (a) The floor, walls and ceiling must be constructed of solid materials finished to a smooth even impervious surface free of any cracks, holes or other openings that may allow the escape of odours.
  - (b) The room must be fitted with an air-tight (eg. coolroom type) door.
  - (c) The room must be provided with an approved system of mechanical exhaust ventilation.
  - (d) The room must be provided with intrinsically safe artificial lighting.
  - (e) A hose tap with a backflow prevention device must be provided in or adjacent to the room to facilitate cleaning.
- Details are to be submitted on the Construction Certificate plans.
49. **Grease Trap Pump:** A fixed pump out line must be provided in accordance with the requirements of Sydney Water Corporation to facilitate servicing of the grease trap.
50. **Garbage and Recycling Room:** A garbage and recycling room must be provided in an approved location in the basement carpark of the residential flat building. The garbage and recycling rooms must be constructed in accordance with the following requirements:
- (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;

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**ATTACHMENT 1**

- (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 are to be submitted on the Construction Certificate plans.

- 51. **Storage area for discarded Items:** A separate room or caged area must be provided in the basement carpark of the residential flat building for the storage of bulky discarded items such as furniture and white goods.
- 52. **Delivery to Point of Collection:** Where necessary, staff or contractors must be employed to take the waste containers from garbage and recycling room to the container emptying point for servicing and to return the containers to the garbage room after servicing or an on-site building manager be responsible for the delivery of the bins to the allocated collection point within the site for servicing.
- 53. **Garbage Collection Vehicle:** 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.
- 54. **Kitchen Exhaust:** Adequate provision must be made for the installation of kitchen exhaust systems to the proposed retail premises.
- 55. **Mechanical Ventilation:** Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**. Such details must include:
  - (a) Plans (coloured to distinguish between new and existing work) and specifications of the mechanical ventilation systems;

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**ATTACHMENT 1**

- (b) A site survey plan showing the location of all proposed air intakes exhaust outlets and cooling towers, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity; and
  - (c) A certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and setting out the basis on which the certificate is given and the extent to which the certifier has relied upon relevant specifications, rules, codes of practice or other publications
56. **Air Handling:** All air-handling and water systems regulated under the *Public Health Act 1991* must be installed, operated and maintained in accordance with the requirements of the *Public Health (Microbial Control) Regulation 2000*.
57. **Water Cooling System:** All water-cooling and warm-water systems regulated under the *Public Health Act 1991* must be registered with Council within one (1) month of installation.
58. **Road Noise:** The residential flat building(s) must be designed and constructed so that road traffic noise levels inside the building(s) comply with the satisfactory design sound levels recommended in Australian/New Zealand Standard AS/NZS 2107: 2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*, when the windows and doors are closed. Written endorsement of compliance with these requirements must be obtained from a suitably qualified person and submitted to the PCA prior to the issue of Occupation Certificate.
59. **Noise Attenuation Measures:** The recommendations contained under Section 6 of the Acoustic Report prepared by West & Associates Pty Ltd (Document No. 11183 Issue A dated 21 September 2011) must be incorporated in the Construction Certificate drawing prior to its approval.
60. **Boundary Alignment Levels.** Boundary Alignment Levels - The applicant is to apply to Council for site specific boundary alignment levels prior to the issue of the Construction Certificate. The application would need to be accompanied by engineering plans of any civil works along the frontage of the development site. Fees are payable in accordance with Council's Schedule of Fees & Charges at the time of the application.
61. **Car parking.** Car parking spaces must be provided for both residential and retail activities on the site. A total of 152 car parking spaces are to be provided on the site comprising 107 spaces for residential parking, 20 visitor parking spaces and 25 spaces for retail parking, including at least twelve (12) *accessible* spaces, evenly distributed over all designated parking levels. Accessible spaces must be allocated to the adaptable apartments. Details are to be submitted on the Construction Certificate plans.

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62. **Access to resident parking.** Access to residential parking should be restricted to residents and their visitors only. Details demonstrating compliance are to be submitted on the Construction Certificate plans.
63. **Vehicles to enter & leave in forward direction:** All vehicles must enter and leave the property in a forward direction from the basement car park.
64. **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 is required;

- a) The driveway ramp must be constructed in accordance with the levels and grades detailed on the Architectural Plan - Sheet DA-08 dated 30 July 2014

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

65. **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 Council's inground drainage infrastructure in Trelawney Street and will require the construction of a new kerb inlet pit at the point of connection, with dimensions and specifications complying with Council's standard details.

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 2014 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.
- Onsite detention must be incorporated in the stormwater management system having a minimum SSR of 54 m<sup>3</sup> and a maximum PSD of 37.5L/s based on freeflow conditions. 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.

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- The subsurface drainage system must be designed to generally preserve the pre-developed groundwater table so as to prevent constant, ongoing discharge of groundwater to the public drainage network as well as avoid impacts such as foundation consolidation that may result from dewatering practises.

66. **Stormwater Management – Connection to Council Drainage System.** The connection to Council's underground stormwater drainage infrastructure located Trelawney Street will require the assessment, approval and inspection by Council's Public Works section to ensure the integrity of this Council asset is maintained. Engineering plans detailing the method of connection and an inspection fee in accordance with Council's current 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 / pipe and an inspection must be made by a Council officer prior to restoration/ backfill at the point of connection for approval.
67. **Stormwater Management - Quality.** A first flush infiltration system is to be designed and installed to capture the initial runoff from the paved parking area and store this flow off line to allow infiltration to the surrounding soil.
68. **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 Civil or Structural Engineer specialising in geotechnical and the hydrogeological field 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 generally maintains the predeveloped 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 Report and Monitoring Program to be implemented during construction that;
  - is based on a geotechnical investigation of the site and subsurface conditions, including groundwater,



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**ATTACHMENT 1**

- 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 hydro-geological measures by the professional engineer; and;
- details action plan and contingency for the principal building contractor in the event these trigger levels are exceeded.

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

69. **Flood and Overland Flow Protection.** The property has been identified as being susceptible to flooding and overland flow during large storm events. In accordance with Council's Floodplain Risk Management controls, the following measures are required to be implemented in the development. In the following conditions, reference to *freeboard* is equivalent to 300mm above the relevant flood level.

- a) The habitable floor levels of all dwellings encompassed under this approval must not be less than the adjoining flood levels plus *freeboard* as provided by Council correspondence (Flood Levels) dated 22 March 2012.
- b) All structures subject to flooding and overland flows must be constructed of flood compatible building components (refer to Schedule 3 of Council's DCP 2014 Part 8.6 3 "Floodplain Management"),
- c) External structures subject to flooding and overland flows must be structurally designed to withstand the forces imposed by these flows, including forces imposed by floating debris and buoyancy. To achieve this, the structure must be designed and certified by a suitably qualified structural engineer to comply with this condition.

The design and certification (related to the structural/ building requirements above) must be submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

70. **Queuing Space:** Unobstructed and freely accessible access is to be provided to the car park during the approved trading hours of the retail tenancies, that is, between 7.00am to 9.00pm on Mondays to Saturdays and 8:00am to 8:00pm on Sundays. A queuing space equivalent to at least one (1) car length should be provided within the site in front of the car park security door outside the approved trading hours of the retail tenancies. Details demonstrating compliance is to be submitted with the Construction Certificate.

71. **Hoarding Fees.** Where hoarding are proposed, fees in accordance with Council's Management Plan are to be paid to Council prior to the issue of the Construction Certificate for the erection of a protective hoarding along the street frontage of the property. The fee is based on Council, schedule of fees and charges and is for a period of 6 months. If the time of use of Council's footpath varies from this an adjustment of the fee will be made on completion of the works.

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72. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction work, namely property No's. 188 to 200 Rowe Street and No. 3 Rutledge Street. A copy of the dilapidation survey is to be submitted to the Accredited Certifier *and Council* prior to the release of the Construction Certificate.
73. **Dilapidation Report.** To determine the extent of restoration works that may be required, the applicant shall submit to Council a pre and post construction dilapidation report on the status of existing public infrastructures in the vicinity of the proposed development. The report is to include photographic records, description and location of any existing observable defects of the following infrastructure and others where applicable:
- (a) Road Pavement
  - (b) Kerb and gutter.
  - (c) Constructed footpath.
  - (d) Drainage pits.
  - (e) Traffic signs.
  - (f) Any other relevant infrastructure.

These reports shall be submitted to Council development engineer, prior to the issue of the Construction and Occupation Certificate. The report shall be used by Council as Roads Authority under the Roads Act to assess whether restoration works are required prior to the issue of the Occupation Certificate. All restoration works deemed necessary by Council's development engineer are to be completed to Council satisfaction prior to the issue of Occupation Certificate

74. **Driveway Grades.** The maximum grade of all internal driveways and vehicular ramps etc shall comply with relevant section of AS 2890.1 & AS2890.2 where applicable. Detailed engineering plans including engineering certification indicating compliance with this condition are to be submitted with the Construction Certificate application.
75. **Erosion and Sediment Control Plan.** An *Erosion and Sediment Control Plan (ESCP)* shall be prepared by a suitably qualified consultant in accordance with the guidelines set out in the manual "*Managing Urban Stormwater, Soils and Construction*" prepared by the Department of Housing. These devices shall be maintained during the construction works and replaced where considered necessary.

The following details are to be included in drawings accompanying the *Erosion and Sediment Control Plan*

- a) Existing and final contours
- b) The location of all earthworks, including roads, areas of cut and fill
- c) Location of all impervious areas
- d) **Location and design criteria of erosion and sediment control structures,**
- e) Location and description of existing vegetation
- f) Site access point/s and means of limiting material leaving the site
- g) Location of proposed vegetated buffer strips
- h) Location of critical areas (drainage lines, water bodies and unstable slopes)

**ITEM 3 (continued)**

**ATTACHMENT 1**

- i) Location of stockpiles
- j) Means of diversion of uncontaminated upper catchment around disturbed areas
- k) Procedures for maintenance of erosion and sediment controls
- l) Details for any staging of works
- m) Details and procedures for dust control.

**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.

**76. Site Sign**

- (a) A sign must be erected in a prominent position on site:
  - (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.

**77. Sediment and Erosion Control.** The applicant shall install appropriate sediment control devices in accordance with an approved plan **prior** to any earthworks being carried out on the site. These devices shall be maintained during the construction period and replaced where considered necessary. Suitable erosion control management procedures shall be practiced. This condition is imposed in order to protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.

**78. Compliance Certificate.** A Compliance Certificate must be obtained confirming that the constructed erosion and sediment control measures comply with the construction plan and the City of Ryde, Development Control Plan: - Part 8.1; Construction Activities.

**79. Vehicle Footpath Crossings.** Concrete footpath crossings shall be constructed at all locations where vehicles cross the footpath, to protect it from damage resulting from the vehicle traffic. The location, design and construction shall conform to the requirements. Crossings are to be constructed in plain reinforced concrete and finished levels shall conform with property alignment levels issued by Council's Public Works Division. Kerbs shall not be returned to the alignment line. Bridge and pipe crossings will not be permitted.

**ITEM 3 (continued)**

**ATTACHMENT 1**

80. **Construction Management Plan.** As a result of the site constraints, limited vehicle access and parking, a Construction Management Plan (CMP) must be submitted to Council for approval by Councils Public Works section, prior to the commencement of any works on the site. The CMP 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 the site.

The CMP must:-

- Make provision for all construction materials to be stored on site, at all times.
- Specify construction truck routes and truck rates. Nominated truck routes are to be distributed over the surrounding road network where possible.
- 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.
- Include a Traffic Control Plan prepared by an RMS accredited traffic controller for any activities involving the management of vehicle and pedestrian traffic.
- Be in accordance with Council's DCP 2010 Part 8.1 (Construction Activities)
- Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps, structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street tree's.
- Take into consideration the construction effects of development on adjoining sites and specify a contingency plan to be undertaken.

Structures or works on Council property (such as hoardings, scaffolding, shoring or excavation), the modification of parking restrictions (Work Zones) and standing heavy vehicles (crane, concrete pump, etc) on a footpath/ roadway are subject to separate approval from Council and/or the Local Traffic Committee.

81. **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.

82. **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 application for approval from Council's Public Works department, as per the provisions of Section 138 of the Roads Act. The application for consent must include detailed structural plans prepared by a chartered structural engineer, clearly nominating the number of proposed anchors, depth below existing ground level at the boundary alignment and the angle of installation. Approval is subject to the applicant paying all applicable fees in accordance with Council's Management Plan.

**ITEM 3 (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.

83. **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*.
84. **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.
85. **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.
86. **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.
87. **Geotechnical – Implementation of Geotechnical Monitoring.** 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.
88. **Construction Management Plan – Compliance.** All works and construction activities are to be undertaken in accordance with the approved Construction Management Plan (CMP). All controls in the CMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. A copy of the approved CMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

**ITEM 3 (continued)**

**ATTACHMENT 1**

89. **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 submitted in compliance to the condition labelled “Stormwater Management.” and the requirements of Council in connection to the trunk drainage system.
90. **Noise and Vibration.** The construction of the development and preparation of the site, including operation of vehicles, must be conducted so as to avoid unreasonable noise or vibration and not cause interference to adjoining or nearby occupations. 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.
91. **Survey of footings and 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.
92. **Sediment, soil and dust.** No sediment, dust, soil or similar material shall leave the site during construction work.
93. **CCTV Surveillance** cameras must be installed throughout the retail complex and communal areas such as lobbies, lifts etc, and paying particular attention to the internal area of the shopping centre especially entry and exit points. CCIV should also be used around the loading dock area and car park entry and exit points. CCIV should be placed on the external area of the building capturing the area outside the retail stores along Trelawney Street and also capturing the area along Rutledge Street. Digital technology should be used to record images from the cameras. Installed surveillance equipment needs to be able to zoom in on a person without loss of focus. Management must ensure that the requirements of the Surveillance and Privacy Act are adhered to.
94. **Landscape maintenance plan must be prepared for the site.** Landscaping close to the building should be regularly maintained to ensure branches cannot act as a natural ladder to gain access to higher parts of the building and trimmed to ensure concealment opportunities are eliminated.
95. **Lighting** shall be provided to all common areas including the car parking levels as well as the stairs and access to and including the public outdoor courtyard, communal gardens, in the recess along Rutledge Street and the bin storage rooms. Such lighting to be automatically controlled by time clocks, and where appropriate, sensors to provide an energy efficient and controlled environment for residents. Details of lighting shall be submitted for approval prior to issue of the **Construction Certificate**. The details are to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.

**ITEM 3 (continued)**

**ATTACHMENT 1**

96. **Signage.** Signage must be provided at entry/exit points and throughout the development to assist users and warn intruders that they will be prosecuted.  
**Warning:** these premises are under constant surveillance.  
**Warning: trespassers** will be prosecuted.
97. **Other Signs:** Signs should be erected as follows:
- (a) In the car parks and near entry and exit points which details security measures and reminds people to lock their vehicles and remove valuables from their vehicles.
  - (b) Signage needs to be provided within the car park to provide way finding to users of these areas.
  - (c) Signage also needs to be provided on the fire exit doors warning users that the doors are to be used for emergency purposes only.
  - (d) Location maps should be used throughout the complex to indicate to patrons/visitors where they are and directional signage should be used.
  - (e) Clear signage identifying where the loading dock is located should be erected at the street entry, and it should prohibit unauthorized entry.
98. **Graffiti:** All surfaces on the street frontages that are not glass should use graffiti resistant paints and/or other surfaces that discourage graffiti.
99. **Intercom/ Security Facility:** The entry to the car park should have a security door. 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.
100. **Residential Access:** Access should be restricted to residents only to the lifts and stairs leading to the apartments.
101. **Locksets:**
- (a) The main entry/exit points for this development should be fitted with single cylinder locksets (Australia and New Zealand Standards - Locksets), which comply with the Building Code of Australia.
  - (b) An auxiliary lock set should also be incorporated into the design of each of the entry/exit points to enable emergency services to access the development particularly in emergency situations.
  - (c) Fire exit doors to the development should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the development.
  - (d) The main entry/exit doors to individual units should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.
  - (e) The balcony doors to individual units should also be fitted with single cylinder locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.
  - (f) The windows to individual units should also be fitted with key operated locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.

**ITEM 3 (continued)**

**ATTACHMENT 1**

**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.

102. **BASIX commitments.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate referred to in this Development Consent.
103. **Public domain.** All landscaping & public domain improvement works required to be carried out under condition 8 are to be completed.
104. **Consolidation.** All land titles within the site must be consolidated into one allotment. Documentary evidence of such consolidation shall be submitted prior to the issue of any Occupation Certificate under the Environmental Planning and Assessment Act 1979.
105. **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 is to be and certification obtained from a suitable qualified person confirming that the development meets these requirements is to be provided prior to the issue of any Occupation Certificate.
106. **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 NSW Fire Brigade.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of the Interim/Final Occupation Certificate.

Each year the Owners must send to the Council and the NSW Fire Brigade an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.



**ITEM 3 (continued)**

**ATTACHMENT 1**

107. **Sewer Connection:** All sanitary fixtures must be connected to the sewerage system by gravity flow and documentary evidence of compliance must be submitted to the Principal Certifying Authority before the issue of an **Occupation Certificate**.
108. **Sydney Water.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Interim/Final Occupation Certificate.

109. **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 any Construction Certificate issued, 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 154A of the Environmental Planning and Assessment Regulation 2000.
110. **Post construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties.
111. **Disused Gutter Crossing.** All disused gutter and footpath crossings where occur shall be removed and the kerb and footpath reinstated to the satisfaction of Council.
112. **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.

**ITEM 3 (continued)**

**ATTACHMENT 1**

113. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to Section 88 E of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention and pump/ sump 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 88 E instrument are to be in accordance with the Council's draft terms for these systems as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7, and to the satisfaction of Council, and are to be registered on the title prior to the release of the Occupation Certificate for that title.
114. **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.
- 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 2014, Part 9.3 “Car Parking”.
  - b) Confirming that the Stormwater Management system (including any ancillary components such as onsite detention) servicing the development complies with the City of Ryde DCP 2014, 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) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including the 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) and the relevant sections of the City of Ryde DCP 2014, Part 8.2 “Stormwater Management” and associated annexure.
  - 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 the City of Ryde DCP 2014, Part 8.1 “Construction Activities”.
  - 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.

**ITEM 3 (continued)**

**ATTACHMENT 1**

- 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.

115. **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 City of Ryde, Development Control Plan 2014: - Part 8.2; Stormwater Management. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

**PRIOR TO SUBDIVISION CERTIFICATE**

The following conditions in this Part of the consent apply to the Subdivision component of the development.

All conditions in this Part of the consent must be complied with prior to the issue of a Subdivision Certificate.

- 116. **Final plan of subdivision.** The submission of a final plan of subdivision plus 3 copies suitable for endorsement by the Authorised Officer of Council.
- 117. **Final plan of subdivision – title details.** The final plan of subdivision shall contain detail all existing and/or proposed easements, positive covenants and restrictions of the use of land.
- 118. **Section 88B Instrument.** The submission of an Instrument under Section 88B of the Conveyancing Act 1919 plus 3 copies, creating Easements, Positive Covenants and Restrictions on Use. This Instrument shall nominate the City of Ryde as the authority empowered to release, vary or modify the terms of the Instrument.
- 119. **Occupation Certificate.** A final occupation certificate in relation to this development must be in force. A copy of the Occupation Certificate is to be submitted with the application for final subdivision certificate.
- 120. **Section 73 Certificate.** A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be submitted with the application for final subdivision certificate.

**ITEM 3 (continued)**

**ATTACHMENT 1**

121. **Utility provider – compliance documents.** The submission of documentary evidence of compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RTA, Council etc).

**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.

122. **Garbage Collection:** Where necessary, staff or contractors must be employed to take the waste containers from garbage and recycling room to the container emptying point for servicing and to return the containers to the garbage room after servicing.
123. **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.
124. **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*.
125. The operation of any plant or machinery 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 the most affected noise sensitive location in the vicinity. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent 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.
126. **Hours of operation.** The use of the retail part of the development is restricted to the following hours of operation: 7.00am and 9pm Monday to Saturday and 8.00am to 8pm on Sunday.

**GENERAL CONDITIONS – STAGE 2**

127. **Further Application:** A further Development Consent must be obtained from Council for the Stage 2 concept development approved under this Consent, through submission of a Development Application. The Stage 2 proposal must demonstrate the following:

**ITEM 3 (continued)**

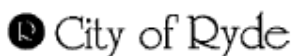
**ATTACHMENT 1**

- (a) An alternate legal access arrangement for the site can be established via the adjacent ROW without impacting on the access arrangement for the Eastwood Shopping Centre. The proposal must be supported by detailed driveway / traffic plans and Traffic Report prepared by a qualified Traffic Engineer.
  
- (b) In relation to the access easement the consent of any other owners of the land that forms part of the easement are obtained for use of the easement (as amended) in relation to the development, where necessary, and evidence of such consent be submitted to Council.

128. **Amended Strata:** An amended Strata proposal is to be submitted to reflect the amended unit layout and entitlements.

**ITEM 3 (continued)**

**ATTACHMENT 2**



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- 3 7-9 RUTLEDGE STREET, EASTWOOD, LOT 23 DP 4231, LOT 24 DP 653568. Construction and strata subdivision of a mixed use building with six retail / commercial tenancies, 79 units and associated basement parking for 155 cars. LDA 2011/0612.**

**INSPECTION: 4.20pm**

**INTERVIEW: 4.45pm**

**Report prepared by:** Willana Associates, Planning Consultants

**Report approved by:** Team Leader - Major Development Team; Manager  
Assessment; Group Manager - Environment & Planning

**Report dated:** 28/06/2012 **File Number:** grp/12/5/5/3 - BP12/773

**1. Report Summary**

**Applicant:** Morris Bray Martin Ollmann.

**Owner:** Rutledge Properties Pty Ltd, Rutledge Street Pty Ltd

**Date lodged:** 28/11/2011

This report relates to Local Development Application No. 2011/0612 which proposes the construction and strata subdivision of a mixed-use development at 7-9 Rutledge Street, Eastwood. The development will generally consist of a building with a total of part 7 / part 12 levels, plus three levels of basement parking below with a total of 155 car spaces. The building will consist of 79 units in total. Three retail/commercial tenancies will extend along Trelawney Street (one being at the level above the footpath level), while three will extend along Rutledge Street.

The proposed development will include some works to the public domain, such as the provision of new footpath paving, street trees and an awning over the footpath. The development proposal also includes a voluntary planning agreement (VPA) that involves the payment to Council of a one off monetary contribution of \$205,315. This contribution will be in addition to the payment of all applicable Section 94 contributions required by Council, public domain improvements and construction related fees relating to hoardings, construction parking zone permits and hoarding inspections. A separate report is provided in Appendix 4 which consists of details of the VPA.

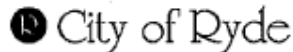
The site is located within the Eastwood Town Centre that is subject to specific local planning controls. The specific controls are mainly contained within both the Ryde Local Environmental Plan 2010 (RLEP) and Ryde Development Control Plan 2010 (RDCP). In particular, the RLEP prescribes a maximum height of 18.5m for Lot 23 DP 4231 (located at the corner) and 30.5m for Lot 24 DP 653566 (adjacent to the Eastwood Shopping Centre Development). The proposal will result in a significant non-compliance with the maximum permissible 30.5m and 18.5m heights by 11.06m and 22.84m respectively. This is not acceptable.

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Agenda of the Planning and Environment Committee Report No. 9/12, dated  
Tuesday 17 July 2012.

**ITEM 3 (continued)**

**ATTACHMENT 2**



**ITEM 3 (continued)**

The development consists of a design which complements that proposed concurrently under Development Application Number 2011/0611 for a mixed use development at 3-5 Trelawney Street, Eastwood. The applicant's aim is to achieve a visual "gateway" into the Town Centre. Despite this, the proposal fails to comply with a number of the key controls, in particular the controls relating to height, envelope and solar access. The development will not provide appropriate urban design, solar access and cross ventilation outcomes as sought by the applicable controls.

During the notification period, a total of three objections and one letter of support were received. The issues raised in the objections relate to inadequate parking, non-compliant building height, excessive scale, loss of privacy and solar access, garbage build up, unsatisfactory shop displays, infrastructure capacity, traffic congestion, inadequate building separation and unsatisfactory vehicular access arrangements.

The subject development application (DA) is recommended for refusal.

**Reason for Referral to Planning and Environment Committee:** Nature of the proposed development and VPA.

**Public Submissions:** Four submissions were received that included one letter in favour of the development and three letters of objection.

Clause 4.6 RLEP 2010 objection required? Yes. A variation is proposed to the applicable building height standards imposed under Clause 4.3(2) of RLEP 2010 of 18.5m for Lot 23 DP 4231 (located at the site's street corner) and 30.5m for Lot 24 DP 653566 (located further east).

Value of works: \$19,572,000.00.

**RECOMMENDATION:**

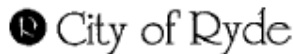
- (a) That Local Development Application No. 2011/0612 at 7-9 Rutledge Street, Eastwood, being Lot 23 DP 4231 and Lot 24 DP 653568 be refused for the following reasons:
  - a. The proposed development is inconsistent with State Environmental Planning Policy No. 65 with respect to Context, Scale, Built Form, Density and Solar Access and therefore does not represent a good design outcome particularly in the following key areas:
    - i. The development does not respect the desired future character of the area as the development clearly extends well beyond the applicable building height and building envelope controls.
    - ii. The development does not respect the desired massing and human scale initiatives. It will not be stepped to appropriately address the sites corner location.

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Agenda of the Planning and Environment Committee Report No: 9/12, dated Tuesday 17 July 2012.

**ITEM 3 (continued)**

**ATTACHMENT 2**



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**ITEM 3 (continued)**

- iii. The proposed layout and building depth will limit solar access and cross ventilation opportunities and not achieve compliance with the minimum requirements of the RFDC.
- b. The proposed development proposes significant non-compliances with the maximum height standards for the site prescribed under Clause 4.3 – Height of Buildings of RLEP 2010, which has not been justified.
- c. The design is such that it will not meet the objectives (a), (c), (d) and (e) for building height listed under Clause 4.3 – Height of Buildings of RLEP 2010 and objectives of the zone listed under the Land Use Table of RLEP 2010 with regard to '*creating an attractive environment for pedestrians*' and '*recognising unique location in design*'.
- d. The applicant has not adequately demonstrated in the proposed development application, that the proposed height variance will be satisfactory with respect to Sub-clause 4(a)(ii), that the development will be in the public interest because it will be consistent with the objectives of the height standard and the objectives of the zone of the land.
- e. The proposed development will not meet Objective (b) of Clause 4.6 – Exceptions to development standards of RLEP 2010. It will not achieve a better outcome.
- f. The proposed development does not meet the objectives (a) of Clause 6.5 – Eastwood Urban Village and West Ryde Urban Village of RLEP 2010 with respect to *creating an attractive environment for pedestrians* given the proposed height, scale and lack of regard to the human scale initiatives for height.
- g. The proposed development does not comply with the maximum permissible height of 18.5m and 33.5m prescribed under Clause 4.3 – Height of Buildings of the DLEP 2011.
- h. The proposed development does not achieve objectives (a), (b), (c) and (d) for building height listed under Clause 4.3 – Height of Buildings of the DRLEP 2011.
- i. The proposed development will not meet Objective (b) of Clause 4.6 – Exceptions to development standards of DLEP 2011 as it will not achieve a better outcome.
- j. The proposed development seeks significant variation to the applicable RDCP 2010 controls, particularly in relation to the envisaged urban form. The degree of variation has resulted in an excessive design that is inconsistent with the object of the envelope and corner treatment controls.

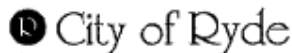
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The proposed development does not achieve a design outcome that is sought by Council's controls nor reflect the future character for the Eastwood Shopping Village.

- k. Insufficient information has been submitted to verify compliance with the RFDC requirement in that the private open spaces for at least 70 % of apartments in a development should receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.
- l. Insufficient information has been submitted to verify that the insufficient building separation to the east will maintain compliance with the approved Eastwood Shopping Centre Development with the following solar access requirement of the RFDC:  
*'living rooms and private open spaces of at least 70% of the units in the development will achieve a minimum of 2 hours solar access between 9am and 3pm in mid winter'*.
- m. The proposed development is not considered to be in the public interest as it will set an inappropriate precedent for overdevelopment with significant departures from the Ryde LEP 2010 maximum height standards and the Ryde DCP 2010.

(b) That the persons who made submissions be advised of Council's decision.

**ATTACHMENTS**

- 1 Map
- 2 A4 Plans
- 3 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER
- 4 Voluntary Planning Agreement Report
- 5 Elevations of DA refused at Court
- 6 LEP2010 map extract showing heights

Report Prepared By:  
**Stuart Harding Associate Director**  
**Willana Associates, Planning Consultants**

Report Approved By:  
**Sandra Bailey**  
**Team Leader - Major Development Team**

**Liz Coad**  
**Manager Assessment**

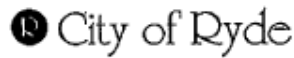
**Dominic Johnson**  
**Group Manager - Environment & Planning**

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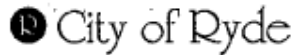
**2. Site (Refer to image below)**

- Address** : 7-9 Rutledge Street, Eastwood
- Site Area** : Site Area: 1,974m<sup>2</sup>  
Frontage: The site has a southern frontage to Rutledge Street of 37.835m and a western frontage to Trelawney Street of 47.245m (both exclusive of the 3.452m corner splay).  
Eastern Boundary: 48.6m  
Northern Boundary: 40.235m
- Topography and Vegetation** : The site comprises two lots, (Lot 23 DP 4231 and Lot 24 DP 653568) and is located at the northeast corner of Trelawney Street and Rutledge Street. The submitted survey dated 21/12/99 indicates that the site has a general fall from its Rutledge Street frontage to its northern boundary of approximately 3m. However, the slopes/RLs may not represent those which currently exist on the site as the survey is not current.
- The survey indicates the existence of three (3) church buildings that were subject to a development approval for demolition (Development Consent Number 1237/2002) issued in May 2003 and have subsequently been demolished. As a result, the site is secured by barrier fencing. Significant vegetation is limited to two (2) Camphor Laurel trees near the northeast corner. They are approximately 8m in height and 6m in spread.
- Existing Buildings** : Any buildings on the site are limited to minor structures. A concrete ramp encroaches on the site for the length of its northern boundary. It provides vehicular access to the Eastwood Shopping Centre located further east. Accordingly, the northern part of the site is subject to an easement for support and access. There are stepped, brick retaining walls along part of the sites street frontages.
- There are two (2) other vehicular crossings that service the site, other than that associated with the ramp. One is located near the northwest corner and the other is located along Rutledge Street at the southeast corner. A concrete driveway extends on the site from its

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**ITEM 3 (continued)**

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**ITEM 3 (continued)**

southeast corner. Along part of the Rutledge Street frontage and around the street corner of the site is a paved.

**Planning Controls**

**Zoning**

: B4 Mixed use

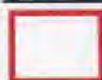
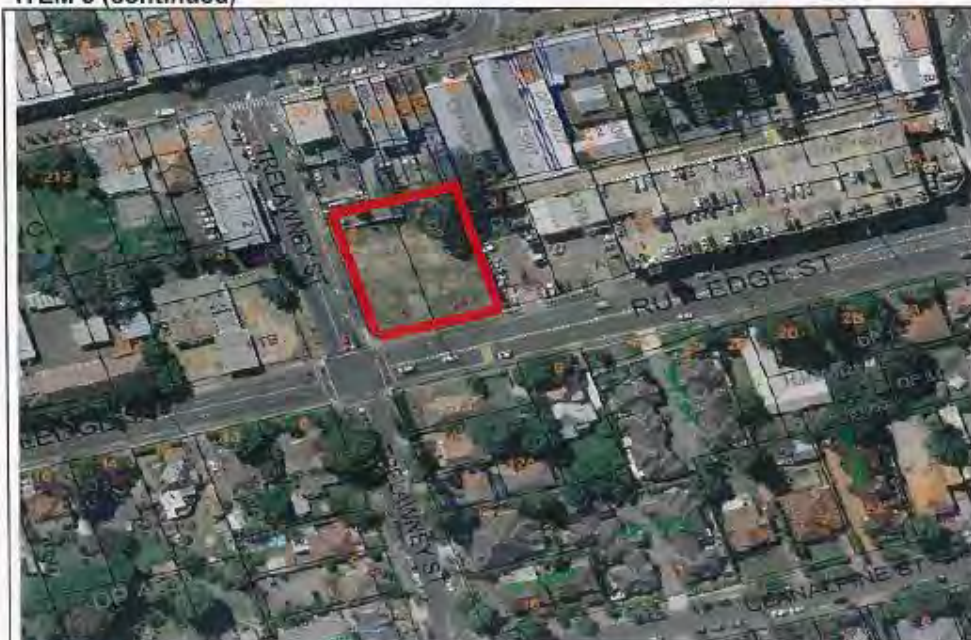
**Other**

: Environmental Planning and Assessment Act 1979  
SEPP No. 55 - Remediation of Land  
SEPP (Building Sustainability Index: BASIX) 2004  
SEPP (Infrastructure) 2007  
SEPP No. 65 – Design Quality of Residential Flat Development  
Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005  
RLEP 2010  
RDCP 2010  
Draft RLEP 2011  
Residential Flat Design Code  
Section 94 Contributions Plan 2007

**ITEM 3 (continued)**

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**ITEM 3 (continued)**



Subject Site: 7-9 Rutledge Street, Eastwood

Image 1 | Extract 2008 City of Ryde Aerial Photo

**3. Councillor Representations**

Name of Councillor: Councillor Maggio.

Nature of Representation: Called up to Planning & Environment Committee.

Date: 3 May 2012.

Form of Representation: Email to the Councillor Helpdesk.

On behalf of applicant or Objectors: Not stated.

Any other persons (e.g. consultants) involved in or part of the representation: No

**4. Political Donations or Gifts**

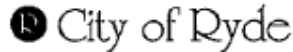
Any political donations or gifts disclosed? No disclosures.

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**5. Proposal**

The subject development application proposes:

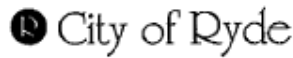
- Erection of a mixed-use building, being part 7 / part 12 levels, plus three levels of basement parking below. The building will consist of 79 units in total, including four units at ground level, behind the retail/commercial tenancies. A total of 155 car spaces, plus a loading bay, motorbike parking and bike parking will be provided in the basement levels. Three retail/commercial tenancies will extend along the Trelawney Street frontage, with two at footpath level and one at the level above. Another three retail/commercial tenancies will extend along the Rutledge Street frontage, all at footpath level. Lift access will be within a single core, almost centrally located. It will consist of one retail lift and two residential lifts.
- Provision of a substation at the southeast corner.
- Removal of existing vegetation, including the removal of two established Camphor Laurel trees at the northeast corner.
- Soil excavation works that will extend up to all boundaries of the site, with the exception of a setback being provided at the southeast corner, where a substation is proposed and at the northern boundary as not to encroach the easement for access and support.
- Establishment of new on-site landscaping.
- Removal of two vehicular crossings, one near the northwest and the other at the southeast corner of the site. Vehicular access will extend from Trelawney Street, along the northern side of the site, into the proposed basement entry at the northeast corner and make use of the existing easement for access in this location. An easement for access and support extends adjacent to the northern boundary and over adjoining properties to the north that have a frontage to Rowe Street. A new access way has been approved as part of the consent for the Eastwood Shopping Centre development that will include the removal of the existing ramp along the northern boundary of the site and provision of at grade access. The ramp must be demolished and access way established prior to any construction works on the subject site. Accordingly, if the application is approved, it is recommended that a 'deferred commencement consent' be issued subject to the demolition of the ramp; and obtaining the consent of any other owners of the land that forms part of the easement, where necessary.
- Installation of new storm water infrastructure, including on-site detention.
- Strata subdivision.

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**ITEM 3 (continued)**

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**ITEM 3 (continued)**

In addition to the above, the following public domain improvements are proposed:

- Provision of new footpath paving in Rutledge Street.
- Provision of new street trees along the Trelawney and Rutledge Street frontages.
- Erection of awnings over the Trelawney and Rutledge Street frontages.

**Building Composition**

In total 16 x 1 bedroom units, 43 x 2 bedroom units and 20 x 3 bedroom units will be provided, including seven adaptable units. One enclosed access core will be provided, almost centrally located. The units will be arranged around this core. A retail lift will provide access from Basement Level 1 (being the upper basement level) to the lower ground and ground levels. Two separate residential lifts will provide access from Basement Level 3 (being the lowest level) up to the twelfth level (referred to as Level 10 on the submitted plans).

The car parking spaces and other ancillary facilities allocated for residential use will be located at Basement Levels 3 and 2, with the exception of 'resident visitor spaces' and some storage areas which will be located on Basement Level 1, and the resident waste garbage room and a store zone, which will be located at Lower Ground Floor Level. Access to the basement levels will be restricted by a security roller shutter. A garbage chute will service the units.

Loading/unloading facilities, a separate non-residential waste storage room, bicycle parking, motorbike parking and main lobby will be provided at the Lower Ground Floor Level.

The eighth level (referred to as Level 6 on the submitted plans) will be set back from the Trelawney Street building frontage and will consist of communal and private open spaces within the setback. Four levels will extend above with a similar footprint. Additional communal area will be provided on the rooftop, generally around the lift overrun, plant room and fire stair structures.

The composition of each level is described in more detail below.

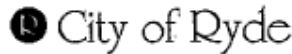
Table 1: Building Composition

Level (Plan Reference)	Building A
Basement Level 3	55 resident car parking spaces (including 1 accessible space and 2 small car spaces)
	1 motorcycle parking space

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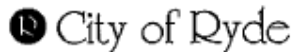
**ITEM 3 (continued)**

<b>Level (Plan Reference)</b>	<b>Building A</b>
<b>Basement Level 2</b>	50 resident car parking spaces (including 8 accessible space and 2 small car spaces)
	1 motorcycle parking space
<b>Basement Level 1</b>	22 resident car parking spaces (including 2 small resident visitor, 16 standard sized resident visitor, and 4 residential spaces)
	19 retail spaces
<b>Lower Ground Floor Level</b>	2 resident visitor accessible spaces
	7 retail car parking spaces (including 2 accessible space, 1 small car space)
	1 Loading Dock
	OSD tank
	Motorbike and bicycle parking spaces
	Commercial waste room
	Residential waste room
	2 retail/commercial tenancies
<b>Ground Floor Level</b>	4 retail/commercial tenancies, (one facing Trelawney St and the others facing Rutledge St)
	1 x 1 bed. unit (adaptable) 3 x 2 bed. units
	1 substation and service rooms
<b>Level 1</b>	2 x 1 bed. units (including 1 adaptable) 8 x 2 bed. units
<b>Levels 2 to 5</b>	2 x 1 bed. units (including 1 adaptable) 8 x 2 bed. units
<b>Level 6</b>	1 x 1 bed. units (adaptable) 4 x 3 bed. units
<b>Level 7 to 10</b>	1 x 1 bed. units 4 x 3 bed. units

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**Landscaping**

It is proposed to remove the existing trees on the subject site and provide the following on-site landscaping:

Ground Level (plan reference):

- Private open spaces within the east and north building line setbacks.
- Planter beds with tree planting along the east and northern boundaries.

Level 1 (plan reference):

- Private open spaces in the form of balconies around the building.
- A planter bed with tree planting generally extending along the Trelawney and Rutledge Street frontages.

Levels 2 – 5 (plan reference):

- Private open spaces in the form of balconies around the building.

Level 6 (plan reference):

- Private open spaces around the building.
- A communal open space within the western building line setback.
- A planter bed with tree planting generally extending along the Trelawney Street frontage and either side of the communal area.

Level 7-10 (plan reference)

- Private open spaces in the form of balconies around the building.

Level 11 (plan reference)

- Roof top communal open space extending around the plant and lift overrun with perimeter planting.

**Voluntary Planning Agreement**

The VPA generally involves the payment to Council of a one off monetary contribution of \$205,315. This contribution will be in addition to the payment of all applicable Section 94 contributions required by Council, public domain improvements and construction related fees relating to hoardings, construction parking zone permits and hoarding inspections. A separate report is provided in Appendix 4, which provides more details about the VPA.

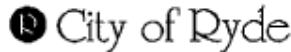
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**Key Figures of the Project**

Number of one bedroom apartments	16
Number of two bedroom apartments	43
Number of three bedroom apartments	20
Number of retail units	6
Area of retail units	912.34m <sup>2</sup> (based on amended plans dated 8/5/2012)
Number of car spaces	155 plus one loading bay
Area of communal open space	580.09 m <sup>2</sup>
Area of deep soil planting	Nil

**6. Background**

**i. Previous Applications / Site History:**

The subject site formerly contained three (3) church buildings, two along the Rutledge Street frontage (with one at the corner of Rutledge and Trelawney Streets) and another set back behind. The building at the site's corner was the St Andrews United Church Building. The other building along Rutledge Street was a church hall, whereas the building behind was an amenities church building.

Council's records suggest that the site was used as a place of public worship from approximately 1910. A development consent was issued in May 2003 (Development Consent Number 1237/2002) for the demolition of the buildings. The buildings were subsequently demolished.

On 13 July 2004, Council considered a development application proposing a 10 storey mixed use development with 62 units; 593m<sup>2</sup> retail/commercial floor space and 115 basement parking spaces at the subject site. Despite a recommendation for approval, Council resolved to refuse the application on the basis that 'it does not comply with the development control plan with respect to height and sight lines'. A notice of determination was issued on 22 July 2004.

An appeal was lodged in the Land and Environment Court against Council's refusal. The matter was heard on 16 and 17 December 2004. As a result of the Court's findings, (listed below), the development application was refused.

*Any design for this site needs to meet a number of objectives.*

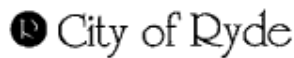
- *First, the site is in an urban village zone and the intention of DCP 39 is that new development should have an urban village character. Development should be of human scale in the streetscape, being generally two to three stories in height. Taller building elements set back from street are permissible but they should not dominate.*

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- *Second, Trelawney Street is to be developed for the enjoyment and utility of pedestrians with a high level of aesthetic amenity at street level.*
- *Third, Trelawney Street is a retail/pedestrian priority street and at its intersection with Rutledge Street forms a gateway to the Eastwood Town Centre. The street corner portion of site is therefore a gateway site for the purposes of DCP 39 and notwithstanding the first objective above should be developed accordingly. More particularly the corner element of the building should address both streets and be stepped up especially in relation to structures at the street frontages.*
- *In my view when these objectives including the various relevant provisions of DCP 39 are considered and applied to the site they indicate a form of development unlike the proposal for which consent is sought. Whilst I agree with Dr Lamb that strict enforcement of the development controls in DCP 39 would, in relation to this site, result in an unreasonable restriction on development, this does not mean that the controls should be disregarded. Although strict compliance is not necessary they still have an important function.*
- *I am satisfied that a three-storey building fronting Trelawney Street would be acceptable but when the building height plane is applied to this height and notwithstanding the 3 m set back, a significant proportion of the building above this plane will be apparent. The bulk of the building as would present to Trelawney St. and indeed to Rowe Street would be excessive and inconsistent with the urban village, streetscape and human scale objective.*
- *Whilst I do not accept that for this site there can be no development above the building height plane I find the 3 m set back for the four levels of building above the building height plane to be inadequate. The bulk of the building as would present to Trelawney St. and indeed to Rowe Street would be excessive and inconsistent with the urban village, streetscape and human scale objective.*
- *The design of the building at the street corner - The building element as proposed would not be sufficiently dominant taking into account that the bulk of the main building behind would visually overwhelm it. The photomontage confirms this.*
- *I have therefore decided that, in terms of the variations provisions in section 3.3 of DCP 39, the proposal would not meet the intention of the control nor would it be consistent with the aims, principles and strategies. Whilst I accept that strict application of the building height plane would be unreasonable or unnecessary, the extent of the non-compliance is excessive and in the circumstances the application should not be approved.*

Refer to Attachment 5 for elevations that formed part of the refused DA.

**ii. Background to Subject DA:**

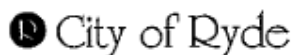
The subject DA was lodged on 28 November 2011 concurrently with LDA No. 2011/0611, for the erection of a mixed use development at 3-5 Trelawney Street, Eastwood.

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Prior to lodgement, an initial scheme was subject to two 'predevelopment application reviews' and two reviews by Council's Urban Design Review Panel (UDRP). The reviews resulted in a number of recommendations. The recommendations made by the UDRP and resultant changes to the scheme have been outlined in the section below '*Urban Design Review Panel*'. One of the main issues raised at the reviews was that the development needed to achieve compliance with the LEP height standard.

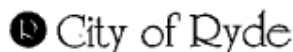
Below is a chronology of events, (including meetings, discussions and correspondence), between the applicant or applicant representatives and Council officers.

Date	Event
<b>Pre-DA Submission</b>	
17/08/2010	A meeting was held between COR's Group Manager Environment and Planning, the owner/developer, the architect and the applicant's consultant town planner, to discuss the concept proposal for the redevelopment of the site.
25/2/2011	A prelodgement meeting and UDRP meeting were held.
15/06/2011	A letter from the owner/developer was sent to COR's General Manager seeking a 'Workshop Meeting' with the Mayor
19/07/2011	A workshop was held and verbal presentation was made to the Councillors.
6/09/2011	The owner/developer sought another workshop meeting.
04/10/2011	Workshop held.
21/11/2011	Plans and a VPA (voluntary planning agreement) were dropped off at the front Counter by the applicant for checking prior to formal lodgement.  An email was sent by Council staff advising that the dropped off documents did not contain the explanatory notes required under Clause 25E of the EP&A Regulation re the VPA.
<b>Post - DA Submission</b>	
28/11/2011	The subject DA was lodged.
05/12/2011	The DA was placed on public exhibition/notification from 5/12/2011 until 18/1/2012. The applicant was notified of the public exhibition/notification period.
08/12/2011	The VPA was referred to the Executive Team (ET).
15/12/2011	A consultant was selected to assess the DA.
23/12/2011	A letter was sent to the applicant advising that the VPA offer was not supported by ET at its meeting of 16/12/2011. Amendments were requested.
04/01/2012	A letter was sent to the Eastwood Chamber of Commerce granting an extended submission period until 15/02/2012.

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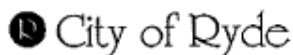
**ITEM 3 (continued)**

Date	Event
12/01/2012	Councillor Information Bulletin (CIB) item advising of the VPA offer submitted by the applicant for the DA.
22/02/2012	The applicant submitted a written response to the submissions received during the DA notification/exhibition period. It generally included further justification of the scheme and amendments to address vehicular access/safety.
08/03/2012	A letter was sent to the applicant requesting additional information and design changes. The applicant was advised that the application in the form submitted could not be supported by staff. This resulted in two (2) meetings in which the matters raised in the letter were discussed.
22/03/2012	Flood information was provided to the applicant
04/04/2012	A meeting was held with the applicant re VPA
05/04/2012	A CIB item was prepared advising of the details of the VPA
12/04/2012	<p>In response to Council's letter dated 8/03/ 2012, the applicant submitted a formal written response with accompanying documentation. (The additional information and amendments requested in the letter are listed in italics below this table. Generally, no major changes were made. They were limited to:</p> <ul style="list-style-type: none"> <li>- Addition of steps along the street frontages of the site;</li> <li>- Reconfiguration of Units X03 located on the east elevation facing the approved Eastwood Shopping Centre development;</li> <li>- Reorientation of Units 109-509 and resultant amendments to adjacent Units 110-510 and Units 109-509.</li> <li>- Increase to the lower floor levels (by 300mm); and</li> <li>- Changes to basement storage and bike/motorbike parking areas.</li> </ul>
14/5/2012	<p>The applicant provided a further submission that separately addressed technical issues raised by Council's Public Domain Officer, Waste Officer, Traffic Engineer and Stormwater Engineer. Generally no major changes have been made to the development scheme. Changes have been limited to the following:</p> <ul style="list-style-type: none"> <li>- Setback of the car/truck access;</li> <li>- Minor adjustments to the lower ground bin store areas;</li> <li>- Addition of a service ramp behind the loading dock and deletion of ramps around the lift facilities;</li> <li>- Relocation of fire hydrant;</li> <li>- Reduction to the lower ground retail area from a total of 339sqm to 311.34sqm;</li> <li>- Addition and relocation of storage zones at lower ground level;</li> <li>- Addition of a hard waste area at lower ground level;</li> </ul>

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Date	Event
	<ul style="list-style-type: none"> <li>- Addition of toilet facilities, including a separate accessible facility, at lower ground level;</li> <li>- Minor adjustments to the fire stairs and area of residential lobby;</li> <li>- Minor adjustments to the steps and entries along Trelawney Street; including the deletion of steps and provision of an internal ramp to the lower ground retail tenancy located further south; and</li> <li>- Minor increases to the lower ground retail floor levels.</li> </ul>
18/04/2012	An amended VPA was submitted. A telephone conversation was held between Council staff and Mr Lyon regarding the discrepancy in the VPA offer, as discussed in the meeting held on 4 April 12. The VPA was referred to ET
19/04/2012	A letter was sent to the applicant advising that ET did not support the amended VPA
20/04/2012	Amended plans were referred to the Roads and Maritime Services
24/04/2012	A letter was received from Mr Lyon complaining about delays in the DA processing. An amended VPA was submitted which increased the one-off cash contribution. The amended VPA was considered by ET at its meeting of 4 May 2012.
21/05/2012	Amended plans were submitted indicating minor changes to some levels adjacent to the footpath in response to the flood levels.
29/05/2012	The VPA was considered by Council's VPA Panel. Concerns were raised by the Panel in terms of the wording of the some sections of the VPA as well as the explanatory note. The applicant was advised of these concerns on 29/05/2012 and 1/06/2012. The final version of the explanatory note was received by Council on 30/05/2012 and the final version of the VPA on 8/06/2012.

iii. Response by Applicant to Council's letter dated 8/03/2012

The additional information and amendments requested in Council's letter dated 8/03/2012 are provided in italics below this table. A comment is provided for each in relation to the applicant's response.

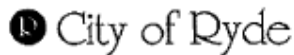
- **Amendments to the Height:** *The proposed development does not comply with the maximum permissible height prescribed under Clause 4.3 – Height of Buildings of the Ryde Local Environmental Plan 2010 (RLEP 2010). The variation to the height control, as submitted, cannot be supported. The following comments are made in respect to the height of the development.*
  - *A reduction to the overall height of the building so the maximum RL created by the roof top plant matches that approved for the development directly adjacent to the site for the Eastwood Shopping Centre;*

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- *The deletion/setback of that part of the building to the west that encroaches the 18.5m height standard, i.e. reconsideration of units within the non-compliant zone and above a plane projected from eye level from the opposite side of Trelawney Street (near the boundary of 3-5 Trelawney Street) to the edge of Level 4; and,*
- *Reconsideration of the location of the upper levels, lift shafts and other roof plant structures as to be located behind the plane explained in the point above, so that these elements cannot be seen from footpath level*

Comment: No amendments have been made by the applicant.

- **SEPP 65 Compliance:** *Amendments are to be made to achieve greater compliance with SEPP 65 - Design Quality for Residential Flat Buildings and the associated Residential Flat Design Code. This includes: A detailed response as to how the design has responded to the comments made in pre lodgement advice regarding SEPP65. Where design changes have not been made, and are pressed by the applicant, justification is required as to why the scheme should be supported by Council. Particular emphasis should be given to levels of amenity and the relationship of the building to the public domain and the adjoining development.*

Comment: Generally no changes have been made to the proposed height. Further justification has been provided by the applicant. The matters have been addressed in the section 'Urban Design Review Panel'.

- **Communal Open Space:** *Provision of extra communal open space to achieve compliance with the Residential Flat Design Code requirement of least 25%-30% of the site area. It is recommended that the extra space be provided on Level 6, i.e. allocation of the area to the west of the central core that is not directly connected to the units. The plans shall be marked accordingly to clearly delineate the communal open space and its area.*

Comment: The plans have been amended to provide extra communal open space on Level 6 as to achieve compliance.

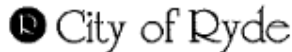
- **Unit re-orientation / Solar Access:** *The possible re-orientation of at least one extra west facing unit to the north of Levels 1 to 5 (preferably Units 109, 209, 309, 409 & 509). This should include the relocation of the main living area and private open space to the northern facade. The relocated units and adjacent north facing units (110, 210, 310, 410 & 510) and west facing units (108, 208, 308, 408, and 508) shall be designed to receive at least 2 hours of sunlight to main living areas and private open spaces between 9 am and 3 pm in mid winter, where possible.*

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Comment: An optional plan has been submitted that indicates the reorientation of the living rooms of Units 109, 209, 309, 409 & 509, and resizing of adjacent Units 110, 210, 310, 410 & 510. This only increases the amount of solar access to the units if the impact of the approved Eastwood Shopping Centre is not taken into consideration.

- **Solar Access:** *The solar access requirement of the whole development needs to be considered in the light of the overshadowing impact of the approved development on the neighbouring property to the east. Accordingly, the shadow diagrams (including elevation solar access diagrams of the development) and submitted solar access table should be amended to include that impact.*

Comment: The applicant submitted a summary table indicating the impact of the approved Eastwood Shopping Centre development on the proposed development with respect to the achievement of the solar access requirement of the Residential Flat Design Code (RFDC) for living rooms only. The requirement also relates to private open spaces. These details have not been provided.

- **Solar Access Table:** *The solar access table should also be amended to separately indicate achievement of the solar access requirement in living areas as opposed to the private open spaces / balconies of each unit, as the Residential Flat Design Code indicates the achievement of at least 2 hours of solar access to living rooms and private open space. It will be generally accepted that a living room has solar access if the sun falls on modest portions of related glazed areas. It will be generally accepted that a private open space has solar access if a useable strip is in sunlight or sunlight will fall on a seated person.*

Comment: As stated above, the solar table has not been amended to separately indicate achievement of the solar access requirement to the private open spaces / balconies of each unit as opposed to living rooms. Accordingly compliance of the private open spaces with the requirement cannot be verified.

- **Solar access diagrams:** *Additional elevation solar access diagrams of the proposed development shall be provided to indicate the impact on the south elevation between 9am and 3pm during the winter solstice, as well as the impact on the west elevation during 9am to 1pm.*

*It is also requested that solar access diagrams (including diagrams of the proposed building elevations) be submitted for the equinoxes during 9am and 3pm.*

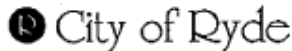
*A statement should be provided by the Architect to certify that all the solar access diagrams have been prepared to true north.*

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Comment: The applicant has submitted additional elevation solar access diagrams indicating the impact on the south elevation and a statement certifying that the solar access diagrams have been prepared to true north.

No solar access diagrams have been submitted for the equinoxes. This information was requested to ascertain the extent of impact during the equinoxes which represents the median situation, as the submitted shadow diagrams indicate the worst case scenario.

- **Survey Plan** - *The submitted survey plan is not current and accurate. (The survey is dated 21/12/1999). A recent site inspection has revealed that the buildings indicated on the plan no longer exist. Council gave approval for the demolition of the buildings in May 2003 and demolition was likely to have occurred prior to May 2008, i.e. before the lapsing of the consent. For the purpose of measuring the building height of the development it is understood that the 'existing' ground level is generally interpreted to be the level that was existing prior to any works being undertaken on the site. If this does not include the level of the land prior to the demolition works, then an amended survey plan should be submitted to indicate spot levels and contours as currently existing. Given the requirements of Clause 55 (as follows) of the State Environmental Planning Policy (Infrastructure) 2007, details of any existing gas pipeline corridors should be provided by the surveyor.*

Comment: The applicant has advised that 'existing boundary levels to the site and existing footpath have not altered following site clearing and therefore the survey can be relied on'. The concern with the levels relates back to measuring the 'building height'. Therefore whether or not the boundary and footpath levels have been altered is less of a concern in this regard.

- **Gas Services:** *Given the requirements of Clause 55 (as follows) of the State Environmental Planning Policy (Infrastructure) 2007, details of any existing gas pipeline corridors should be provided by the surveyor.*

Comment: Details of existing gas pipelines have been submitted.

- **Scale of Shadow Diagrams** - *The shadow diagrams (in plan), south elevation and west elevation shall be submitted to scale. The shadow diagrams should be submitted at a larger scale than the indicative size of those submitted.*

Comment: Updated shadow diagrams increased to a scale of 1:1000 have been submitted.

- **Strata Subdivision** - *The subject application proposes strata subdivision. It is requested that the applicant submit three (3) paper copies and a PDF copy of draft strata subdivision plans particularly to indicate the common property, unit entitlements and proposed easements.*

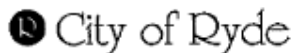
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Comment: No draft plans have been submitted. Should the application be approved, a condition is recommended to be included in a consent to require submission of a final plan of subdivision prior to the issue of any Subdivision Certificate.

- **Wind Impact Report** - It is requested that a wind impact assessment be prepared. Whilst the Statement of Environmental Effects refers to the wind impact, it does not adequately illustrate how the complex has been designed to mitigate the wind effects, particularly in relation to the balconies at the north east and north west building corners

Comment: The applicant has submitted details on measures that will assist in minimising the impact. These are satisfactory.

- **Heritage Item Within The Vicinity:** Number 186 Rowe Street, Eastwood, is listed as a heritage item under Ryde Local Environmental Plan 2010 and located within the vicinity of the subject site. As per Clause 5.10 (5) it is requested that a heritage management document be prepared that assesses the extent to which the proposed development would affect the heritage significance of the heritage item.

Comment: The heritage item is the Masonic Hall which is located to the northeast of the site however it does not adjoin the site. Approval was granted for the demolition of this Hall as part of the approval for the Eastwood Centre. No document has been submitted.

- **Crime Risk Assessment Report** - A crime risk assessment report should be prepared by the applicant demonstrating compliance with the CPTED principles and addressing the issues of concern raised in the pre lodgement advice date 8 April 2011

Comment: A crime risk assessment has been provided by the applicant.

- **Stormwater** - As required by Clause 3.2(a) of 'Part 4.1- Eastwood Town Centre' of the Ryde Development Control Plan 2010 the applicant is to submit a 'stormwater inundation impact assessment' or 'stormwater management strategy'.

Comment: Following consultation with Council's Engineer, the plans have been amended to comply with the 100 year ARI Flood Level.

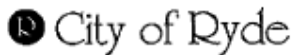
- **Traffic and Parking** – Amendments to the plans of the proposed development at either 7-9 Rutledge Street or 3-5 Trelawney Street to indicate an off-set between the proposed driveways of each development site. Submission to Council of a Road Safety Audit for both accesses from Trelawney Street. Amendments to the traffic reports for both the Rutledge Street and Trelawney Street DA's. The results of each traffic report differ in terms of intersection performance. It is requested that both sites are included in each report to give a more accurate representation of

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*the impacts. Amendments to the SIDRA modelling to take into consideration pedestrian counts.*

**Comment:** No off-set between the proposed driveways is proposed. The applicant has submitted further documentation prepared by specialist consultants, including an amended Road Safety Audit and SIDRA modelling. These have been reviewed by Council's Engineer and *Roads and Maritime Services*. Refer to the below section '*Consultations*'.

- **Architectural Drawings** - Further drawings should include clarification of the following details:

- Which external glazing will be operable or fixed. A schedule shall be provided accordingly.

**Comment:** No details have been provided. The applicant has advised that details will be provided at Construction Certificate (CC) stage. These details are necessary to ascertain whether or not units will have access to natural ventilation opportunities. Should the application be approved, a condition is recommended to require all habitable room windows to be operable.

- The exact nature of the easement encroachment indicated on the lower ground floor plan.

**Comment:** The lower ground floor plan has been amended to delete a shaded encroachment into the easement extending along the northern side of the site.

- Whether or not all balustrades on the west elevation will be glazed. If they are not, then amendments to the solar access diagrams and solar access table for this elevation should be provided to indicate the impact of masonry balustrades.

**Comment:** The solar access diagrams have been amended to take into account the impact of the balustrade materials (i.e. permeable or non-permeable). Should the application be approved, a condition is recommended to require balustrades to be as per the materials indicated on the solar access diagrams (glazed or masonry) and for these materials to be clearly indicated on Construction Certificate plans.

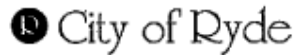
- Further justification with respect to Clause 4.6(3)(b) of Ryde Local Environmental Plan 2010 addressing the additional impact resulting from the non-compliant height portions particularly with respect to privacy, views (including the relevant provisions of the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 as the site is within the catchment area), additional overshadowing and achieving the objectives for height. This may include shadow diagrams indicating a compliant situation and/or the impact during the equinoxes.

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Comment: Further justification has been provided. This has been considered with respect to 'Clause 4.6' below.

- *Clarification of the division and unit allocation of the basement storage areas.*

Comment: No details on the division and allocation have been provided.

- *Whether or not any car spaces will be caged. This should be considered for any resident spaces on the same level as non-residential spaces for security reasons. The plans shall be amended accordingly.*

Comment: The applicant has advised that the details will be provided at CC stage. If the DA is approved, a condition is recommended to ensure any caged spaces and other surrounding spaces maintain the minimum dimensions as required by AS 2890.1.

- *Whether any discussions have been had with Energy Australia with respect to the proposed substation and provision of the power supply underground.*
- *Whether any discussions have been had with other utility providers with respect to providing installations underground. Any related correspondence should be forwarded to Council to indicate that the utilities can be and will be provided underground.*

Comment: The applicant has provided correspondence from Ausgrid.

- *The location and height of the rooftop mechanical exhaust structure required for internal toilet/bathroom/laundry areas of the residential units.*

Comment: The applicant has advised that exhaust structures required for internal toilet/bathroom/laundry areas will be below parapet level and therefore screened from view. If the application is to be approved, appropriate conditions should be included in a consent to ensure this and that the same is achieved with respect to the garbage room exhaust.

- *Bicycle parking: Clarification of the number of bicycle parking spaces and type of related facilities for security within the shaded 'bicycle and motorbike parking' indicated on Drawing Number DA-09 Issue A.*

Comment: The plans have been amended to indicate the details.

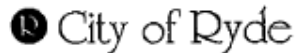
- **Acoustic Impact of Development** - *It is recommended that the submitted acoustic report be amended to indicate the combined additional acoustic impact of the proposed developments at both 7-9 Rutledge Street and 3-5 Trelawney Street, Eastwood (i.e. the impact of the proposed uses, additional traffic noise*

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*and plant / AC/ exhaust noise) on the existing residential properties on the opposite side of Rutledge Street.*

Comment: An amended report has not been submitted.

- **Voluntary Planning Agreement (VPA)** – *It is also noted that a VPA has been submitted with this development application and the VPA has been rejected by Council's Executive Team. It will be necessary to resolve the VPA matter to enable this assessment to be completed.*

Comment: An amended VPA is discussed in greater detail in Annexure 4 to this report.

**7. Submissions**

The proposal was advertised and notified in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised/notified from 7 December 2011 until 18 January 2012.

One submission was received in favour of and three submissions were received objecting to the development. The issues raised in the submissions are addressed below.

- *Inadequate Parking*

Comment: The RDCP table below indicates that the minimum requirement prescribed under Section 9.3 – Car Parking will be met by the proposal. A condition is recommended to ensure the spaces are appropriately allocated.

- *The building height is substantial which could potentially invade our privacy and block direct sunlight (6 Rutledge Street)*

Comment: No adverse privacy implications would result given the separation between the existing dwelling house and proposed building. The RFDC recommends a building separation of 18m between habitable rooms and balconies from 5 to 8 storeys (25m in height) and 12m up to 4 storeys (12m in height). The building will have a separation of over 20m.

An adequate amount of solar access will be maintained to the property. In particular, a useable portion of the primary private open space will receive at least 3 hours of sunlight during 9am and 3pm on June 21.

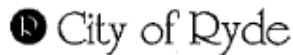
- *I enjoy Asian foods, but do not enjoy the way many of the shops are displayed and maintained and the build up and smell of garbage.*

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Comment: The matters are not specific to the subject DA however, conditions are recommended to be included in a consent to ensure appropriate waste storage facilities, maintenance of the facilities, and frequent waste collection services are provided.

At this stage the intended use of the retail uses is not known. In all likelihood any food shop would require a new DA as it may not fall into the category of exempt development. At this stage further attention could be given to waste issues.

- *I am concerned that the infrastructure of the small Eastwood Shopping Centre will not be able to support such a large development and services will be overstretched.*

Comment: The submission has not identified what infrastructure is of concern. Regardless, it is noted that the proposed stormwater drainage scheme has been reviewed by Council's Engineer, who has recommended conditions be included in a consent to ensure an acceptable outcome. Conditions are also recommended to ensure that the applicant liaises with the necessary service providers (for gas, water, electricity and telecommunications) and services are installed in accordance with the requirements of the provider. The RMS and Council's Traffic Engineer have reviewed the application. They have not raised any concerns with respect to the existing road infrastructure. Council's Traffic Engineer has advised that the surrounding roads will adequately cater for the development.

- *Cars and delivery vehicles entering and exiting from the proposed buildings will cause further traffic congestion.*

Comments: Council's Engineer and the RMS have reviewed the related traffic impacts of the proposal. They have not raised any concerns to the traffic impact. Council's Traffic engineer advised that increases in queue lengths and average delays are generally acceptable. Conditions have been recommended to be included in a consent, including a condition for queuing spaces at the driveway entrance.

- *Overdevelopment of the site / Excessive Size / The developments are out of scale to the surrounding buildings and are too close to the Eastwood Public School. I would appreciate Council reconsidering the size and height of the developments.*

Comment: Agreed. The development does not meet the RLEP Height and objection controls resulting in a building that has excessive height and scale.

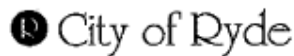
- *The proposals will complement the Eastwood Centre Development and provide the much needed gateway into the Eastwood town centre from Trelawney Street. The sites as they exist now present a very poor image of the town.*

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Comment: The proposal will match the architectural style of the Eastwood Shopping Centre development; however it will represent excessive height and scale which does not meet the RLEP height and objective controls, as well as respect the existing and anticipated built form of neighbouring developments. These matters are discussed further in this report. The gateway concept can still be achieved, with a development that better responds to the LEP controls and its immediate surrounds.

- *The additional residents are expected to increase spend within the town centre.*

Comment: It is acknowledged that the development will result in a positive economic impact with respect to supporting the economic viability of existing and proposed shops within the centre.

- *Inadequate setback of 6m proposed to the eastern boundary. A minimum 9m setback should be provided from the common boundary (at the interface between the west facing Units of the Eastwood Shopping Centre Development). The RFDC recommends 18m – 24m separation but the proposal provides only 15m. Adequate separations will improve privacy levels between the developments and control overshadowing*

Comment: The resultant building separation has been addressed in the below section 'Residential Flat Design Code'.

- *Lack of detail regarding overshadowing on west elevation of approved Eastwood Shopping Centre Development. To ascertain impact on the approved units elevation shadow diagrams should be prepared to demonstrate development will not reduce solar access to the west facing units.*

Comment: No details have been provided to confirm compliance with the RFDC solar access requirement for at 'least 70% of apartments in a development should receive a minimum of 2 hours direct sunlight to living rooms and private open spaces between 9am and 3pm in mid winter'.

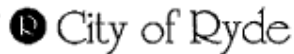
- *It will not be appropriate for vehicles waiting to turn right into 7-9 Rutledge Street to obstruct vehicles entering the Eastwood Centre. At this point there should be the ability for incoming vehicles to pass and this will leave some 3.3m for westbound vehicles. It will not be feasible for service vehicles turning out of 7-9 Rutledge to be contained to the westbound lane. It would be preferable if the ROW were widened so that service vehicles could negotiate the single lane and turning constraints.*

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Comment: The applicant submitted documentation which indicates the following in response to the matters raised:

- The right of way (ROW) will consist of 3 traffic lanes, with one through lane in each direction and a right turn lane for vehicles turning into the site.
- The addition of a warning light and convex mirror at the access driveway to improve visibility and circulation for vehicles in the ROW.
- Turning circles for small to medium trucks and justification of the access widths for trucks.

Council's Traffic Engineer has reviewed the documentation. Comments have been provided in the section below '*Consultation*'.

Should the application be approved, conditions are recommended to ensure the warning light and convex mirror are provided.

- *No indication as to how and when roller shutter on 7-9 Rutledge will be opened or closed/ There is no sightline splay provided on the access responding to AS 2890.1. There should be a splay and preferably a 6m setback for the roller shutter so that at least a car can wait out of conflict while the shutter opens.*

Comment: The applicant has provided written confirmation of the following:

- Roller shutters will be open during the day and closed at night.
- The shutters have been relocated approximately 10m into the site, with one located across the basement car park ramp and other across the ground floor parking area.
- Access outside normal business hours will be via remote control and intercom.
- A loop detector on the ramp will activate the roller shutter upon exit.
- Loading docks will be outside the shutters.
- On exit or for garbage trucks to access the garbage enclosure, the driver will open ground floor shutter via an access control pad within the dock.
- The access driveway has been modified to provide appropriate sight line splays in accordance with AS 2890.1 – 2004.

Council's Traffic Engineer has reviewed the submitted information. Comments have been provided in the section below '*Consultation*'.

Should the application be approved, conditions are recommended to ensure the above access features are provided.

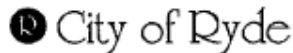
- *Proximity of the proposed 7 Rutledge St access connection to the Eastwood Centre connection: connections will be immediately adjacent with no sightline provisions for egressing drivers; not be possible to differentiate between the accesses (i.e. for the Eastwood Shopping Centre and 7-9 Rutledge Street); potential rear end collision with drivers assuming vehicle ahead will enter the*

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*Eastwood Centre but stops to enter 7-9 Rutledge; drivers turning right into 7-9 Rutledge will have little sighting of vehicles turning left out of Eastwood Shopping Centre. Access connection should be at least 6m from Eastwood Shopping Centre. A traffic mirror should be installed opposite the access to facilitate sighting of vehicles egressing the Eastwood Shopping Centre*

Comment: The applicant has advised the following in response:

- A convex mirror will be located on the ROW and openings have been provided on the eastern site boundary, adjacent to the driveway, to improve visibility.
- Overhead signage will be provided at the vehicular entry to clearly differentiate the subject site.
- The right of way (ROW) will consist of 3 traffic lanes, with one through lane in each direction and a right turn lane for vehicles turning into the site. This will provide 2 eastbound lanes, enabling vehicles accessing the Eastwood Shopping Centre to pass vehicles turning right into the site.

Council's Traffic Engineer has reviewed the matters. Comments have been provided in the section below '*Consultation*'. Should the application be approved, conditions are recommended to ensure the signage and convex mirror are provided.

- *There should be 2 egress lanes at the connection with Trelawney Street to that vehicles waiting to turn right do not obstruct heavier left turn movements.*

Comment: The applicant has advised that the submitted SIDRA analysis indicates that the intersection would result in average delays, with the highest being less than 15 seconds, which represents a satisfactory level of service.

It should be noted that, other than the information submitted in response to the objections, further information has been submitted to Council on 8/03/2012 and 14/05/2012 in relation to traffic impact issues. Council's Traffic Engineer and the Roads and Maritime Services (RMS) have reviewed the information. Comments have been provided in the section below '*Consultation*'.

**8. Clause 4.6 RLEP 2010 objection required?**

Is a Clause 4.6 RLEP 2010 objection required? A variation is sought under Clause 4.6 of RLEP 2010 seeking variation to the maximum height standard applicable to the site. The maximum height standard is 18.5m for the lot to the west and 30.5 for the lot to the east of the development site, as indicated on the extract of the RLEP 2010 below.

The proposed maximum building height will be 41.56m and located at the eastern side of the lift shaft. The building height is discussed further below in the section '*Clause 4.3 - Height of Buildings*'.

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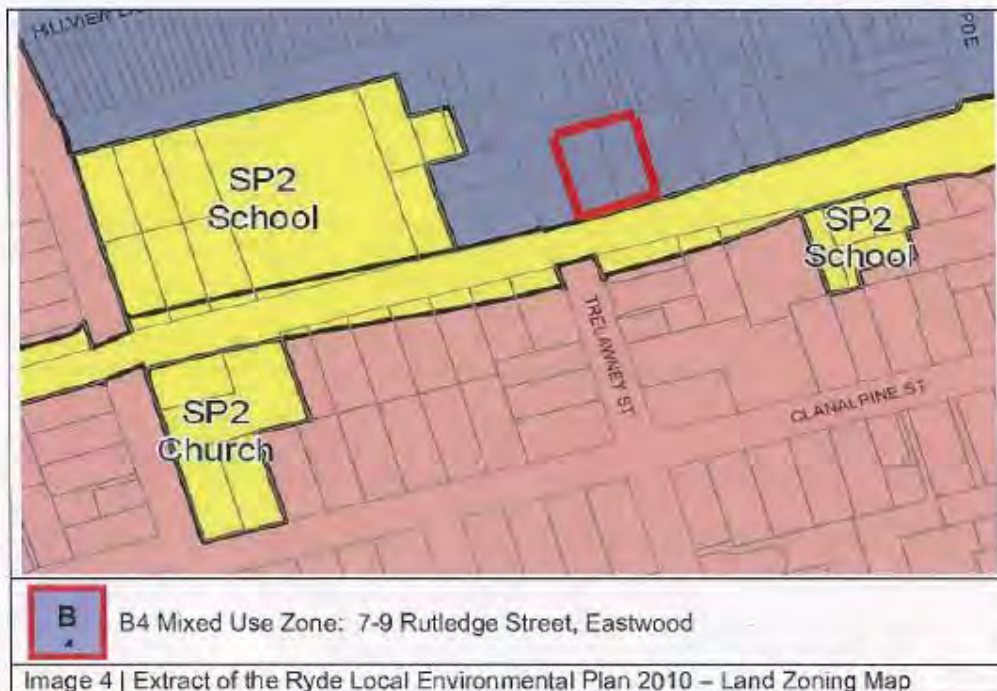
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9. Policy Implications

Relevant Provisions of Environmental Planning Instruments etc:

(a) Ryde Local Environmental Plan 2010

Zoning



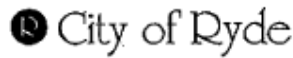
The site is zoned B4 Mixed Use under the Ryde Local Environmental Plan (RLEP) 2010. The proposed development is permissible with consent under this zone. It has been considered in relation to the objectives of the zone, as indicated in the table below. In summary, the development will be consistent with the objectives of the zone other than the last two objectives when considered in relation to the proposed height and corner location.

Objective	Comment	Satisfied
To provide a mixture of compatible land uses.	The proposal is for a mixed use development, which includes residential and retail/commercial uses, in a compatible manner, with the	Yes

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Objective	Comment	Satisfied
	retail/commercial being contained generally at street level and the residential above.	
<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>	The subject site has convenient access to both bus and rail facilities.	Yes
<i>To create vibrant, active and safe communities and economically sound employment centres.</i>	The proposal appears to generally adopt the Crime Prevention Through Environmental Design (CPTED) principles for safety in urban design, with respect to passive surveillance to both street frontages, and active retail uses at the street level. Conditions have been recommended by the NSW Police Force to adequately address the CPTED principles. These conditions should be included in a consent, should the application be approved. The residential use will assist in supporting commercial/retails uses in the area.	Yes
<i>To create safe and attractive environments for pedestrians.</i>	This objective refers to providing 'attractive' environments for pedestrians. As discussed above, the development will be excessive in height and bulk/scale, particularly along the Trelawney Street frontage. It will not respect the human scale, desired massing and express a strong corner form. These controls are linked to the 'urban village character'. The lack of regard to the human scale and this character indicates that the environment created will not be attractive for pedestrians.	No
<i>To recognise topography, landscape setting and unique location in design and land-use.</i>	This objective relates to recognising the location in the design outcome. As discussed above, the design will not appropriately respond to its location.	No

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Mandatory Requirements

Clause 4.3 - Height of Buildings

The maximum permissible height applicable to the subject site, as indicated on the RLEP 'Height of Buildings Map' is 18.5m for the lot further west and 30.5 for the lot further east.

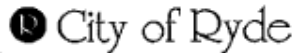


Image 3| Extract of the Ryde Local Environmental Plan 2010 – Height Map

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The definition of 'building height' in the RLEP 2010 states:

*'building height (or height of building)' means the vertical distance between ground level (existing) and 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."*

*'ground level (existing)' means the existing level of a site at any point.*

The submitted survey plan is not current and does not indicate the 'existing' ground levels. It indicates ground levels and buildings that existed prior to demolition works, (the subject of Development Consent Number 1237/2002 issued in May 2003).

The applicant was requested to submit a current survey of the site. A current survey has not been provided. In response, the applicant has advised that 'existing boundary levels to the site and existing footpath have not altered following site clearing and therefore the survey can be relied on'. Whether or not the levels at the site boundaries and footpath levels have been altered is less of a concern in this regard. The levels of concerns are those that will be located under the proposed higher building sections, setback from the boundaries of the site. Given that demolition has been undertaken there may be a variance with the RLs indicated on the survey over the site. As such, in the absence of a current survey, the height non-compliances discussed below and referenced in other sections of this report are based on the submitted survey and therefore may not represent exact variances. They should be acknowledged as approximates.

The maximum building height will be 41.56m in the location of the eastern end of the lift shaft. This represents a height increase of 4m with respect to the approved roof line of the adjacent building of the Eastwood Shopping Centre and an overall variance to the maximum permissible height in this location (30.5m) of 11.06m. The maximum building height will be 41.34m in the location of the western end of the lift shaft. The western end of the lift shaft is located on the lot further west that is subject to an 18.5m height limit and therefore would represent a maximum height increase of 22.84m. The additional height would be visible from some viewing points along Trelawney Street as it would be located at the building edge along part of the elevation. The same would result from the adjacent plant room (about 1m lower than the lift shaft). Regardless, other than the roof top structures that exceed the height, the main built form will also exceed the maximum permissible height limits as summarised below:

Upper Levels:

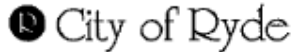
- Northwest building corner: height of 38.063m measured up to the roof edge. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 19.563m.

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- Northeast building corner: height of 38.85m measured up to the roof edge. This building section is subject to the maximum 30.5m height standard and therefore would represent a variance of 8.35m.
- Southeast building corner: height of 37.3m measured up to the roof edge. This building section is subject to the maximum 30.5m height standard and therefore would represent a variance of 6.8m.
- Southwest building corner: height of 36.663m measured up to the roof edge. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 18.163m.

**Levels 4-5 (over lot further west)**

- Northwest building corner: height of 22.69 m measured up to the parapet. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 4.19m.
- Northeast building section: height of 22.69m measured up to the top of the roof planter. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 4.19m.
- Southeast building section: height of 21.49 m measured up to the top of the roof planter. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 2.99m.
- Southwest building corner: height of 19.84m measured up to the roof edge. This building section is subject to the maximum 18.5m height standard and therefore would represent a variance of 1.34m.

The above non-compliances are demonstrated on the following diagrams.

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Diagram 1: West Elevation -

Area of non-compliance with maximum 18.5m and 30.5m LEP Height Standards

Building Envelope of RDCP 2010 (measured from existing Rutledge Street boundary)

Clause 4.6 – Exceptions to development standards

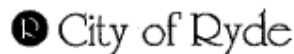
Clause 4.6 of RLEP 2010 allows exceptions to development standards. Consent must not be granted for development that contravenes a standard unless the consent authority has considered a written request from the applicant that seeks to justify contravention of the standard by demonstrating the following:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

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- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

The consent authority must be satisfied that the applicant's written request has satisfied the above criteria and that the proposed development will 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. In addition, consent cannot be granted unless the concurrence of the Director – General has been obtained. These matters are discussed below.

**1. Written request provided by the applicant.**

The applicant has provided a written request seeking to justify the variation to the development standard in Section 7.1 of the Statement of Environmental Effects prepared by Ludvik & Associates and a further letter dated 12 April 2012 prepared by Morris Bray Martin Ollmann Architects.

**2. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case.**

The applicant has argued that the variation in respect of the height control is acceptable given the following:

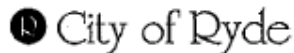
- a. *The 'gateway location' of the site, i.e. it is necessitated 'to create an entrance statement at the Trelawney Street and Rutledge Street intersections together with the proposal at 3-5 Trelawney Street.*
- b. *The future character and form of the Eastwood Town Centre is largely dominated by the approved redevelopment of the Eastwood Shopping Centre site at 3-5 Rutledge Street, 152-188 and 196 Rowe Street. It will provide context for other development in this part of the centre.*
- c. *The approved Eastwood Shopping Centre buildings exceeded the building height standards. Council has accepted a SEPP 1 objection against the height standard to allow a twelve (12) storey element adjacent to corner of Rutledge Street and West Parade.*
- d. *It will maintain the character and proportions of development fronting Rutledge Street.*
- e. *It will not have any significant effect on the overshadowing of surrounding development.*
- f. *It will facilitate a satisfactory built form in the context of future development in this locality.*
- g. *It will be satisfactorily located in terms of existing major public transport services and the arterial road network; and*
- h. *It reinforces Trelawney Street as a major gateway into the Town Centre for the arterial road network.*

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- i. The proposal is consistent with the objectives of the B4 Mixed Use zone.*
- j. As the land is not visible from Sydney Harbour or the Parramatta River nor have any influence on matters required to be taken into consideration under the terms of the SREP.*

The reasons provided by the applicant, are not considered to be well based, except for reason 'g' and 'j'. The non-compliance particularly along the Trelawney Street frontage is excessive and inconsistent with the objectives of the zone and height standard. The development does not achieve a massing, human scale initiative and corner design outcome sought by Council's controls. These issues have been addressed in matter '4' below.

It should be noted that the approved Eastwood Shopping Centre development is not the key determinant of the future character of the Eastwood Town Centre. The key determinants are Council's controls, in particular how a development addresses and achieves these controls.

The DA assessment reports considered by the Planning and Environment Committee with respect to the Eastwood Shopping Centre redevelopment (inclusive of the Section 96 report) indicated a compliant building height, particularly for the building (Building A) directly adjacent to the site 7-9 Rutledge Street. As verified below, this site was subject to different controls.

The land at the corner of Rutledge Street and West Parade, that formed part of the Eastwood Shopping Centre has little correlation with the subject site in terms of the 'human scale' issue along Trelawney Street, which is identified as being a pedestrian priority street under the RDCP 2010. Council's LEP height standards seek a different massing towards West Parade in comparison to that along Trelawney Street. Whilst the DLEP increases the height limit of the lot further east to 33.5m, it still retains the 18.5m height limit for the lot further west. It is understood from the LEP 2010 Building Height map that the massing/scale that is intended to be achieved steps down in height along Rutledge Street from east to west. i.e. from 33.5m to 30.5m, then to 18.5m and then to 15.5m opposite the subject site (on the opposite corner of Trelawney and Rutledge Streets). Accordingly, in this respect the development does not reflect the desired future outcome.

Justification of the additional height based on an upgrade to the locality is not well-founded. The height control does not need to be exceeded to such an extent as to reinvigorate the area.

Insufficient information has been submitted to verify that a minimum of 2 hours solar access will be retained to the west facing units of the approved Eastwood Shopping Centre Development and whether or not the additional height results in a non-compliant situation to the approved development with respect to meeting the requirement for 'living rooms and private open spaces of at least 70 % of units in a

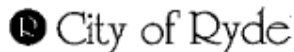
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*development to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.*

**3. Environmental grounds to justifying contravening the development standard.**

As demonstrated in this report, the development will not be consistent with the existing and desired future character of the area which is dictated by Council's LEP and DCP controls and relates to retaining the 'urban village' character. The built form will not be acceptable in terms of its massing, scale and height and resultant streetscape impact, as discussed in matter '4' below.

The applicant has indicated that the variation will not adversely affect any views from surrounding residential properties or influence the matters for consideration listed under Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. This is concurred with.

Subject to the adoption of the acoustic measures recommended in the acoustic report (except for non-operable external facing windows), the privacy implications will be satisfactory.

As outlined above, insufficient information has been submitted with respect to the solar access impact of the proposal on the approved Eastwood Shopping Centre Development. The assessment provided in the section 'RFDC' indicates the proposal will fail to meet the cross ventilation and solar access requirement to living rooms. Insufficient information has been submitted to verify compliance with the solar access requirement to private open spaces.

**4. Consistent with the zone objectives and objectives of the development standard.**

The development will not be in the public interest because it will be inconsistent with the following height and zoning objectives:

The objectives for height:

- (a) *to maintain desired character and proportions of a street within areas,*
- (c) *to enable the built form in denser areas to create spatial systems that relate to human scale and topography,*
- (d) *to enable focal points to be created that relate to infrastructure such as train stations or large vehicular intersections,*
- (e) *to reinforce important road frontages in specific centres.*

The objectives for the B4 Mixed Use zone

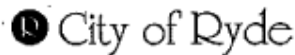
- *To create safe and attractive environments for pedestrians.*
- *To recognise topography, landscape setting and unique location in design and land-use.*

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The extent of the non-compliance is not considered appropriate in this case. The variances, both the vertical variances and continual horizontal, are along major building portions. Of more concern are the variances along the Trelawney Street frontage, though the variances caused along the Rutledge frontage should be limited.

The main concerns with the variance are as follows:

- The variances are not consistent with the objectives for 'building height' as well as the mixed use zone.
- The achievement of a 'gateway entrance' can be achieved without the necessity of varying the height control to such an extent.
- The development will not respect the desired future character of the area.
- The development will be excessive in density.
- The height has not been supported by the Urban Design Review Panel.
- The building projects further forward along Rutledge Street.
- The built form of the Eastwood Shopping Centre Development, directly adjacent to the site, had a compliant height and was subject to different statutory controls.

The above matters have been discussed in the assessment below.

- *The variances are not consistent with the objectives of 'building height' as well as some objectives of the zone. The development does not respect the existing and desired future character of the area.*

Objective (a) for building height is 'To maintain desired character and proportions of a street within areas'. Objective (c) is 'To enable the built form in denser areas to create spatial systems that relate to human scale and topography'.

A height limit of 18.5m applies to the corner lot and a height limit of 30.5m applies to the lot further east. A variance of approximately 1 storey to 6 storeys plus a 4m-high (maximum) roof structures are proposed for the built form on the corner lot. This variation is demonstrated in the previous diagrams and is not acceptable based on the intended massing for the area and human scale.

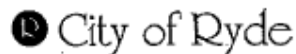
Based on Council's LEP Height Map, the lot further west is subject to a lower height limit to appropriately relate to the maximum, lower permissible height of development at the opposite corner site 3-5 Trelawney and create an obvious, sympathetic transition in height and massing from higher development to the east and lower development to the west along Rutledge Street. If half of the lot to the west is developed, to be 6 storey above the permitted control, the legibility in transition will be lost as well as any higher corner element treatment (as discussed below).

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Council's LEP aims to provide a development on the corner lot with a height 3m higher than that of 3-5 Trelawney Street. This will represent a sympathetic transition that is not excessive as to impact on a matching gateway approach, particularly to warrant development at 3-5 Trelawney Street to be higher.

Retaining the difference in maximum permissible height between the sites corner lot and eastern lot will create a clear emphasis and distinction at this corner, as the lot to the east is subject to a height standard that represents a 12m height increase. It is this difference in height and application of the lower 18.5m height limit over the whole rather than part of the corner lot which will create an emphasis, whilst enabling it to sympathetically match that of 3-5 Trelawney. Any corner elements that are appropriately designed, as indicated in the DCP diagram above, may be accepted to be higher than the 18.5m height standard. The proposed corner design is discussed further below.

The height limit of 30.5m applies not only to the lot further east but also to that part of the Eastwood Shopping Centre site along Rutledge Street, except for the site at the corner of West Parade and Rutledge Street. This site is subject to a height limit of 33.5m.

The development application (DA) and Section 96 application assessment reports for the Eastwood Shopping Centre indicated the building directly adjacent to the subject site provided a compliant situation. At the time of assessment of the Eastwood Shopping Centre DA, the provisions of the Ryde Planning Scheme Ordinance were applicable. Clause 51C limited the building height to '10 storeys or 30m'. The instrument did not have any related 'building height' objectives and consisted of objectives and principles for the Eastwood Urban Village that did not emphasise the 'human scale'. The Eastwood Shopping Centre adhered to the 10 storey height limit with the exception of Building C which was located to the immediate east of that site and was 12 storeys in height. A VPA also accompanied this non-compliance.

The built form on the development lot further east exceeds the height limit and the maximum RL of adjacent building of the approved Eastwood Shopping Centre. It also extends further towards Rutledge Street as to create an inconsistent street setback in comparison to that approved for the Eastwood Shopping Centre. The proposed increased massing towards Rutledge Street in comparison to that approved for the Eastwood Shopping Centre minimises the emphasis of any corner treatment and objective of '*enabling a focal point*'. This massing is also in breach of Council's envelope control prescribed in RDCP 2010, despite compliance with the 3m setback requirement of the DCP.

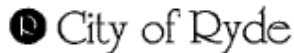
Based on the approved RL of the adjacent building of the Eastwood Shopping Centre it may be acceptable to allow a similar maximum RL for the main built form on the lot further east. This is on the proviso that it is clearly illustrated that the objectives for height (particularly the one relating to human scale) are met. This would require the

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proposal to be set back from the southern side to conceal the upper/non-compliant height and match the approved Rutledge Street setback of the adjacent building of the Eastwood Shopping Centre development, as well as be stepped back from the western side. This will ensure the massing reflected by the current and draft LEP height standards and emphasis to the street corner are appropriately resolved, as discussed further below. Any higher rooftop elements must be appropriately located as not to be visible from the opposite side of Rutledge Street or Trelawney Street. Any other parts of the built form over the maximum permissible height must not be visible from the opposite side of Trelawney Street.

It should be acknowledged that compliance with the maximum height standards ensures that if development were to be viewed from the opposite side of Trelawney Street, then the higher portion would not be visible from eye level as it would be setback behind the 18.5m height component. Accordingly, the standards have been developed to ensure strict compliance would ensure the objective of 'relating to the human scale' would be met.

Approval of the proposed development, is likely to set a precedence in terms of providing a higher height and massing than that anticipated by the RLEP or even the DLEP which increases the height of the lot further east to 33.5m. This is likely to impact on how future development will proceed along Trelawney and Rowe Street. If higher development is provided on surrounding sites along Trelawney and Rowe Streets, the 'gateway' emphasis proposed, (even though not considered appropriate for reasons discussed further below), will be diminished. The DLEP, like the current LEP consists of a similar objective for 'building height' relating to the 'human scale'.

It is noted that Draft Ryde Local Environmental Plan 2011 maintains the 18.5m maximum building height standard for the corner lot and adjacent massing along Trelawney Street and other surrounding sites to the north and west. Even though it increases the maximum building height standard for the lot further east to 33.5m, the current scheme doesn't achieve compliance with this maximum by a minimum of about 3m.

- *The achievement of a 'gateway entrance' can be achieved without the necessity of varying the height control to such an extent.*

Objective (d) of building height is 'to enable focal points to be created that relate to infrastructure such as train stations or large vehicular intersections'. Objective (e) is 'to reinforce important road frontages in specific centres'. Objective (e) can be related back to Objective (d) with respect to the road intersection treatment.

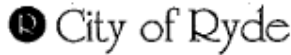
The proposed urban design outcome creates an excessively high and long facade along the frontages. This solution does not frame the corner of the site, but effectively increases the length and size of the site, which is not an appropriate design approach for corner sites based on standard practices as expressed in Council's DCP, and achieving Objective (c) which refers to the human scale. This scale is important along

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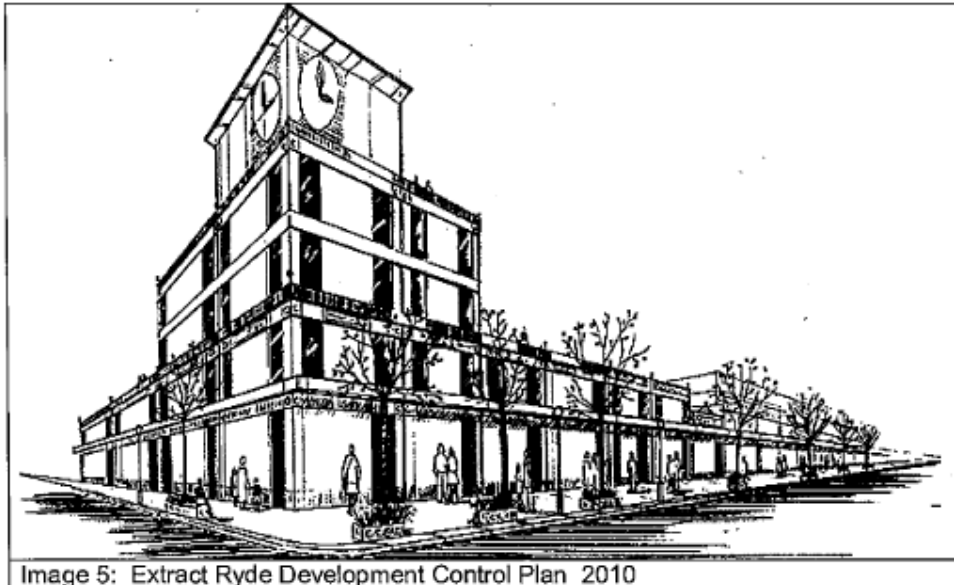


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Trelawney Street particularly given that DCP aims to retain this street as a high pedestrian amenity street. This matter is discussed further below. If coupled with the design outcome proposed for Trelawney Street, the visual emphasis is on the frontage and large scale rather than the corners of the sites. Degradation to achieving the human scale is intensified by this approach.

Council's RDCP 2010 provides further details on acceptable design solutions to treating corner sites. As is evident this includes obvious elements limited specifically to defining the site corner rather than continually along the whole lengths of the site. An acceptable treatment is indicated in the diagram below provided in Part 4.1 of Council's DCP. Any variance to the height control could be justifiable and likely to be supported in the circumstance that the excessive height aims to achieve a focal point at the corner.



The specified DCP objective for corner allotments is: *'To ensure buildings situated on corner allotments provide for visual interest and address intersection that they front'*. This supports the design principle that the emphasis of buildings should be limited to the corner of the building rather than the whole length of the corner location of the site. In addition, the following controls also support this:

*The design of buildings at gateway locations should consider the following:*

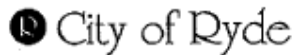
1. *The height of adjacent buildings;*
2. *Stepping the building up where the building turns the corner;*

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The difference in building height and massing between adjacent built forms and the corner development lot is important in emphasising a corner treatment as in this case. The development has retained the height for the entire part of the building. The current massing of this building does not deliver any corner treatment as envisaged by the DCP. If the development did retain the 18.5m height control then a modest breach at the corner to reflect the corner treatment could be envisaged. This would enable the articulation of massing anticipated under the LEP and building length when coupled with the built form to the north along the Trelawney Street frontage. This adjacent site is subject to a 21.5m height limit.

As stated above, Objective (e) is 'to reinforce important road frontages in specific centres'. Objective (e) can be related back to Objective (c) which is '(c) to enable the built form in denser areas to create spatial systems that relate to human scale and topography'. The Trelawney Street frontage is identified in Council's DCP 2010 to be an important pedestrian priority street. The 'future character statement' and provisions of Section 3.3 - Architectural Characteristics of the DCP reinforce that an attractive public domain and desirable setting for users needs to be aimed for. The DCP refers to the 'Eastwood Commercial Centre Planning Study and Masterplan' (master plan) which provides guidance for development of the town centre to the year 2020. The essence of the master plan is to provide for future development that is consistent with the urban village character. In terms of the height and scale, a natural relationship between people and the built environment needs to be maintained.

The 'human scale' issue is further reinforced by a building envelope control prescribed under Section 4.1 of the RDCP 2010, as well as the judgement of *Crown Atlantis Joint Venture v Ryde City Council*. The objective for the building envelope is stated to be: 'To ensure that the existing human scale element of the streetscape is retained'. Therefore the 'human scale' aspect needs to be respected.

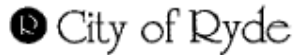
The DCP prescribes a building envelope of 26 degree projected from 1.5m height measured from the property boundary on the opposite side of the street, being that of 7-9 Rutledge Street. It is acknowledged that in some instances that this height plane is inconsistent with the maximum building height prescribed under the LEP as it results a lower allowable building height. Accordingly the 18.5m and 30.5m height standards are accepted to take precedent in constituting an acceptable maximum height for achieving the human scale because consistency with objective (c) would be achieved for a compliant development. Therefore anything above that height and not within a height plane projected from an average eye level of 1.5m on the opposite side of Trelawney Street up to a building edge of 15.5m should be deleted or setback from the building edge and within the plane. In such a circumstance, they will not be visible from the opposite side of the street and therefore the human scale would be retained.

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The applicant was requested to make changes to the building to require:

- most units along the edges of the corner lot above the 18.5m height limit, to be deleted i.e. above Level 4,
- any units behind and above a height plane projected from eye level on the opposite side from Trelawney Street to the edge of the 18.5m height to be deleted and
- minor structures to be set back within this height plane, i.e. reconsideration of the location of the upper levels, lift shafts and other roof plant structures
- A reduction to the overall height of the building so the maximum RL created by the roof top plant matches that approved for the development directly adjacent to the site for the Eastwood Shopping Centre
- the corner to be redefined.

Deletion of some of the units along the west elevation would achieve a stepped building line and facilitate the potential of double aspect units on the upper levels. This would improve sunlight penetration and natural ventilation. The applicant did not pursue any changes to address the issues at hand.

- *The development will be excessive in density.*

The development is representative of excessive floor space and density. In the absence of any specific density controls, (such as floor space ratio, population or dwelling density), the density of the development is dictated by the applicable height, envelope and setback controls. The proposal fails to meet these controls, as discussed above with respect to envelope and building height, and below with respect to setbacks. Generally the setback requirements of the Residential Flat Design Code will not be achieved between the proposed development and adjacent building of the approved Eastwood Shopping Centre development.

- *The height has not been supported by the Urban Design Review Panel.*

The applicant was advised in pre-lodgement meetings that the proposed height is not acceptable and compliance should be achieved. This has included advice by the Urban Design Review Panel as following:

*'The Panel considers that the development should remain entirely within the statutory planes to support and reinforce the overall massing strategy for the entire block within which it is located.*

Based on the above discussion the following objectives for the B4 Mixed Use zone are not satisfied:

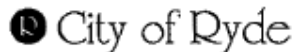
- *To recognise topography, landscape setting and unique location in design and land-use.*
- *To create safe and attractive environments for pedestrians.*

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In summary, the gateway design approach has not been properly applied as intended by Council's controls. An attractive pedestrian environment will not be achieved as little regard has been given to the 'human scale' issue.

**5. Concurrence of the Director General.**

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-Generals concurrence for exceptions to development standards.

**Conclusion**

The submission does not satisfy the criteria outlined in Clause 4.6. Therefore the variation is not supported.

**Clause 6.5 – Eastwood Urban Village and West Ryde Urban Village**

Sub clause (3) requires that the consent authority must not grant consent to development on land within the Eastwood Urban Village unless it has considered whether the proposal is consistent with the following objectives:

- a. *To create a safe and attractive environment for pedestrians,*
- b. *To create a mixed use precinct with emphasis on uses that promote pedestrian activity and safety at ground level (existing),*
- c. *To create a precinct that contains opportunities and facilities for living, working, commerce, leisure, culture, community services, education and public worship,*
- d. *To increase the number of people living within walking distance of high frequency public transport services,*
- e. *To increase the use of public transport.*

The previous discussion with respect to building height has established that the development will not be consistent with Objective 2(a).

**Other Relevant Clauses from the RLEP 2010**

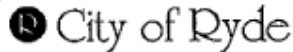
**Clause 1.4 – Definitions**

The development is defined as '*mixed use development*', and also falls under the definition of '*shop-top housing*', both of which are permissible uses under the zone of the land.



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**ITEM 3 (continued)**

Clause 2.6 – Subdivision-consent requirements

Clause 2.6 requires development consent for subdivision. Whilst the proposal includes strata subdivision, no draft plans have been submitted for assessment. Accordingly, should the application be approved, a condition is recommended to require the submission of final subdivision plans prior to the issue of a Subdivision Certificate.

Clause 2.7 – Demolition requires development consent

The development necessitates some minor demolition works. On site works relate to the removal of the existing driveway, hard paving and low retaining walls. Public road works relate to the removal of existing road paving and 2 vehicular crossings.

Clause 5.9 - Preservation of trees and vegetation

Refer to 'Landscape Officer' comments below. As indicated in the proposal description above, the proposal includes the removal of existing vegetation, including the removal of two (2) established Camphor Laurel trees located at the site's northeast corner.

Clause 6.2 - Earthworks

The proposed excavation works will extend up to all boundaries of the site, with the exception to the southeast corner, (where a substation is proposed) and at the northern boundary as not to encroach the easement for access and support. Refer to 'Engineer' comments below.

Clause 6.4 – Eastwood Urban Village

This clause applies to land in Eastwood as identified on Council's '*Eastwood Urban Village Map*'. It relates to addressing stormwater inundation / and potential flooding on this land.

While the subject site is not indicated on the '*Eastwood Urban Village Map*', the applicant has made amendments to the ground floor level based on flood data provided by Council's Engineer. To cater for a 1 in 100 Year ARI flood event / minimise risks, the ground level has been raised by 300mm. This has not altered the overall proposed building height.

Clause 5.10 - Development in the Vicinity of a Heritage Item

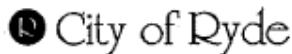
The building at 186 Rowe Street, Eastwood, is listed as a heritage item under Ryde Local Environmental Plan 2010 and located within the vicinity of the subject site. Council has approved the demolition of the building under Development Consent

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**ITEM 3 (continued)**

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**ITEM 3 (continued)**

No.2007/0936. Submission of a heritage report and consideration of the impact of the proposed development on the heritage significance of the item is not necessary in this instance. It is noted that Draft Ryde Local Environmental Plan 2011 does not include 186 Rowe Street, Eastwood as a heritage item.

**(b) Relevant SEPPs**

**SEPP No. 55- Remediation of Land**

The provisions of *SEPP 55 – Remediation of Land* (SEPP 55) apply to the subject DA. Clause 7 of SEPP 55, states that a consent authority must not consent to any development on land unless it has considered whether the land is contaminated. If the land is contaminated, the consent authority must be satisfied the land will be suitable in its contaminated state, or will be suitable after remediation, for the purpose for which development is proposed. If the land requires remediation, it must be satisfied that the land will be remediated before the land is used for that purpose.

The subject site previously consisted of church buildings which were subsequently demolished following a consent for demolition issued in May 2003. Since demolition the site has remained vacant and secured. Council records indicate the site had been used for religious purposes from 1910. They do not provide any evidence that the site had been subject to any activities that have the potential to cause contamination, such as those listed in the SEPP Planning Guidelines 'Managing Land Contamination'.

Council's Environmental Health Officer has reviewed the DA and recommended conditions of consent, should the application be approved.

**SEPP BASIX**

Clause 3 of the *Environmental Planning and Assessment Regulation 2000* defines a 'BASIX affected building' as a building that contains one or more dwellings, but does not include a hotel or motel. Clause 2A of Schedule 1 of *Environmental Planning and Assessment Regulation 2000* requires the submission of a BASIX Certificate/s (issued no earlier than 3 months before the date on which the application is made) with a DA for a BASIX affected development.

The proposed development is a 'BASIX affected building'. Accordingly, the subject DA is accompanied by a BASIX Certificate (No. 387292M issued on 26 October 2011) that indicates the development will achieve the minimum ratings for energy, thermal comfort and water.

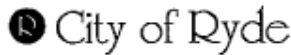
Should the subject DA be approved, conditions are recommended to require compliance with the BASIX commitments detailed in the certificate.

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**ITEM 3 (continued)**

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**ITEM 3 (continued)**

**SEPP (Infrastructure) 2007**

Clause 55 - Development adjacent to corridor

Clause 55 (1) states that *'before determining an application for development adjacent to a gas pipeline corridor, the consent authority must:*

- (a) *be satisfied that the potential safety risks or risks to the integrity of the pipeline that are associated with the development or modification to which the application relates have been identified, and*
- (b) *take those risks into consideration.*

The applicant has provided details on the location and type of gas infrastructure on and around the site. Should the application be approved, a condition is recommended to require compliance with the following to minimise any risks:

- The location of gas pipelines are to be confirmed by carefully pot-holing by hand excavation prior to proceeding with mechanical excavation in the vicinity of gas pipelines. If the gas main is not located, the local depot should be contacted on 131 909.
- All excavation (including pot-holing by hand) should be performed in accordance with 'Work Near Underground Assets Guidelines' published in 2007 by the Work Cover Authority.

Clause 101 - Development with frontage to classified road

Clause 101 refers to development with frontage to a classified road. It states that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that:

- (a) *where practicable, vehicular access to the land is provided by a road other than the classified road, and*
- (b) *the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of:*
  - (i) *the design of the vehicular access to the land, or*
  - (ii) *the emission of smoke or dust from the development, or*
  - (iii) *the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (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.*

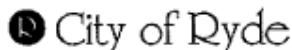
Clause 101 applies to the subject DA as 'Rutledge Street is identified as a classified road. With respect to matter (a) vehicular access will not be provided by Rutledge Street, or any other classified road.

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**ITEM 3 (continued)**

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**ITEM 3 (continued)**

Both Council's Traffic Engineer and the Roads and Maritime Services have reviewed the proposed development. No major concerns have been raised with respect to the safety, efficiency and ongoing operation of Rutledge Street. Conditions have been recommended should the application be approved.

The submitted acoustic assessments indicate that the traffic volumes of the adjacent streets, will result in intrusive internal noise levels that will exceed the acceptable standards for dwellings and therefore measures need to be provided to minimise the impact. The measures include the installation of acoustic glazing to outward facing windows, closed external facing windows, and sealing of windows and door frames. Should the application be approved, conditions should be included to require acoustic glazing and sealing of window frames and door frames only. The external facing windows should be operable as not to limit natural ventilation opportunities.

Clause 104 - Traffic-generating development

This clause applies to the proposed development as it constitutes traffic generating development given:

- It is a type of development specified in Column 1 and of a size/capacity specified in Column 3 of the Table to Schedule 3 of the SEPP; and
- The site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection the size or capacity specified opposite.

Clause 104 generally requires the consent authority to give written notice to the Roads and Maritime Services (RMS) prior to determining the DA and consider any submission made by in response to that notice.

The DA was notified as required and in response, the RMS requested additional information. The applicant submitted this information. The RMS has reviewed the additional information and has raised no major concerns subject to certain details being provided and/or complied with. These can be addressed via the inclusion of conditions in a consent, should the application be approved.

Clause 104 also requires the consent authority give consideration of the following prior to determining the DA:

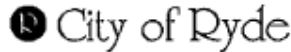
- (ii) the accessibility of the site concerned, including:
  - (A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and
  - (B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and
- (iii) any potential traffic safety, road congestion or parking implications of the development.

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**ITEM 3 (continued)**

The above matters have been considered, where relevant. Reference should be made to the comments provided by Council's Traffic Engineer and DCP assessment in relation to adequacy of the proposed parking.

**SEPP No. 65 - Design quality of Residential Flat Development**

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

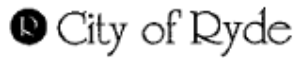
There are 10 design quality principles identified within the SEPP 65. The following table provides an assessment of the development against the 10 design principles.

Planning Principle	Comment	Complies
<p><b>Principle 1: Context</b></p> <p>Good design responds and contributes to its context. Context can be defined as the key natural and built features of an area.</p> <p>Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.</p>	<p>It is evidenced by the discussion above, the development will not reflect the desired future character as required by local planning provisions. In particular, the height, massing and scale will not respect the objectives prescribed by the LEP, DCP, and master plan relating to the 'human scale' and 'urban village character'.</p>	No
<p><b>Principle 2: Scale</b></p> <p>Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.</p> <p>Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and</p>	<p>As discussed previously, the resultant scale will not be appropriate with respect the desired future character anticipated by Council's LEP, DCP and master plan.</p>	No

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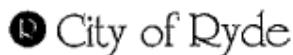
**ITEM 3 (continued)**

Planning Principle	Comment	Complies
height needs to achieve the scale identified for the desired future character of the area.		
<p>Principle 3: Built form</p> <p>Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.</p> <p>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.</p>	<p>The building bulk has not been appropriately manipulated to adequately address the gateway aspect and the general massing anticipated by the maximum allowable height prescribed under the RLEP. The built form does not express a strong corner form.</p> <p>Building mass will not deliver a reasonable standard of amenity. The layout and depth will not maximise opportunities to facilitate cross ventilation and solar access as required by the SEPP 65 – Residential Flat Design Code (RFDC)</p>	No
<p>Principle 4: Density</p> <p>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</p> <p>Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.</p>	<p>There is no applicable floor space ratio or other density controls, (such as dwelling or population density), that are applicable to the site. The density is therefore governed by the height, setback and envelope controls applicable to the site. As discussed above and below, the development does not achieve compliance with these controls and therefore represents a greater density.</p>	No
Principle 5: Resource, energy and water efficiency	The applicant has submitted a BASIX Certificate which indicates that the residential component	No

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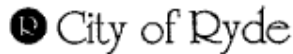
**ITEM 3 (continued)**

Planning Principle	Comment	Completes
<p>Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.</p> <p>Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.</p>	<p>will meet the energy and water use targets set by the BASIX SEPP.</p> <p>A waste management plan has been submitted and reviewed by Council's Environmental Health Officer. The plan is considered acceptable subject to conditions in the event the DA is approved.</p> <p>As stated above, the overall layout and massing will not maximise solar access opportunities and meet the related requirements of the RFDC. Also refer to below section Residential Flat Design Code.</p>	
<p>Principle 6: Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain. Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character. Landscape design should optimise usability, privacy and social</p>	<p>The landscaping will assist in improving the aesthetics of the building as well as improving the on-site amenity. The landscaping along the building elevations will ensure that the appearance of the development is softened as viewed from the surrounding streets.</p> <p>The proposed communal open spaces should both include furniture such as seating, shading structures and a BBQ area to encourage their usability. Should the application be approved, a condition can be included in a consent to ensure this.</p> <p>The development will be void of any deep soil planting. The RFDC recommends appropriate stormwater treatment measures in circumstances where deep soil planting is not provided. Council's Engineer has recommended</p>	<p>Subject to conditions</p>

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**ITEM 3 (continued)**

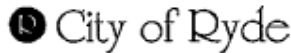
Planning Principle	Comment	Complies
<p>opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.</p>	<p>conditions to ensure an effective and appropriate stormwater drainage system is provided. Conditions should also be included in a consent to require appropriate soil depths for substantial tree growth, as indicated in the RFDC.</p>	
<p><b>Principle 7: Amenity</b></p> <p>Good design provides amenity through the physical, spatial and environmental quality of a development.</p> <p>Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p>	<p>Should the application be approved, conditions should be included in a consent to require compliance with the minimum storage area requirements.</p> <p>The building separation requirement is not met to the east boundary. Insufficient information has been submitted to ensure adequate amenity to the adjacent units of the approved Eastwood Shopping centre development in terms of solar access. This matter is discussed further in the section below '<i>Urban Design Review Panel – Boundary Setbacks</i>' and '<i>Residential Flat Design Code</i>'.</p> <p>As discussed below, the acoustic assessment submitted with the DA indicates that certain measures will need to be adopted to ensure that the units meet the required standards for internal amenity. The measures include double glazing, and sealing of door frames and externally facing windows. The sealing of externally facing windows is not appropriate as it will limit natural ventilation opportunities. The amenity of private open spaces has not been considered in the acoustic assessment, particularly the impact of traffic noise on the use of ground level private open</p>	<p>No</p>

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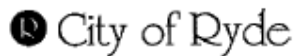
**ITEM 3 (continued)**

Planning Principle	Comment	Complies
	<p>spaces facing Rutledge Street. The objective for acoustic privacy contained in the RFDC refers to ensuring a high level of amenity both within units and private open spaces. Should the application be approved, conditions should be included to require an acoustic assessment and adoption of recommended measures.</p> <p>The overall layout and massing will not maximise solar access opportunities and ventilation as to meet the related requirements of the RFDC. Refer to below section Residential Flat Design Code.</p>	
<p>Principle 8: Safety and security</p> <p>Good design optimises safety and security, both internal to the development and for the public domain. This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.</p>	<p>The Police Department have reviewed the application and have made recommendations to improve the development with respect to achieving better consistency with the CPTED principles. Should the application be approved, conditions should be included in a consent accordingly.</p>	<p>Subject to conditions</p>
<p>Principle 9: Social dimensions and housing affordability</p> <p>Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access</p>	<p>The development will include single aspect and corner apartment layouts, as well as adaptable housing. The following housing mix is proposed:</p> <ul style="list-style-type: none"> <li>- 16 x 1 bedroom apartments;</li> <li>- 43 x 2 bedroom apartments;</li> </ul>	<p>Yes</p>

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**ITEM 3 (continued)**

Planning Principle	Comment	Complies
<p>to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community. New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.</p>	<p>- 20 x 3 bedroom apartments.  This mix will result in an affordable range of housing which should attract singles, couples and family occupants into an area which is highly accessible to public transport and local shopping. In this regard, as a guide the Housing NSW Centre for Affordable Housing suggests 1 and 2 bedroom apartments contribute towards achieving housing affordability.</p>	
<p>Principle 10: Aesthetics  Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.</p>	<p>The development will consist of a variety of materials and finishes to assist in the articulation and visual interest of the building, as well as facilitate the differentiation between the uses and different building sections.</p>	<p>Yes</p>

**Residential Flat Design Code**

The SEPP also requires the Council to take into consideration the requirements of the *Residential Flat Design Code*. The development generally complies with the requirements provided in this document relating to unit sizes for housing affordability, stormwater management, waste management, bicycle parking, housing choice, driveways, roof designs, and energy efficiency appliances. The non-compliances are indicated and discussed in the table below.

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**ITEM 3 (continued)**

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**ITEM 3 (continued)**

Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
Building Height	Test heights against the number of storeys and the minimum ceiling heights	<p>LEP Standards: The eastern lot has a height limit of 30.5m and the western lot (PT 23 DP 4231) has a height limit of 18.5m.</p> <p>These controls result in a maximum number of storeys of 7.6 storeys and 3.7 storeys respectively based on the floor-to-ceiling heights, minus 300mm floor/ceiling slabs and minus the height of rooftop plant (4m in height).</p> <p>The proposed building contains a mix of part 6/ part 7 storeys and 12 storeys.</p> <p>The maximum proposed height will be 41.56m (in the location of the lift overrun portion further east where the existing RL is 72.56 and max proposed RL is 114.120). This represents a variance of 11.06m as this part of the site is subject to a 30.5m height limit. Where the height limit is 18.5m (further west) the building will result in an overall variance of 22.84m.</p>	No
Building Depth	Apartment building depth: 10-18m.	<p>The proposed building has a range of building depths:</p> <ul style="list-style-type: none"> <li>- For Ground Level: 16m (residential portion only)</li> <li>- For levels 1-5 the maximum depth is 31.5m and the minimum depth is 26m.</li> </ul>	No

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**ITEM 3 (continued)**

Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		- For levels 6-10 the maximum depth is 20m and the minimum depth is 15m.	
Building Separation	<p>Up to 4 storeys (12m height):</p> <ul style="list-style-type: none"> <li>▪ 12m between habitable rooms and balconies</li> <li>▪ 9m between habitable rooms/balconies &amp; non-habitable rooms</li> <li>▪ 6m between non-habitable rooms</li> </ul> <p>From 5 to 8 storeys (25m height):</p> <ul style="list-style-type: none"> <li>▪ 18m between habitable rooms and balconies</li> <li>▪ 13m between habitable rooms/balconies &amp; non-habitable rooms</li> <li>▪ 9m between non-habitable rooms</li> </ul> <p>From 9 storeys and above (over 25m height):</p> <ul style="list-style-type: none"> <li>▪ 24m between habitable rooms and balconies</li> <li>▪ 18m between habitable rooms/balconies &amp; non-habitable</li> </ul>	<p>External separation:</p> <p>Western Side: Between proposed development at 3-5 Trelawney St: 26m (based on elevation plan provided for 7-9 Rutledge).</p> <p>Northern Side: Ground Floor Level: 6.5m Level 1: 3m – 7.4m Levels 2-5: 5.6m – 7.4m Level 6: 6m – 7.2m Level 7-10: 6.3m – 7.4m</p> <p>The Urban Design Review Panel recommended a minimum of 6m be provided from the northern boundary. The majority of the built form achieves this. Only a minor balcony section on Levels 1 to 5 encroaches this by 0.4m. This is a minor encroachment.</p> <p>Eastern Side: The approval for the Eastwood Shopping Centre will include the erection of residential units which will consist of main living areas and private open spaces facing the east elevation of the proposed development. The proposed building will have a 6m separation from the approved development for the Ground Level to Level 3, then a</p>	Insufficient information

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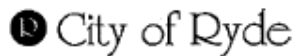
**ITEM 3 (continued)**

Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
	<p>rooms</p> <ul style="list-style-type: none"> <li>▪ 12m between non-habitable rooms</li> </ul>	<p>separation of 15m (9m provided by the approved development) from Levels 4 to 10. For the first four levels of the proposed development, the building separation is acceptable given that it will face the blank wall of the approved car park levels of the Eastwood Shopping Centre development. The building separation for Levels 4 to 7 will not comply with the minimum separation requirement of 18m by 3m. The building separation for Levels 8 to 10 will not comply with the minimum separation requirement of 24m.</p> <p>The proposal will not satisfy the following objectives of the control:</p> <ul style="list-style-type: none"> <li>- <i>To provide visual and acoustic privacy for existing and new residents.</i></li> <li>- <i>To allow for the provision of open space with appropriate size and proportion for recreational activities for building occupants.</i></li> <li>- <i>To control overshadowing of adjacent properties and private or shared open space</i></li> </ul> <p>No concerns are raised to the separation given the visual and acoustic implications will be catered for via the proposed screening. The only concern is maintaining solar access to west facing units of the approved Eastwood Shopping Centre Development. Insufficient</p>	

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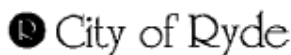
**ITEM 3 (continued)**

Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		information has been submitted to verify compliance will be maintained with the RFDC requirement for at least 70% of the approved units will have at least 2 hours solar access between 9am and 3pm on 21 June.	
Street, Side and Rear Setbacks	<p>In general, no part of a building or above ground structure may encroach into a setback zone.</p> <p>Exceptions are:</p> <ul style="list-style-type: none"> <li>▪ underground parking structures no more than 1.2m above ground, where this is consistent with the desired streetscape (see Ground Floor Apartments)</li> <li>▪ awnings</li> <li>▪ balconies and bay windows.</li> </ul>	<p>The development does not meet the 6m setback requirement of the RFDC from the northern boundary. However this is a minor variance and the easement extends further north which will ensure that built structures on adjoining properties to the north will be setback at least 7m away from the southern side of the easement. (Refer to building separation above with reference to the proposed northern and eastern side setbacks).</p> <p>The setback of the residential Levels 4-10 extend closer to Rutledge Street frontage than the approved residential levels of the Eastwood Shopping Centre development. This will create an inconsistent street setback and add to the bulk and scale of the development and building depth. As discussed previously, this will impact on the corner emphasis and human scale</p>	No
Floor Space Ratio	FSR in denser Urban Areas: 80% of Building Envelope. (Footprint	There is no FSR control applicable to the development.	N/A

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**ITEM 3 (continued)**

Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
	area x no. storeys x 80%)		
Deep Soil Zones	Minimum of 25% of the open space area	The basement is proposed to extend from boundary to boundary (with the exception of the easement and southeast corner). Accordingly appropriate soil depths must be provided to ensure mature planting can be supported and an appropriate stormwater filtration system must be provided. Also refer to below section 'Urban Design Review Panel'.	Subject to conditions
Stormwater Management	Reduce the volume impact of stormwater on infrastructure by retaining it on site.	The proposal has been subject to review by Council's Engineer. No concerns have been raised. Conditions have been recommended.	Subject to conditions
Safety	Reinforce the development boundary to strengthen the distinction between public and private space.	Subject to conditions as outlined in the SEPP 65 table above.	Subject to conditions
Privacy	Locate and orient new development to maximise visual privacy between buildings on site and adjacent buildings. Design building layouts to minimise direct overlooking of rooms and POS adjacent to	The building will not achieve the minimum building separation requirement to the east elevation. The provision of the required additional setbacks for Levels 4 to 7 (i.e. an additional 3m) and Levels 8 to 10 above (i.e. an additional 9m) will improve privacy implications between developments, however adequate amenity will be provided given the	Subject to conditions

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
	<p>apartments.</p> <p>Use detailed site and building design elements to increase privacy without compromising access to light and air.</p>	<p>proposed screening on the east elevation.</p> <p>The submitted acoustic report indicates that certain measures need to be adopted to mitigate surrounding traffic noise and provide an acceptable internal living environment to the units. The measures include the provision of sealed door frames and windows on external elevations. Conditions should be included in a consent accordingly. A condition should specify that external facing windows should be operable.</p>	
<p>Pedestrian Access</p>	<p>Follow the accessibility standards of AS 1428.</p> <p>Promote equity by ensuring the main building entrance is accessible for all from the street and from car parking areas</p>	<p>Amended plans have been submitted to indicate steps and a ramp into the retail/commercial tenancies along the Trelawney Street frontage of the site, and a step into each retail/commercial entry along the Rutledge Street frontage. They also indicate a separate internal ramp to each tenancy facing Trelawney Street. A condition is recommended to ensure the ramps along Trelawney Street have the appropriate width and grades to facilitate wheelchair access and the entries along Rutledge Street are graded and all entries wide enough to cater for wheelchair access. This will meet the relevant requirements for wheelchair access for commercial / retail tenancies.</p>	<p>Subject to conditions</p>

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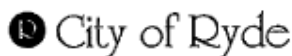
**ITEM 3 (continued)**

Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
Apartment Layout	Design layouts, which respond to the natural & built environment by maximising opportunities to facilitate natural ventilation & to capitalise on natural daylight, for example by providing corner apartments; cross-over or cross-through apartments; split-level or maisonette apartments; shallow, single-aspect apartments.	The applicant has not submitted information identifying the fixed and operable windows. Despite the recommendation of the acoustic report to provide closed windows, opportunities for natural ventilation need to be maximised given the enclosed central core building layout. Accordingly, if the application is approved a condition is recommended to require externally facing windows to be operable windows and only frames to be sealed.	Subject to conditions
	Single-aspect apartments = 8 m max. in depth from a window.	The following apartments do not achieve compliance: Units 110-510, G01-501, G03-1003, G04-504, 107-507, 108-508. This is a total of 11 units.  The non-compliances are accepted in this case given: - The percentage to the overall scheme is minimal. - The variances to the unit lengths are minimal. - The variances will provide more functional space. - The variances will result from sections in a unit rather than the whole of a unit. (NB: This has taken into account the recommended re-orientation	Satisfactory

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**ITEM 3 (continued)**

Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		of units which has resulted in some units changing from double to single aspect or single to double aspect).	
	The back of a kitchen = 8m max. from a window.	Most units achieve this requirement. The part of the back of some kitchens will provide a variance of around 0.5m. This is minimal and kitchens can be designed to ensure cooking areas are not located more than 8m from a window.	Satisfactory
Internal and External Areas	1 Bed cross through: 50/8m <sup>2</sup> 1 Bed single aspect: 63.4/10m <sup>2</sup> 2 Bed corner: 80/11m <sup>2</sup> 2 Bed cross through: 89/21m <sup>2</sup> 3 Bed: 124 / 24m <sup>2</sup>	<p>The following units do not achieve compliance:</p> <p>103-1003 – private open space becomes non-compliant if the option plan is adopted. (Refer to 'Solar Access' discussion below this table).</p> <p>605: 108 / 14.56 (3bed) 604: 101/21.84 (3 bed) 602: 101/21.84 (3 bed) 601: 105/ (3 bed) 705: 1005: 108.45 / 42.88 (3 bed) 704-1004: 100.58/22.36 (3 bed) 702-1002: 102.99/ (3 bed) 701-1001: 105/19.76 (3 bed)</p> <p>The non-compliances to the 3 bedroom units are accepted in this case given:</p> <ul style="list-style-type: none"> <li>- The private open spaces will provide adequate amenity.</li> <li>- Large communal areas will be provided.</li> <li>- Variances for the private open spaces of 1 bedroom units are minimal.</li> </ul>	Satisfactory subject to the option plan not being adopted.

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		<ul style="list-style-type: none"> <li>- Variances to unit areas are minimal.</li> <li>- Smaller unit areas and private open spaces will encourage affordable housing.</li> <li>- Functional spaces will be provided.</li> <li>- The units can easily be converted to 2 bedroom units and therefore meet the related internal area requirements. Variances to the private open spaces will be minimal in this case.</li> </ul>	
Ceiling Heights	<p>Minimum Floor to Ceiling Heights (F-to-C): Mixed use buildings: 3.3m for ground floor retail or commercial and 1st floor residential, retail or commercial.</p> <p>RFB's or residential floors in mixed use buildings: 2.7m for all habitable rooms, 2.4m for all non-habitable rooms, however 2.25m is permitted.</p>	<p>Retail tenancies will have a minimum F-to-C height of at least 3m. This is satisfactory as the floor levels have been increased to cater for flood level concerns raised by Council's Engineers.</p> <p>Residential units will have a F-to-C height of 2.7m.</p>	Satisfactory
Ground Level Units	Ensure adequate privacy and safety of ground floor units located in urban areas.	The proposed landscaping, fencing and surrounding built form will provide an adequate buffer in terms of privacy for the ground floor units.	Yes

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Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
Ground level units	Private Open Space at Ground Level: 25m <sup>2</sup> & min. Dimension 4m. Refer to 'Balconies' for above ground POS.	All ground level units achieve the minimum area and dimensions.	Yes
Communal Open Space	Communal Open Space: 25-30% of site area (493.5 – 592.2m <sup>2</sup> )	27% (580.09m <sup>2</sup> ).	Yes
Storage	In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: <ul style="list-style-type: none"> <li>▪ studio apartments 6m<sup>3</sup></li> <li>▪ one-bedroom apartments 6m<sup>3</sup></li> <li>▪ two-bedroom apartments 8m<sup>3</sup></li> <li>▪ three plus bedroom apartments 10m<sup>3</sup></li> </ul>	Some 2 bedroom units will not be provided with the minimum requirement. The variance will be approximately 0.2-0.4m <sup>3</sup> Should the application be approved, a condition is recommended to require each unit to be provided with the following minimum storage areas and such areas to be indicated on the plans, including the division of storage zones:  Per 1 bedroom Unit: 6m <sup>3</sup> Per 2 Bedroom Unit: 8m <sup>3</sup> Per 3 Bedroom Unit: 10m <sup>3</sup>	Subject to conditions
Daylight Access – skylight and sunlight	Limit the number of single-aspect apartments with a southerly aspect (SW-SE) to a maximum of 10% of the total units and increase their window area	The number of single aspect units with a southerly, south westerly or south easterly orientation is at least 11 (14%). The units are G01, 107 – 507 and 104-504.  Units 107 – 507 will receive the minimum 2 hour solar access requirement, so no concerns are raised to these units. Units 104-	No

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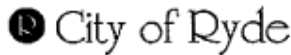
**ITEM 3 (continued)**

Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
		<p>504 will receive about 1 hour solar access, which is not satisfactory.</p> <p>NB: Units 105-505 and 106-506 will receive no solar access, even though these units can be classified as dual aspect given they have a window facing in the opposite direction. (The subject requirement only relates to single aspect).</p>	
	<p>Design for shading and glare control, particularly in summer.</p>	<p>A condition can be included in a consent to avoid reflective films; use a glass reflectance below 20%; and consider reduced tint glass.</p>	<p>Subject to conditions</p>
	<p>Living rooms and private open spaces for at least 70 % of apartments in a development should receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.</p>	<p>54%. Refer to discussion below table. The minimum requirement will not be achieved.</p>	<p>No</p>
<p>Natural Ventilation</p>	<p>60% of units should be naturally cross ventilated.</p> <p>Select doors and operable windows to maximise natural ventilation opportunities established by the apartment layout.</p>	<p>39% (11). The general layout of the units around a central core limits opportunities for cross ventilation.</p>	<p>No</p>

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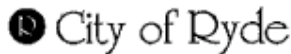
**ITEM 3 (continued)**

<b>Subject Matter &amp; Objectives</b>	<b>Primary Development Control and Guidelines</b>	<b>Comments</b>	<b>Complies</b>
Energy Efficiency	Reduce reliance on artificial lighting by: <ul style="list-style-type: none"> <li>▪ providing a mix of lighting fixtures, including dimmable lighting, to provide for a range of activities in different rooms</li> <li>▪ designing to allow for different possibilities for lighting the room, for example, low background lighting supplemented by task or effect lighting for use as required</li> <li>▪ using separate switches for special purpose lighting</li> <li>▪ using high efficiency lighting</li> <li>▪ using motion detectors for common areas, lighting</li> <li>▪ doorways and entrances, outdoor security lighting.</li> </ul>	Conditions can be included in a consent to ensure the implementation of the commitments indicated on the BASIX certificate, as well as require: <ul style="list-style-type: none"> <li>▪ lighting adjacent to windows be switched separately to those not adjacent to windows;</li> <li>▪ dimmable lighting in living areas; and</li> <li>▪ security lighting for units doorways/entrances.</li> </ul>	Subject to conditions

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**ITEM 3 (continued)**

Subject Matter & Objectives	Primary Development Control and Guidelines	Comments	Complies
Water Conservation	To reduce mains consumption of potable water. To reduce the quantity of urban stormwater runoff.	The application can comply with the BASIX commitments in relation to water conservation.	Subject to condition.

**Solar Access**

The development does not achieve the requirement for *'living rooms for at least 70 % of apartments in a development should receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter'*. An optional plan has been submitted that indicates the reorientation of the living rooms of Units 109, 209, 309, 409 & 509, and resizing of adjacent Units 110, 210, 310, 410 & 510. This reorientation will increase solar access within the living rooms of the units if the impact of the Eastwood Shopping Centre is not taken into account but will not result in closer compliance with the 70% requirement. The architect has advised that the internal planning will not be as desirable. Since the internal planning will not result in any major obstacles, the re-orientation is supported. Submitted documents indicate a similar reorientation of east facing units at the opposite corner. Should the application be approved, a condition should be included to require the adoption of the reorientation and associated resizing of adjacent units.

The applicant has submitted a summary table indicating the impact of the approved Eastwood Shopping Centre development on the proposed development with respect to the achievement of the solar access requirement of the Residential Flat Design Code (RFDC) for living rooms only. The requirement is for a minimum of 70% of units should achieve at least 3 hours of sunlight to main living areas and private open spaces between 9 am and 3 pm in mid winter. The RFDC suggests for dense urban areas 2 hours may be acceptable. Given the LEP controls that apply to the Eastwood Village encourage a distinct increase in density and the neighbouring Eastwood Shopping Centre Development site has been approved with a significant density and high built forms, the achievement of at least 2 hours is accepted.

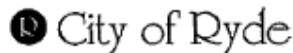
Taking into consideration the resultant impact of the approved Eastwood Shopping Centre development on the proposed development, the achievement of a minimum of 2 hours solar access to main living areas will be reduced from 65% to 54%. This results in a further non-compliance to the minimum requirement of 70% and major variance of 16%. A summary table provided by the applicant indicates that if the units recommended for re-orientation to the north are reoriented and the resultant impact

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of the approved Eastwood Shopping Centre development are taking into consideration, then there will be an increase from 54% to 61% of units that achieve the minimum 2 hour requirement. However the corresponding solar access table indicates that units 104-504 (which are located to the southeast) will have an increase in solar access to achieve compliance not the re-orientated units. This appears to be an error and therefore the 61% is not relied upon.

Regardless, the applicant lists the following reasons as to why this variance is acceptable:

- *A key urban design objective is to ensure that the built form addresses the corner and the intersection of Rutledge and Trelawney Street. Maintaining consistent built form along the southern elevation on Rutledge Street creates 2 units on levels 1 – 5 that orientate to the south.*
- *Units on the south elevation have been designed to orientate their living spaces to the East and West and the habitable living space has been extended to the building setback to maximise solar access into these units.*
- *Balconies of units on the East and West elevation have been located on the northern aspect of these units to maximise solar access into Private Open Space.*
- *When the reorientation of units X02 and X09 is considered in the solar access calculation, the strict compliance figure does not change, however these units do receive 3 additional hours of solar access into the living spaces and private open space.*
- *Inclusion of the Eastwood Shopping Centre should not be considered as the proposed development impacts on the subject site with a side boundary setback of 4.4m and is not in compliance with SEPP65 minimum building separation.*

As discussed above, the corner treatment is not appropriate. The achievement of a consistent built form to the south is acknowledged however there are other non-compliant units other than those located on the south elevation. Further to this, units along the south elevation will result in an inconsistent front building line with respect to that approved for the Eastwood Shopping Centre development, not respect the desired massing as stipulated by Council's LEP height controls, not appropriately respond to the required corner treatment and disrespect the 'human scale', particularly as desired along Trelawney. In general, the development is representative of a poor outcome as it would not achieve the 70% of solar access to living areas for the absolute minimum requirement of 2 hours. (NB: Details on the achievement of a minimum of 2 hours have not been specified for the private open spaces of units). It is for these reasons that the variance is not accepted.

The applicant advised that the impact of the approved Eastwood Shopping Centre Development should not be considered. This is not concurred with. It is noted that if the subject application were to be approved, it would need to be subject to a deferred commencement consent condition based on the implementation of the consent for the approved Eastwood Shopping Centre Development to demolish the existing ramp

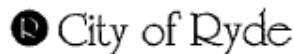
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and establish the approved vehicular access. Accordingly, the impact of the Eastwood Shopping Centre is important in this case.

The applicant has recommended reconfiguring units G03, 103, 203, 303, 403, 503, 603, 703, 803, 903 and 1003 to enable an increase in solar access. This would result in closer compliance with the minimum 70% requirement of the RFDC if the impact of the Eastwood Shopping Centre development is not considered (i.e. 68% if the initial 54% is applied). The reconfiguration is via the reduction of the balcony area to a 1m depth by the outward extension of the living room. This reduction will result in a non-compliant dimension as required under the RFDC. This is not supported as the balcony would be undersized, particularly directly adjacent to the main living area, and compliance will still not be achieved taking into account the impact of the Eastwood Shopping Centre Development. As discussed above, taking into account the impact of the Eastwood Shopping Centre Development is important in this case.

**Urban Design Review Panel Comments**

On 25 February 2011 Council's Urban Design Review Panel (Panel) considered a similar scheme to the proposed development. This was prior to lodgement of the subject DA. Comments made by the Panel have been included in italics below. A response in respect to this comment has also been provided below, including any changes made by the applicant to address concerns raised by the Panel or further justification of the scheme provided by the applicant.

Building Height:

*The panel considers that the development should remain entirely within the statutory height planes to support and reinforce the overall massing strategy for the entire block within which it is located.*

Comment: The applicant has mainly justified the building height on the following grounds:

- It will enable the development to directly relate to the scale of the Eastwood Shopping Centre development and provide an opportunity to design a significant gateway.
- The Eastwood Shopping Centre has not remained within the statutory height planes and massing strategy imposed by the LEP and DCP.

The issues raised by the applicant relating to the gateway presentation, impact on bulk/scale, impact on public amenity and meeting the objectives of Council's LEP controls have been discussed previously. The justifications are not well founded.

Street Setback

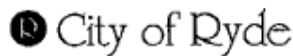
*The 3m street setback above the retail podium should be complied with. Specifically, the building on the corner should be setback 3m from Rutledge Street.*

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*To ensure adequate apartment amenity, the residential component must be setback from the northern boundary a minimum of 6m.*

*On the eastern boundary only, the Panel considers blank walls on the boundary acceptable, subject to the detailed resolution of the design and materials of the walls.*

Comment: The pre-DA scheme has been amended to mostly achieve compliance with the 3m setback. The applicant has advised that there is a minor variation on the corner of Rutledge and Trelawney Streets as a result of balconies and the corner design feature. The 3m requirement will be encroached on Levels 2-6 by a depth of 0.6m along a 4.2m length of the Rutledge Street frontage and 0.3m along the entire length of the Trelawney Street frontage. The corner framing will provide the variance along Trelawney Street frontage and some of the variance along the Rutledge Street frontage. The variance is minor and in itself would not be an issue. However the development does not provide an acceptable corner treatment to the site.

The pre-DA plans have been amended to remove any bank walls and provide a setback from the eastern boundary. This setback has been discussed above.

Mass and Apartment Layout

*The current massing above the retail podium of 2 residential slabs running north – south raises a number of concerns:*

- *The western slab presents a thin edge to Rutledge Street, weakening definition of this important corner.*
- *The separation between the two slabs is inadequate*
- *The excessive number of units facing west which are not cross ventilated.*

*The Panel strongly recommends that other massing configurations be investigated in which there are a greater number of north facing units, a continuous building façade to Rutledge Street, a streetwall to Trelawney Street only for the retail podium and improved solar access and cross ventilation generally.*

Comment: The pre-DA plans have been amended to consolidate the 2 residential slabs, provide a continuous corner treatment and provide a gateway element.

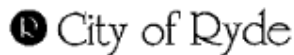
The applicant has advised that 63 of the 79 units will be cross ventilated. The applicant has included units which consist of projecting main living rooms with windows on either side of the projection. Whilst this may benefit the main living room, this solution will not achieve the cross ventilation of whole unit depth. As indicated in the table above, 39% of the units will be cross ventilated. These units will generally be corner units that have window openings on each aspect. The general layout of the units around a central core limits opportunities for cross ventilation. The development does not meet the 60% requirement of the RFDC.

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Street Frontages

*The Panel believes active street frontages are essential at this location. The retail space fronting both Trelawney and Rutledge Streets must be primarily accessible from and located at street level.*

*The possibility of stepping the building down along Trelawney Street should be investigated, subject to the amount of retail space provided, its configuration and relationship to adjoining streets.*

Comment: The pre-DA scheme has been amended to re-orientate retail spaces to address both Trelawney and Rutledge Streets. An internal arcade concept has been removed in favour of direct access to retail tenancies from the street.

The building has not been stepped down Trelawney Street as suggested by the Urban Design Review Panel. The applicant has advised *'the consistent building form running from the gateway intersection along Trelawney Street has been designed as a continuation of the gateway experience and provides an avenue into the town centre. This higher building form also bring the site into alignment with the height controls to the north and will produce a consistent, continuous avenue from the gateway leading down into Rowe Street and the heart of the Eastwood Town Centre'*. The issues of massing, height and corner treatment have been discussed above.

Eastern Residential Lobby

*Access to the eastern residential lobby is considered unsafe due to poor sightlines from the street and the location of the entrance doors. The entry configuration generally does not provide an appropriate address to the tower.*

Comment: The residential entry has been reconfigured to address Trelawney Street.

Internal Apartment Amenity

*For the western slab, the Panel considers that cross-ventilation across the walkway/corridor and through apartments via high-level openings is not acceptable in terms of acoustic privacy.*

*For amenity reasons, the Panel does not consider that it is acceptable that habitable rooms should open onto the light well/recess on the eastern boundary.*

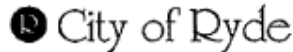
*Some units in the east slab are considered too deep and narrow, with kitchens more than 8m from windows.*

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Comment: The pre-DA scheme has been amended to consolidate the eastern and western slabs and remove the corridor. As indicated in the compliance table above, the minimum depth requirement of the RFDC is not met by the development.

Communal Open Space and Rooftops

*Communal Open Space should be provided to meet the RFDC requirements. The Panel supports rooftop communal open space. Private roof-top spaces on Level 8 that are not directly connected to the units they are associated with are not supported.*

Comment: The plans have been amended to achieve compliance with the minimum communal open space requirement of the RFDC. The private roof top spaces of Level 6 have been amended to reallocate the private spaces not directly connected to the units they are associated with, as communal open space.

Architectural Character

*The architectural expression of the development is considered appropriate for its context.*

Comment: Noted.

**(c) Relevant REPs**

**Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005**

The subject Site is located within the catchment area identified under Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005. Division 2 lists matters that Council must consider before granting consent to an application within the area. The proposed development will be satisfactory with respect to the relevant matters, as discussed below.

Biodiversity, Ecology and Environment Protection:

The scale and setback of the development and proposed drainage and sediment and erosion control measures will limit any of the following:

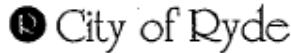
- Potential threat to any terrestrial and aquatic species, ecological communities, populations or their habitats;
- Adverse impacts to any natural intertidal foreshore areas, natural landforms, native vegetation and riparian land;
- Pollution or siltation of the waterway; and
- Changes to drainage patterns.

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Interrelationship of Waterway and Foreshore Uses:

There will be minimal interrelationship between the proposed development and the use of the foreshore and waterway, as well as any access thereto, given the setback of the site from the waterway and foreshore.

Foreshore and Waterways Scenic Quality:

There will be no imposing impact to the scenic quality. The Site is setback from the foreshore and waterway and surrounding built form will screen views of the development.

Maintenance, protection and enhancement of views:

No unreasonable obstruction of views or vistas is expected. The Site is setback from the foreshore and waterway, amongst other built forms.

Part 5 – Heritage Provisions

Clause 57 refers to Aboriginal heritage. There is little evidence to suggest that the Site is a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or an archaeological site of a relic that has Aboriginal heritage significance. The site is not listed as a heritage site.

Clause 58 refers to non-Aboriginal heritage. The subject Site is not identified as being an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance.

Clause 59 requires Council to assess the impact of development on the significance of any heritage items within the vicinity. There are no heritage items identified under the deemed SEPP within the vicinity of the Site.

**(d) Any draft LEPs**

**Draft Ryde Local Environmental Plan 2011**

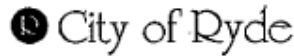
Any additional provisions of the 'Draft Ryde Local Environmental Plan 2011', with respect to RLEP 2010, are addressed in the table below.

Control	Comment	Complies
<p>Clause 2.3 – Zone Objectives and land use table</p> <p>Zone B4 Mixed Use Objectives of zone</p> <ul style="list-style-type: none"> <li>▪ To provide a mixture of compatible land uses.</li> </ul>	<p>The proposed mixed use development is permissible with consent and consistent with the objectives of the zone.</p>	<p>Yes</p>

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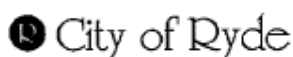
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Control	Comment	Complies
<ul style="list-style-type: none"> <li>▪ <i>To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.</i></li> </ul>		
<p>Clause 4.3 – Height of Buildings</p> <p>The lot further west: 18.5m The lot further east: 33.5m</p> <p><i>(a) to maintain desired character and proportions of a street within areas, (a) to minimise overshadowing and ensure a desired level of solar access to all properties, (b) to encourage a built form that relates to human scale and topography, (c) to concentrate building heights around railway station, to provide focal points that clearly highlight the role of railway stations, transport nodes, or large vehicular intersections. (d) to reinforce the important road frontages along road corridors.</i></p>	<p>The proposed maximum permissible height of the lot further east is increased to 33.5m under the DLEP. The proposed development will still exceed this height by 8.06m.</p> <p>The objectives indicated are similar to those of RLEP 2010. There has been some minor rewording but the consistency of the development discussed with reference to RLEP 2010 remains the same.</p>	No
<p>Clause 6.7 - Environmental Sustainability</p> <p>All buildings a minimum of 1 500m<sup>2</sup> in gross floor area constructed on land zoned business or industrial are required to have issued at least a 4 Star Green Star certified rating from the Green Building Council of Australia where the Green Building Council rating tool can be applied.</p>	<p>The BASIX provisions override this control. The subject DA is accompanied by BASIX Certificate that indicates the development will achieve the minimum targets.</p>	-
<p>Clause 6.8 – Storm water Quality</p>	<p>Council's Engineer has advised the stormwater drainage scheme is acceptable subject to conditions.</p>	Subject to conditions.

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**(e) Any DCP (e.g. dwelling house, villa)**

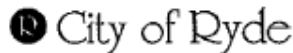
The relevant provisions of Council's DCP are addressed in the table below.

Control	Comments	Compliant
<b>Ryde Development Control Plan 2010 Part 4.1 Eastwood Town Centre</b>		
<b>2.1.1 Planning Principles for Eastwood</b>		
<p><b>Regional Role:</b></p> <p>Development should contribute to the status of Eastwood as an important business, employment and residential location. Development is to promote a compact working and living environment to maximise the efficient use of resources and infrastructure provision.</p>	<p>The proposal is for a mixed use development. It will: provide two active, retail/commercial street frontages; and promote a compact working and living environment.</p>	<p>Satisfactory</p>
<p><b>Integrated Planning and Development:</b></p> <p>Planning and development is to ensure that social, economic, environmental and urban design issues are considered together and with proper regard for their mutual and cumulative impacts. All planning, design and development activities must take account of and effectively respond to the linkages and interfaces between public space and private land.</p>	<p>The only concern is the cumulative impact with respect to the excess height, scale and massing and disregard to achieving the 'human scale' initiatives for the locality.</p>	<p>No</p>
<p><b>Public Domain</b></p> <p>Development is to define and contribute to the public domain so as to create a high quality physical setting for buildings, which is safe and accessible and can be</p>	<p>Should the subject application be approved, a condition is recommended to ensure that the public domain is upgraded to reflect the 'Eastwood Public Domain Manual'.</p>	<p>Subject to conditions.</p>

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Control	Comments	Compliant
<p>enjoyed by shoppers, residents and workers. Development of the public domain is to enhance the integration between individual precincts and their surrounding areas. Public space areas will be set aside for public use and enjoyment. Development that enhances the enjoyment of these public spaces, such as kiosks, restaurants, recreation facilities, will be encouraged. Car parking facilities should be set back away from the public spaces and should not prejudice pedestrian and cycle use of the public space. Public streets and spaces will be created generally in accordance with the Master Plan for Eastwood.</p>		
<p><b>Urban Form</b>  Urban form is to reflect its location in relation to transport nodes, existing residential and commercial precincts, be architecturally rich and diverse, define and enhance the public domain and allow for mixed uses. Building form within specific blocks is to be articulated both in height and mass to provide interest, resolve urban design and environmental issues and satisfy other principles in this plan. Buildings are to be of high quality and adaptable to a variety of uses over time, to ensure their long life. d. Buildings are to support and be integrated into the public domain network to achieve</p>	<p>The development doesn't reflect the location in terms of respecting Trelawney Street as a street of high pedestrian amenity and the corner location of the site. The development will not enhance the public domain in terms of being sympathetic to the human scale. It lacks appropriate massing, as discussed above.</p>	<p>No</p>

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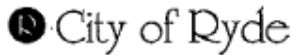
**ITEM 3 (continued)**

Control	Comments	Compliant
<p>coherence and purpose. e. The integrity of heritage items and significant landscape elements is to be protected and enhanced.</p>		
<p>Land Use Mix  Development is to provide a variety of housing types and employment-based activities and contribute to the character of the Village. Development is to contribute to an integrated mixed use development pattern (both vertical and horizontal) containing a wide range of housing, employment and recreation opportunities. Development is to facilitate the increase and diversity of employment opportunities, which are to be compatible with achieving a high quality, mixed shopping, living and working environment.</p>	<p>The proposed land use mix is appropriate.</p>	<p>Satisfactory</p>
<p>Transport and Access  a. Development is to promote the reduction of motor vehicle dependency and actively encourage the use of public transport, walking and cycling. b. Accessible environment for people with disabilities and mobility difficulties is to be created to ensure access equity. c. The intensity of development is to be in accordance with the capacity of existing and proposed public transport and road systems. d. Parking provision is to</p>	<p>Development promotes the reduction of motor vehicle dependency and encourages the use of public transport, walking and cycling.  Subject to conditions, an accessible environment for people with disabilities and mobility difficulties will be created.  The intensity of development is to be in accordance with the capacity of existing and proposed public transport and road systems.</p>	<p>Subject to conditions</p>

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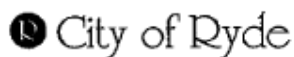
**ITEM 3 (continued)**

Control	Comments	Compliant
<p>acknowledge accessibility by foot, bicycle and public transport.</p>		
<p><b>Environmental Performance</b></p> <p>Development is to create a safe and comfortable environment for shoppers, residents and workers in both the private and public space, by "best practice" design to ensure buildings and spaces achieve maximum environmental performance and minimum resources use.</p> <p>Development is to be designed having regard to:</p> <p>a. Wind effect; reflectivity; noise attenuation; solar access and energy conservation; water conservation and re-use; stormwater management; use of recycled materials; and waste reduction.</p> <p>b. The development of public spaces must contribute to greater bio-diversity, habitat protection and enhancement, and air and water quality.</p>	<p>The development doesn't reflect "best practice" design to ensure buildings and spaces achieve maximum environmental performance and minimum resources use. However the submitted BASIX certificate indicates that the development will achieve the minimum energy and water targets.</p> <p>The following matters have been discussed below: reflectivity; noise attenuation; solar access and energy conservation; water conservation and re-use; stormwater management; and waste management.</p> <p>It is advised that the wind impacts of the proposed development have been mitigated through the following:</p> <ul style="list-style-type: none"> <li>- <i>At Street level significant street tree planting will dissipate the effects of Southerly breezes down Trelawney Street.</i></li> <li>- <i>Wind impacts will affect the Eastern elevation due to Sydney's North Easterly prevailing winds, and therefore the balcony spaces facing this elevation will be fitted with Louvre screens that can be located and adjusted to mitigate the effect of the prevailing wind.</i></li> <li>- <i>In our experience the heavily articulated façade through the</i></li> </ul>	<p>Satisfactory</p>

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Control	Comments	Compliant
	<p><i>use of balconies blades and screens together with street level planting and large street canopies will all mitigate any potential for adverse wind impacts.</i></p> <p><i>- The approved Eastwood Shopping centre Development will also mitigate some of this north easterly wind impacts.</i></p> <p>These design solutions are considered satisfactory to effectively mitigate the impact.</p>	
<b>3.0 Development Policies</b>		
<b>3.1 Mixed Use Development</b>		
Car parking should be provided at either street level or basement level(s).	All the parking is provided in basement levels.	Satisfactory
Retail and other more active public uses, such as restaurants/cafes and libraries should be located at or around street level.	A retail/commercial level is proposed at the street level.	Satisfactory
The level immediately above street level could accommodate public and commercial uses which may not have the same regularity or intensity of pedestrian traffic as retail uses.	A retail/commercial area is proposed above street level.	Satisfactory
Upper levels of development could be used for either commercial or residential.	Other than the retail/commercial area provided above street level. Upper levels will be residential.	Satisfactory
Buildings should be designed to overlook public and communal streets and other public areas to provide casual surveillance.	The building incorporates adequate casual surveillance opportunities.	Satisfactory

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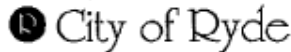
**ITEM 3 (continued)**

Control	Comments	Compliant
Private living spaces and communal or public spaces should be clearly identified and defined.	Public and private areas are well defined.	Satisfactory
Sufficient lighting is to be provided to all pedestrian ways, building entries, driveways and car parks to ensure a high level of safety and security for residents.  Pedestrian and communal areas to be well lit and designed to minimize opportunities for concealment.	The SEE states ' <i>a lighting and security access system are to be installed to achieve a satisfactory level of safety and security</i> '. Additional detail of the lighting will be required as a condition of consent. Any such lighting should have an intensity and be faced as not to cause a nuisance to surrounding properties and traffic.	Subject to condition
Pedestrian entry to the residential component of mixed use developments should be separated from entry to other land uses in the building/s.	A separate residential lobby has been provided.	Satisfactory
<b>3.2 Stormwater Management</b>		
A stormwater inundation impact assessment or stormwater inundation management strategy is to be submitted for all developments. Floor levels within any new development should be a minimum of 300mm above the calculated flood level for the 100 year ARI event. Developments should comply with Part 8.2 Stormwater Management of this DCP.	Refer to 'Engineer Comments' below. Conditions are recommended to be included in a consent. NB: The plans have been amended to cater for the flood levels.	Subject to conditions
<b>3.3 Architectural Characteristics</b>		
<b>3.3.1 Height</b>		
Buildings must comply with the maximum height limit shown on the Height of Buildings Map under	Refer to LEP assessment above.	No

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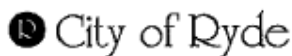
**ITEM 3 (continued)**

Control	Comments	Compliant
Ryde Local Environmental Plan 2010.		
Except as specified above, development is to be within the envelope of the "sun altitude height plane" being the plane projected at an angle of 26° over a building site measured from the property boundary on the opposite side of the road	Refer to discussion and diagrams at the end of this table.	No
<b>3.3.2 Setbacks</b>		
New buildings are to have street frontages built predominantly to the street alignment for the first 2 storeys.	The lower ground level and ground level are proposed to be generally built along both street frontages.	Satisfactory
Buildings may be constructed to the side and rear boundaries for the first 2 storeys.	The building will be set back from the northern boundary, primarily as not to encroach on the existing easement, as well as provide some common and private open space at ground level. The building will be setback from the eastern side boundary at ground level to provide some common and private open spaces.	Satisfactory
Buildings (including balconies) are to be setback a minimum of 3 metres from all boundaries above the first 2 storeys.	The building maintains a minimum 3m setback above the first two floors, with the exception of minor encroachments at Levels 2 to 6. These encroachments will be a result from minor balcony extensions and the corner design framing feature. The 3m requirement will be encroached by a depth of 0.6m along a 4.2m length of the Rutledge Street frontage and 0.3m along the	Satisfactory

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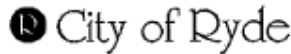
**ITEM 3 (continued)**

Control	Comments	Compliant
	<p>entire length of the Trelawney Street frontage. No concerns are raised to the encroachments, as they are minor.</p> <p>NB: Despite general compliance with the minimum 3m setback requirement of the DCP along Rutledge Street, the massing is in breach of Council's envelope control prescribed in RDCP 2010 and would not match the approved setback of the Eastwood Shopping Centre Development which represents a better response.</p>	
<b>3.3.3 Urban Design/Exterior Finishes</b>		
<p>Building exteriors are to be designed to avoid extensive expanses of blank glass or solid wall.</p>	<p>The design avoids large areas of blank walls or glass.</p>	<p>Satisfactory</p>
<p>Balconies and terraces should be provided, particularly where buildings overlook public spaces.</p>	<p>Ample balconies will be provided.</p>	<p>Satisfactory</p>
<p>All new buildings and renovations should incorporate a colour scheme using the colour palette.</p>	<p>The colour palette is acceptable.</p>	<p>Satisfactory</p>
<p>The siting and configuration of buildings should take into account the impact on surrounding development and public spaces in terms of amenity, shadowing and visual privacy.</p>	<p>No concerns are raised to the visual and acoustic implications. The only concern is that insufficient information has been submitted to verify compliance will be maintained with the RFDC requirement for living rooms and private open spaces of at least 70% of the units of the approved Eastwood</p>	<p>Insufficient information.</p>

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**ITEM 3 (continued)**

Control	Comments	Compliant
	Shopping Centre Development will have at least 2 hours solar access between 9am and 3pm on 21 June.	
<b>3.3.4 Corner Allotments</b>		
<p>The design of buildings should consider the following:</p> <ul style="list-style-type: none"> <li>i. The height of adjacent buildings;</li> <li>ii. Stepping the building up where the building turns the corner;</li> <li>iii. The incorporation of distinctive features to enhance the streetscape, i.e. clocks, flag poles, towers, etc;</li> <li>iv. Giving the corner a splayed, concave, convex or square recess treatment such that it signifies the intersection; and</li> <li>v. Design incorporating the removal of clutter such as power poles and advertising signage from around intersections.</li> </ul>	Matters i, ii, and iii have been discussed in 'Clause 4.6' above. Should the application be approved, a condition is recommended to require the submission of a DA for a signage scheme as to avoid visual clutter.	No
<b>3.4 Access &amp; Parking</b>		
<b>3.4.2 Contributions</b>		
Cash contributions are to be paid for the number of parking spaces not provided on site.	No cash contribution is applicable in this case.	NA
<b>3.4.3 Location of Vehicle Access and Footpath Crossings</b>		
<p>The design and location of vehicle access to developments should minimise:</p> <ul style="list-style-type: none"> <li>▪ Conflicts between pedestrian and vehicles on footpaths, particularly along pedestrian</li> </ul>	The vehicle entrance to the site will be via Trelawney Street. Council's Traffic Engineer and Roads and Maritime Services have reviewed the application and have raised no objections to	Satisfactory

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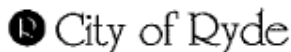
Control	Comments	Compliant
<p>priority streets; and</p> <ul style="list-style-type: none"> <li>▪ Visual intrusion and disruption of streetscape continuity.</li> </ul> <p>New vehicle access points are restricted in retail/pedestrian priority streets. Where practicable, vehicle access is to be from lanes and minor streets rather than major pedestrian streets or major arterial roads such as Rutledge Street, First Avenue, or Blaxland Road.</p>	<p>the development application.</p>	
<b>3.5 Pedestrian Access &amp; Amenity</b>		
<b>3.5.1 Street Frontage Activities</b>		
<p>Buildings with frontages to retail/pedestrian priority streets are to contribute to the liveliness and vitality of those streets by providing one or more of the following at ground level:</p> <ul style="list-style-type: none"> <li>▪ Retailing, food/drink outlets, customer counter services or other activities which provide pedestrian interest;</li> <li>▪ Enclosed shop-fronts with window displays of goods and services within, and/or artworks;</li> <li>▪ Open shopfronts to food outlets and/or interiors with tables and chairs for diners;</li> <li>▪ Indoor queuing space for activities that may involve queuing (including automatic teller machines) so that footpaths remain free for pedestrian movement.</li> </ul> <p>Recesses in the street alignment for these activities are appropriate; and</p>	<p>The proposed retail/commercial tenancies provide opportunities to facilitate the liveliness and vitality of the Trelawney Street frontage by providing glazed shop fronts, direct access to the footpath and a high standard of finish.</p>	<p>Satisfactory</p>

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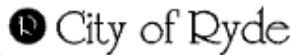
**ITEM 3 (continued)**

Control	Comments	Compliant
<ul style="list-style-type: none"> <li>▪ A high standard of finish for shop fronts.</li> </ul>		
<p>Buildings with frontages to other streets and lanes are to contribute to the liveliness and vitality of those streets by:</p> <ul style="list-style-type: none"> <li>▪ Providing visual interest;</li> <li>▪ Providing well designed and attractive entrances, lobbies and commercial uses at ground level; and</li> <li>▪ Incorporating, where practicable, either open or enclosed shopfronts with window displays of merchandise or services within, and/or artworks.</li> </ul>	<p>Retail/commercial tenancies with glazed shopfronts will extend along the Rutledge Street frontage as to contribute to the vitality and liveliness of the street.</p>	<p>Satisfactory</p>
<p>Ground floor uses are to be at the same level as the footpath. Split level arcades or open retail forecourts at a different level to the footpath are inappropriate because they separate the activities within them from the street.</p>	<p>The plans have been amended to address concerns raised by Council's Engineer with respect to the flood levels. As a result the following has been added:                      -Steps and a ramp along the Trelawney Street frontage of the retail/commercial tenancy further north;                      -A step into each retail/commercial entry along the Rutledge Street frontage; and                      -Steps and ramp way into the main lobby entry                      A condition is recommended to ensure the ramps along Trelawney Street have the appropriate width and grades to facilitate wheelchair access and the entries along Rutledge Street are graded and wide enough to cater for wheelchair access.</p>	<p>Subject to condition.</p>

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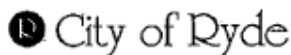
**ITEM 3 (continued)**

Control	Comments	Compliant
The ground floor of all development is to be flush with the street footpath for the predominant level of the street frontage and at the main entry to the building.	Refer to above.	Subject to condition
All street frontage windows at ground level are to have clear glazing.	Should the application be approved, a condition can be included in a consent to ensure retail/commercial tenancies consist of clear glazing.	Subject to condition
Security grilles are to be fitted only within the shopfront. Such grilles are to be transparent.	A condition can be included in a consent to advise that no consent has been granted for any grilles.	Subject to condition
Recesses for roller doors and fire escapes are to be wide and shallow to provide for personal security. Narrow, deep recesses are to be avoided.	A condition should be included in a consent to ensure that, appropriate lighting is provided in the recess along the Rutledge Street frontage, or the recess be removed by extending the access way and an inward opening door be provided adjacent to the boundary.	Subject to condition
<b>3.5.4 Landscaping &amp; Trees</b>		
Development proposals, incorporating landscaped elements, are to be accompanied by a landscape plan.	A landscape plan has been submitted and reviewed by Council's Landscape Officer. Refer to Landscape Architect comments below. Should the application be approved, a condition is recommended to require the landscape plan of Level 6 to be amended to reflect the amended Level 6 plan which indicates communal open space (drawing number DA-13 Issue B dated 13/04/2012).	Satisfactory

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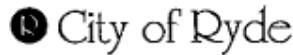
**ITEM 3 (continued)**

Control	Comments	Compliant
Where appropriate, developments should incorporate landscaping in the form of planter boxes incorporated into the upper levels of building to soften building form.	The proposal incorporates planter boxes on Levels 1 and 6 to soften the built form.	Satisfactory
Ground level entry areas to upper level dwellings should be well lit and not obstructed by planting in a way that reduces the actual or perceived personal safety and security of residents or pedestrians.	Should the application be approved, a condition is recommended to ensure the external entry into the ground level lobby, internal ramp way and lift entries are well lit.	Subject to condition
Street trees shall be provided in accordance with the Master Plan for the Centre and shall be provided at the developer's cost in conjunction with any new building work involving additional floor space.	Should the application be approved, a condition can be included in a consent to require street trees to be provided at the developer's cost.	Subject to condition
Street trees at the time of planting shall have a minimum container size of 200 litres, and a minimum height of 3.5m, subject to species availability.	Council's Urban landscape Architect has advised of specific requirements in relation to this matter. A condition can be included in a consent to specify Council's requirement.	Subject to condition
Tree sites in the footpath area shall be 1.2m by 1.2m, filled with approved gravel and located 200mm from the back of the kerb line.	A condition can be included in a consent to ensure this.	Subject to condition
A tree grate of a type that meets Council's specifications shall protect all trees.	A condition can be included in a consent to ensure this.	Subject to condition
Where a proposal involves redevelopment of a site with a frontage of at least 40m to a public road, the developer shall arrange for electricity and	The applicant has provided correspondence from Ausgrid which confirms the requirement for a substation. It does not clearly confirm that the existing	Subject to condition

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**ITEM 3 (continued)**

Control	Comments	Compliant
telecommunications utilities to be undergrounded along the entire length of all street frontages. Such utility modifications will be carried out to the satisfaction of the responsible authority (e.g. Energy Australia).	above ground power lines in Rutledge Street cannot be placed underground. However this restriction applied to the approval of the Eastwood Shopping Centre with respect to the 66kv power lines along Rutledge Street. Council's Engineers have not required undergrounding in Rutledge Street. Should the application be approved, a condition is recommended to specify that all services and power lines in Trelawney be located underground.	
Where utility installations are undergrounded in conjunction with new development Council will waive 50% of the total contribution towards public space acquisition and embellishment normally payable under Council's relevant Section 94 Contributions Plan.	As discussed previously, electricity lines along Rutledge Street may not be able to be placed underground. Accordingly no reduction would apply.	Satisfactory
<b>3.5.5 Awnings and Colonnades</b>		
Buildings with frontage to any street must incorporate an awning or colonnade along that boundary.	An awning is proposed along Trelawney Street and Rutledge Street.	Satisfactory
The height of a colonnade, awning or covered way shall not be less than 3 metres or greater than 4.5 metres.	The minimum awning height indicated on the drawings is 3m and the maximum is 4.47m.	Satisfactory
The width of a colonnade, awning or covered way shall not be less than 3 metres.	A condition is recommended to ensure the minimum width is complied with, except where tree cut-outs are proposed.	Satisfactory
Any new awnings should: <ul style="list-style-type: none"> <li>▪ Be continuous for the entire length of the site frontage;</li> </ul>	The awning along Rutledge Street ends just before the sites southeast corner. This is	Subject to condition

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Control	Comments	Compliant
<ul style="list-style-type: none"> <li>▪ Be set back from the face of the kerb by 0.6m;</li> <li>▪ Have cut-outs of 1m wide by 1m deep to accommodate street trees, where the frontage is proposed to accommodate a street tree in accordance with the master plan or any public domain improvement plan;</li> <li>▪ Be weather sealed to the face of the building to which they are attached and to the adjoining awnings;</li> <li>▪ Have a height clearance above the footpath level of at least 3m or a height consistent with adjacent awnings; and</li> <li>▪ Maintain sufficient clearances from any overhead electricity or telecommunications installations.</li> </ul>	<p>appropriate as:</p> <ul style="list-style-type: none"> <li>- Minimal pedestrian activity is expected here given that the pump room and substation will be located at the sites corner.</li> <li>- No encroachments are permitted over the substation, as advised by Ausgrid.</li> <li>- The awning cannot be extended to the approved awning of the Eastwood Shopping centre given the setback of the approved awning from the common boundary, and the location of an approved substation and loading dock entry adjacent to the site.</li> </ul> <p>Should the application be approved a condition should be included to require 1m x 1m cut-outs, a 600mm setback from the face of the kerb and weather sealing to the facade of the building, where appropriate.</p>	
<p>Ground level shop fronts may incorporate see-through security grills or translucent barriers to ensure that maximum light is transmitted to footpath areas. Blank roller-shutter type doors will not be permitted.</p>	<p>A condition can be included in a consent to ensure this.</p>	<p>Subject to condition</p>

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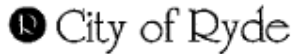
**ITEM 3 (continued)**

Control	Comments	Compliant
<b>3.7 Environmental Management</b>		
<b>3.7.1 Sunlight</b>		
Major public spaces should receive a minimum of 50% sunlight on the ground plane for at least 2 hours between 10am and 2pm on June 21.	There are no major public spaces that will be affected by the proposal.	Satisfactory
All new buildings should have an area of roof, with appropriate orientation and pitch that is suitable for the installation of solar collectors and photovoltaic cells for energy conservation.	The proposal complies with BASIX requirement in terms of energy consumption and thermal performance.	Satisfactory
<p>In new residential developments, windows to north-facing living areas should receive at least 3 hours of sunlight between 9am and 5pm on June 21 over a portion of their surface.</p> <p>North-facing windows to living areas of neighbouring dwellings should not have sunlight reduced to less than the above 3 hours.</p>	<p>The north facing living room windows of all units, except three, will meet the minimum 3 hour solar access requirement. The north facing living room windows of units G01, G02 and 109 will receive less than 3 hours sunlight, however they will receive a minimum of two hours which is accepted in this case. North-facing windows to living areas of neighbouring dwellings will not have sunlight reduced to less than the 3 hours, where existing.</p>	Satisfactory
<b>3.7.2 Wind Standards</b>		
Building design is to minimise adverse wind effects on recreation facilities and open terraces within developments.	The wind impact has been addressed previously.	Satisfactory
<b>3.7.3 Energy Efficiency of Buildings</b>		
To maximise energy efficiency and sustainable design. Buildings should optimize their passive and	The minimum standards are met. Reference should be made to the submitted BASIX	Satisfactory

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**ITEM 3 (continued)**

Control	Comments	Compliant
<p>operational energy efficiencies, reduce pollution, include waste minimisation systems and use construction materials from renewable resources.</p> <p>New Buildings: should be designed to ensure that energy usage is minimised.</p>	<p>certificate and Energy Report.</p>	
<b>3.7.4 Vibration and Noise Mitigation</b>		
<p>In respect of proposals for new residential buildings:</p> <ul style="list-style-type: none"> <li>▪ the building plan, walls, windows, doors and roof are to be designed and detailed to reduce intrusive noise levels.</li> <li>▪ balconies and other external building elements are located, designed and treated to minimise infiltration and reflection of noise onto the façade;</li> <li>▪ dwellings are to be constructed in accordance with: AS 3671-1989: Acoustics – Road Traffic Noise Intrusion, Building Siting and Construction; AS 3671-1987: Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors; and Environmental Criteria for Road Traffic Noise (EPA, 1999).</li> </ul>	<p>An acoustic report has been submitted. Should the application be approved, conditions are recommended to ensure:</p> <ul style="list-style-type: none"> <li>▪ Sealing of external facing window frames and door frames.</li> <li>▪ Provision of acoustic glazing on outward facing windows.</li> <li>▪ Appropriate timeframes for delivery vehicles.</li> <li>▪ Installation of a ventilation system to each unit that will satisfy internal sound levels detailed in the submitted acoustic report.</li> <li>▪ Implementation of the roller shutter manufacturer's maintenance schedule and recommended servicing of guide rails.</li> <li>▪ Compliance of the plant and equipment noise with the criteria listed in the submitted acoustic report.</li> <li>▪ A BCA sound compliance assessment is carried out at CC stage and the required works are implemented to</li> </ul>	<p>Subject to condition</p>

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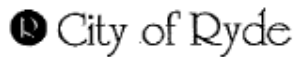
Control	Comments	Compliant
	ensure compliance with the airborne and impact sound isolation requirements between residential units set out in the BCA.	
<b>3.7.5 Reflectivity</b>		
The excessive use of highly reflective glass is discouraged. New buildings and façades should not result in glare that causes discomfort or threatens safety of pedestrians or drivers. Visible light reflectivity from building materials used on the façades of new buildings should not exceed 18%.	The proposal is considered acceptable, subject to a condition in a consent to ensure an appropriate reflectivity index is provided for external glazing.	Subject to condition
<b>3.7.6 External Lighting of Buildings</b>		
Any external lighting of buildings is to be considered with regard to: <ul style="list-style-type: none"> <li>▪ The integration of external light fixtures with the architecture of the building (for example, highlighting external features of the building);</li> <li>▪ The contribution of the visual effects of external lighting to the character of the building, surrounds and skyline;</li> <li>▪ The energy efficiency of the external lighting system; and</li> <li>▪ The amenity of residents in the locality.</li> </ul>	Discussed above.	Subject to condition
<b>3.7.7 Waste Management</b>		
All applications for demolition, building and land development must be accompanied by a Waste Management Plan.	A waste management plan has been submitted and reviewed by Council's Environmental Health Officer. No issues have been	Satisfactory

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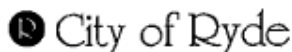
**ITEM 3 (continued)**

Control	Comments	Compliant
	raised in respect of this matter.	
A waste cupboard or other appropriate space is provided within dwellings for temporary storage of recyclables, garbage and compostable material.	A condition can be included in a consent to ensure compliance.	Subject to condition
In circumstances where communal facilities are proposed, the area or room is of sufficient size to store Council's standard bins and is easily accessible from each unit and from Council's usual collection point.	The development complies with this requirement.	-
The location and design of facilities does not impact on adjoining premises and the amenity of the dwellings within the development (e.g. odour, noise).	No evident impact, as the bin storage areas will be located centrally within the building in the common area / basement.	Satisfactory
Adequate space has been provided to enable on-site composting.	Adequate waste disposal arrangements have been proposed on the site including handling of recycling materials. Management of composting may become an issue given the mixed use development and therefore is not required in this instance.	Satisfactory.
Acceptable administrative arrangements for ongoing waste management are determined.	The waste disposal arrangement has been reviewed by Council staff, and is generally considered satisfactory. The operational arrangement will be put in place upon completion of the development if approved.	Satisfactory
Communal on-site waste storage and recycling area or garbage and recycling room must be provided for residential development. The	A communal on-site waste storage room will be provided for the residential component. A separate room is proposed for	Subject to conditions

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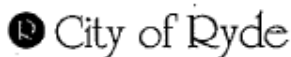
**ITEM 3 (continued)**

Control	Comments	Compliant
area should be capable of accommodating the required number of standard waste containers. Additional space for storage of bulky waste should be provided.	the storage of bulky waste.	
Buildings containing more than four storeys shall be provided with a suitable system for the transportation of garbage from each floor level to the garbage and recycling room(s). This may be a garbage chute system. Where such facilities are utilised, space must be provided on each floor for storage of recyclables.	A garbage chute is proposed, as well as an adjacent area to accommodate one bin.	Satisfactory
Business and Retail Premises:  The system for waste management is compatible with collection services.	No concerns have been raised by Council's Environmental Health Officer. Conditions are recommended to be included in a consent, should the application be approved.	Satisfactory
On-site source separation is facilitated.	A separate waste room is proposed for the non-residential tenancies which will consist of appropriate bin types to facilitate source separation.	Subject to condition
An appropriately designed and well located waste storage and recycling area and/or garbage and recycling room is provided on-site.	A separate waste room is indicated on the drawings. Should the application be approved, a condition is recommended to ensure the room has the required facilities, finishes and floor grading.	Subject to condition
Clear access for staff and collection services is provided.	It is likely that a caretaker or other employed person will be responsible for checking and transporting the bins, where necessary.	Subject to condition

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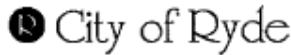
**ITEM 3 (continued)**

Control	Comments	Compliant
Facilities are carefully sited, well-designed and do not impact on adjoining premises or the amenity.	Garbage rooms will be well located.	Satisfactory
There are acceptable administrative arrangements for ongoing waste management.	A condition can be included in a consent to ensure by-laws for ongoing waste management, particularly responsibilities of a caretaker or other employed persons, are specified in a management plan. Conditions of consent can be used to require adequate waste handling arrangements on the site.	Subject to condition
Ongoing management is a significant issue - details are required in the waste management plan.	The submitted waste management plan has been reviewed by Council's Environmental Health Officer, who has raised no concerns.	Subject to conditions
Special attention should be paid to food scrap generation. Specialised containment should be provided and a regular and frequent collection service arranged to ensure that no impacts result from the activity.	At this stage the use of the retail space is not known. Waste generation and management will be reviewed in more detail at a future stage.	Subject to condition
<b>7.1 Energy Smart, Water Wise</b>	A BASIX Certificate has been submitted in respect of the development.	Satisfactory
<b>7.2 Waste Minimisation and Management</b>	The development complies with the requirements of this plan.	Satisfactory
<b>9.2 Access for People with Disabilities</b>	Section 9.2 requires 10% of the total number of units to be adaptable. At least eight (8) adaptable units are provided and at least one adaptable car space is provided for each adaptable unit.	Subject to condition

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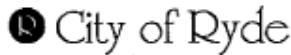
**ITEM 3 (continued)**

Control	Comments	Compliant
	<p>Should the application be approved, conditions are recommended to ensure that certain details are confirmed and/or indicated on Construction Certificate documentation as discussed in the submitted access report. They relate to the following aspects:</p> <ul style="list-style-type: none"> <li>▪ External pathway links and building entrance doorway entry landings and thresholds.</li> <li>▪ Entrance door schedules and hardware.</li> <li>▪ Ramp and stairway handrails, tactile surface indicators, step nosings, and risers.</li> <li>▪ Ramping / raising the internal fitout and finished floor level of northern retail entry.</li> <li>▪ Lift internal floor areas, controls, handrails and the like.</li> <li>▪ Fittings and fixtures of accessible sanitary facilities.</li> <li>▪ Raised tactile and Braille signage for common area, public toilets and amenities.</li> <li>▪ Lift lobby widths and doorway thresholds.</li> <li>▪ Door widths and level handles of adaptable units.</li> <li>▪ Installation of kitchen cupboards, appliances and the like for adaptable units.</li> <li>▪ Outdoor private open space threshold ramps of adaptable units.</li> </ul> <p>A discussed above, a condition</p>	

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Control	Comments	Compliant
	is recommended to ensure disabled access is provided directly from the footpath into each retail tenancy.	
<p><b>9.3 Car Parking</b></p> <p>Residential: 0.6-1 space/1 bedroom: 9.6-16 0.9-1.2 spaces/2 bedroom: 38.7-51.6 1.4-1.6 spaces/3 bedroom: 28-32 1 visitor space/5 dwellings: 15.8</p> <p>Retail: 1/25sqm = 36.5spaces</p>	<p><u>Total Required:</u> The total number of residential spaces is 92– 108</p> <p>The total number of retail is 37. TOTAL Required –129-145 CAR</p> <p><u>Total Proposed:</u> The total number of residential spaces is: 129</p> <p>The total number of retail is 26.</p> <p>TOTAL Proposed – 155 A condition should be included in a consent to require the reallocation of car spaces to respect the requirements of the RDCP. The reallocation should be at least: -37 retail spaces, -79 resident spaces -16 resident visitor spaces</p>	<p>Subject to condition</p>

Building Envelope Control

The proposal does not comply with the envelope control as indicated in the diagrams below.

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Diagram 2: North Elevation -

- Area of non-compliance with maximum 18.5m and 30.5m LEP Height Standards
- Building Envelope of RDCP 2010

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Diagram 3: East Elevation -

-  Area of non-compliance with Building Envelope of RDCP 2010 projected from **proposed** widening of Rutledge Street.
-  Area of non-compliance with Building Envelope of RDCP 2010 projected from **existing** Rutledge Street boundary.

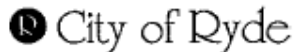
RDP 2010 provides that in certain circumstances buildings may be approved if they project above the building envelope plane. The circumstances include:

- *the non compliance is consistent with the aims, principles and strategies of the Plan;*
- *in the circumstances of the site the strict application of the provision is unnecessary or unreasonable, such as corner allotments or the presence of an intervening structure;*

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- *it can be demonstrated that the intention of the control is largely met; or*
- *variation of the control results in an improved design solution for the site taking into consideration the nature of the adjoining development.*

The circumstances in which strict application of the building envelope is considered unnecessary or unreasonable have been identified above. These circumstances will ensure that the intention of the control will be largely met. As demonstrated in this report section, the intentions of the control will not be satisfactorily met by the extent of the proposed variance and this variance will not necessarily provide an improved design taking into consideration the nature of adjoining development.

Reference is made to the court findings for *Crown Atlantis Joint Venture v Ryde City Council*. In summary, the findings indicate that the achievement of the 'human scale' is important to the design outcome, particularly the proposed height, and should not be disregarded. The relevant findings are stated below:

1. *The intention of DCP 39 is that new development should have an urban village character. Development should be of human scale in the streetscape, being generally two to three stories in height. Taller building elements set back from street are permissible but they should not dominate.*
2. *Trelawney Street is to be developed for the enjoyment and utility of pedestrians with a high level of aesthetic amenity at street level.*
3. *Trelawney Street is a retail/pedestrian priority street and at its intersection with Rutledge Street forms a gateway to the Eastwood Town Centre. The street corner portion of the site is therefore a gateway site for the purposes of DCP 39 and notwithstanding the first objective above should be developed accordingly. More particularly the corner element of the building should address both streets and be stepped up especially in relation to structures at the street frontages.*

The third point verifies that the street corner portion of the site, not the whole length of the site, is that part that should form a gateway feature and should be developed accordingly. As stated above, a variance to the standard is likely to be accepted for the creation of a gateway feature as required by the DCP and implicated by Objectives (d) and (e) for the 'Height of Buildings' listed under Clause 4.3 of the RLEP. If appropriately designed and limited to the corner of the building, this would have minimal impact on retaining the human scale along Trelawney Street, reflecting the topography and providing a sympathetic transition to neighbouring properties to the north, if the remainder of the building is stepped down as discussed above.

With respect to the human scale aspect, the architect has noted that a 3m high awning above the footpath, on the opposite side of Trelawney Street, would obstruct a sightline projected from the boundary at a height of 1.5m and angle of 26 degrees and hence the higher/non compliant building portions. This is not concurred with. A pedestrian would have to be standing on the site boundary of 3-5 Trelawney Street.

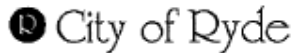
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This would be difficult as the building is likely to extend up to this boundary and generally a pedestrian would not be walking flush against the boundary. If the sightline is projected from at least 500mm from the footpath edge (approximately one step away), the higher building portions would be visible. The submitted Trelawney Street elevation plan for the proposal at 3-5 Trelawney Street, indicates the awning will generally range from 3m to a maximum of 4.47m and therefore sightlines projected from the boundary would not be obstructed by the awnings higher than 3m above footpath level.

**Section 94 Contributions Plan 2007**

Development Contributions Plans – 2007 (2010). Amendment allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density/ floor area.

The proposed development will result in the following Section 94 contributions being payable.

<b>Contribution Type</b>	<b>Contribution Amount</b>
Community & Cultural Facilities	\$219,381.43
Open Space & Recreation Facilities	\$499,430.36
Civic & Urban Improvements	\$196,125.45
Roads & Traffic Management Facilities	\$30,569.12
Cycleways	\$16,712.09
Stormwater Management Facilities	\$56,229.26
Plan Administration	\$4,500.98
<b>The total contribution is</b>	<b>\$1,022,948.69</b>

**10. Likely impacts of the Development**

The likely impacts of the development have been addressed in previous sections of this report.

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

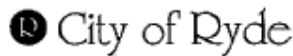
The site is not classified as a heritage item nor affected by subsidence however, the site subject site is affected by 1 in 100 year overland flow path. The applicant has submitted amended architectural plans that indicate all finished floor levels of the building facing Rutledge and Trelawney Streets are 300mm above the top water level of 1 in 100 year ARI storm event. In this regard, the proposal is considered to be suitable for the site in terms of its impact on both the existing natural and built environment.

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**ITEM 3 (continued)**

**12. The Public Interest**

The public interest, in respect of this application, would be to ensure that the development application complies with the planning controls that affect the site. As demonstrated in this report, the application is not in the public interest.

**13. Consultation – Internal and External**

Internal Referrals

*Environmental Health Officer:*

No objections have been raised to the development subject to conditions. In the event that the DA is approved, the conditions should be included in the consent.

*Drainage*

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

*Traffic*

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

*Public Domain*

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

*Waste*

No objections have been raised to the development. Conditions are recommended. In the event that the DA is approved, the conditions should be included in the consent.

External Referrals

*Roads and Maritime Services (RMS)*

RMS has not raised any concerns subject to certain details being provided and/or complied with. These can be addressed via the inclusion of conditions in a consent, should the application be approved.

**14. Critical Dates**

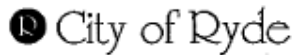
There are no critical dates or deadlines to be met.

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**15. Financial Impact**

Nil

**16. Other Options**

The development is non-compliant with the applicable height, envelope and setback controls. These non-compliances will result in adverse urban design outcomes. Accordingly the development application is recommended for refusal.

Other options for the Council to consider are listed below:

- 1) The determination of the development application could be deferred to enable the applicant to submit amended plans. The purpose of the amended plans would be to achieve greater compliance with the height, setback controls, envelope and other substantial non compliances with the current proposal and to achieve a better design outcome for the site.

If Council did resolve to defer the development application for the submission of amended plans, these plans would require re-notification. In addition, the applicant would get the opportunity to revisit the Voluntary Planning Agreement.

- 2) Should Council support the variations to the planning controls, Council could resolve to approve the development application subject to appropriate conditions. This option is not supported due to the issues already raised in the report. However if Council did wish to proceed with this option, it would be in Council's interest to also accept the Voluntary Planning Agreement referred to in Annexure 4.
- 3) Council could also resolve to support the development application however resolve to reject the VPA. This option is not supported as Council would not be receiving the additional funding as proposed in the VPA.

**Conclusion**

The proposed development has been assessed against the relevant planning provisions, which have included the provisions of SEPP 65, RFDC, RLEP 2010 and RDCP 2010. As a result, the assessment fails to comply with a number of the key controls, in particular the controls relating to height, envelope, depth, cross ventilation and solar access. The development will not provide appropriate urban design.

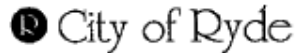
The proposed building height exceeds standards prescribed under the RLEP 2010 by a maximum of 22.84m where the 18.5m standard applies and 11.06m where the 30.5m standard applies. This will not be appropriate in the circumstances of this case as the height will not achieve related objectives of the control and B4 mixed use

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zone. It will not respect the desired massing and human scale initiatives. It will not be stepped to appropriately address the site's corner location.

Prior and during the submission of the subject DA, the applicant was advised by Council Officers and the UDRP that compliance needs to be achieved with the maximum height standard and that the applicant's design initiative of providing a 'gateway' entry can still be achieved with a compliant situation.

The desired future character of the Eastwood Town Centre expressed in local controls refers to retaining the 'urban village character'. This is directly related to respecting the human scale. The development does not respect this. The human scale issue is an important objective of not only the height standard of the RLEP but also of the height standard in the DRLEP and prescribed building envelope of the RDCP. The development will extend well outside of the building envelope control of the RDCP. Trelawney Street is identified as a retail/pedestrian priority street under the RDCP, which further reinforces the importance of respecting the human scale along this street. The development design has not had adequate regard to this important aspect.

The proposed development will not meet the absolute minimum RFDC requirement for living rooms and private open spaces of at least 70% of the units in the development achieving a minimum of 2 hours solar access between 9am and 3pm in mid winter. It proposes a major variation of 16%, with only 54% of units in the development achieving the requirement.

The proposed development will not facilitate the required building separation to the east (between the approved Eastwood Shopping Centre Development) as required under the RFDC. Insufficient information has been submitted to ascertain whether or not the proposed separation will be satisfactory with respect to solar access, i.e. the approved development will still achieve compliance with the RFDC requirement for living rooms and private open spaces of at least 70% of the units in the development achieving a minimum of 2 hours solar access between 9am and 3pm in mid winter.

In addition the applicant has not submitted details that verify the private open spaces of at least 70% of the proposed units will receive a minimum of 2 hours direct sunlight between 9 am and 3 pm in mid winter.

The proposal represents an overdevelopment of the site. The density is dictated by the applicable setback, height and envelope controls. The development does not achieve these controls and therefore is excessive in density.

Based on the above, the development is recommended for refusal.

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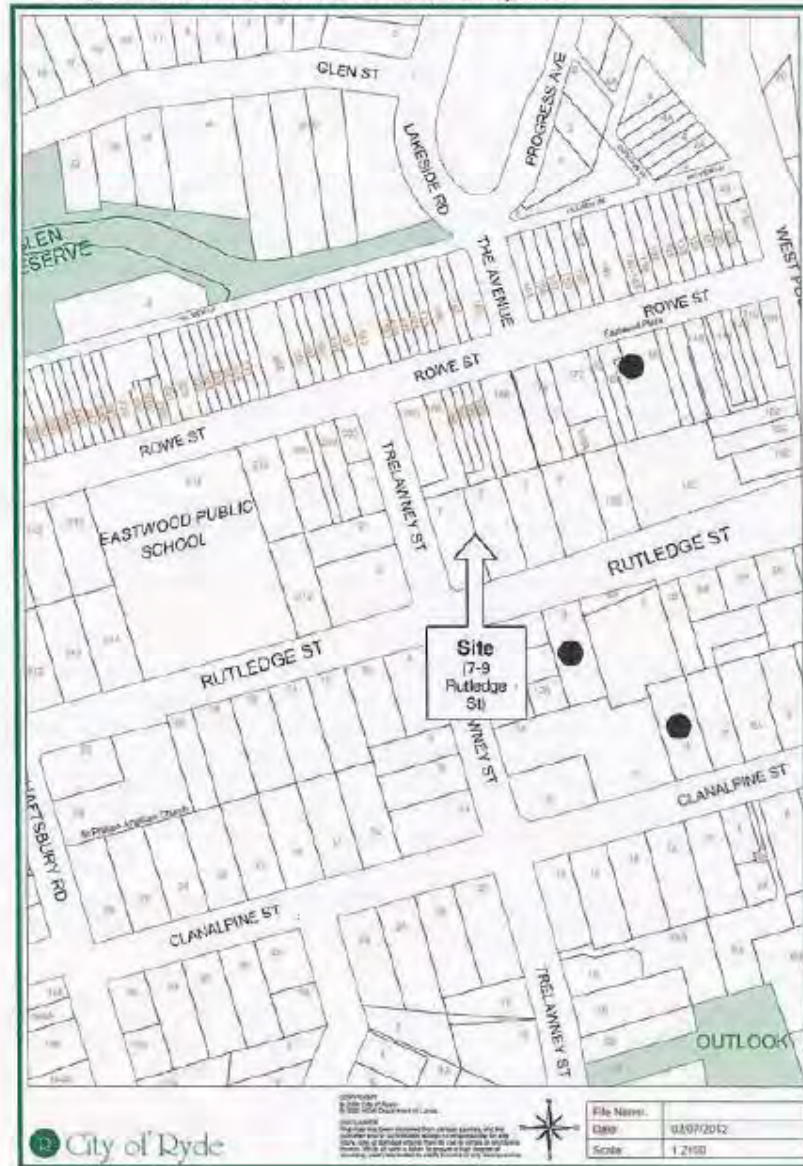
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● Indicates submissions received.  
One submission was received from outside map area.



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June 21 11am SCALE 1:2000

June 21 2PM SCALE 1:2000

June 21 10am SCALE 1:2000

June 21 1PM SCALE 1:2000

June 21 5am SCALE 1:2000

June 21 12PM SCALE 1:2000

June 21 3PM SCALE 1:2000

PROJECT NAME	10039 SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12
CLIENT	SHALLOW DIAGNOSTICS	DATE	25/06/2011	ISSUE NO.	10039-1514-01
PROJECT ADDRESS	10039 SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12
PROJECT DESCRIPTION	SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12
PROJECT LOCATION	10039 SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12
PROJECT OWNER	SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12
PROJECT STATUS	SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12
PROJECT CONTACT	SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12
PROJECT DRAWING	SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12
PROJECT REVISIONS	SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12
PROJECT APPROVALS	SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12
PROJECT COMMENTS	SHALLOW DIAGNOSTICS	PROJECT NUMBER	DA-23	DATE	10/2/12

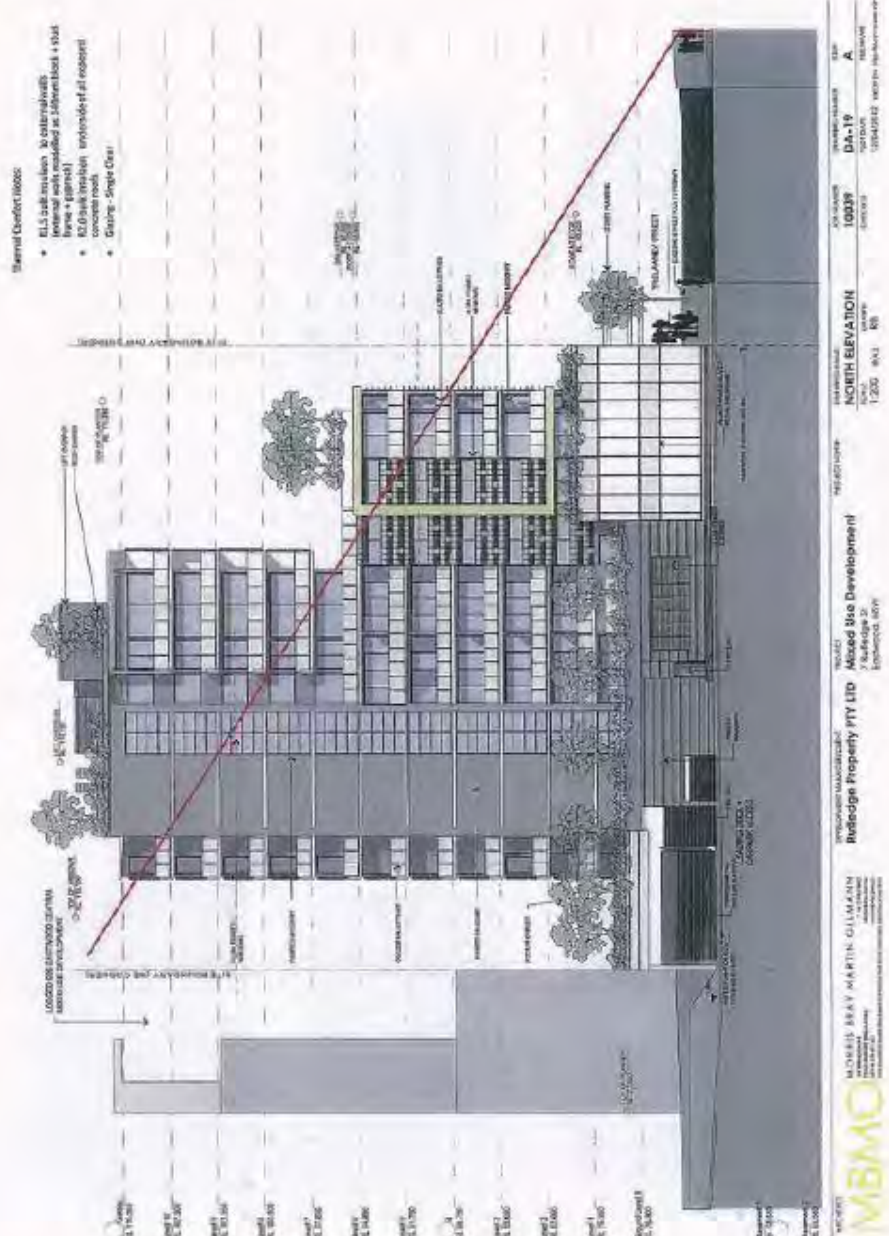
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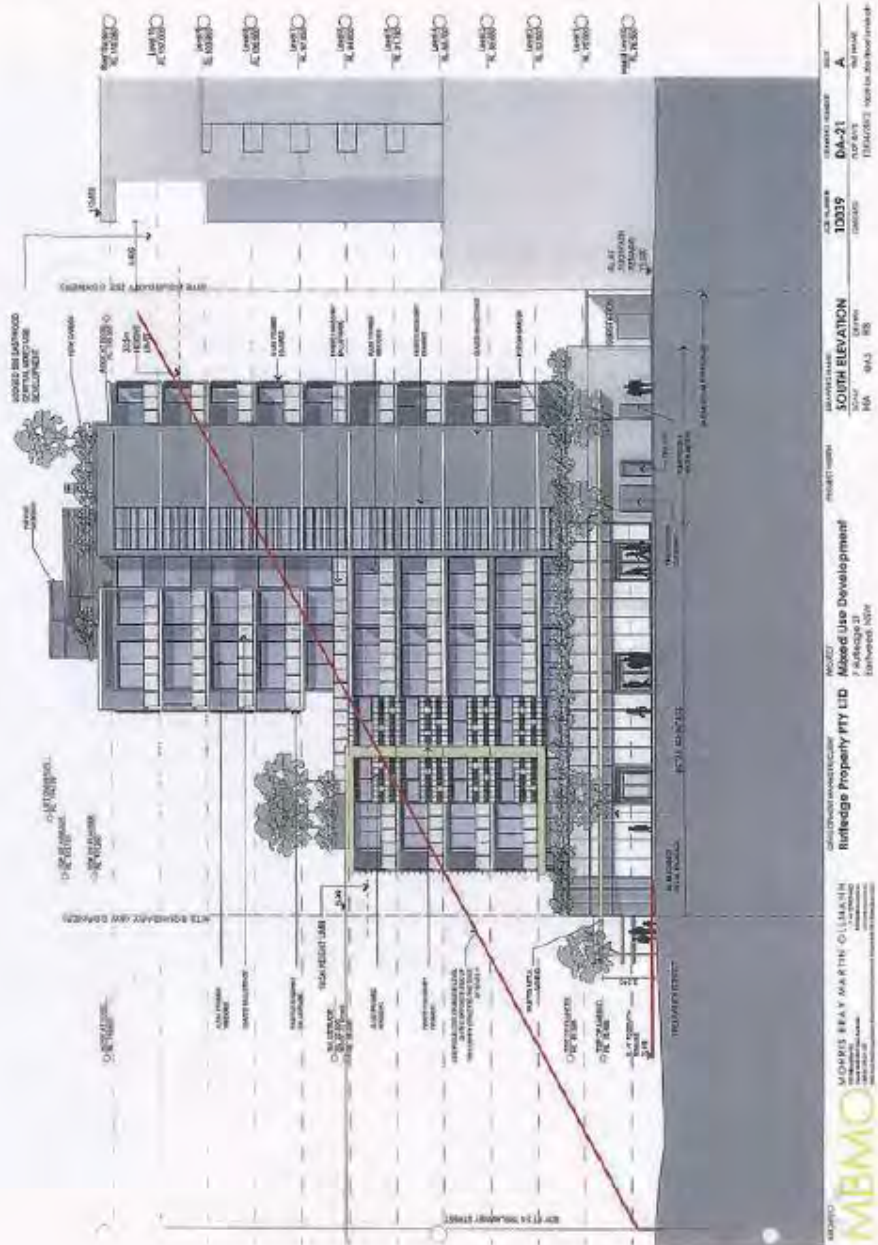


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**ITEM 3 (continued)**

**ATTACHMENT 2**

**ITEM 3 (continued)**

**ATTACHMENT 4**

**1 VOLUNTARY PLANNING AGREEMENT OFFER – 7-9 RUTLEDGE STREET, EASTWOOD.**

**Report prepared by:** Client Manager

**Report approved by:** Manager Assessment; Group Manager - Environment & Planning

**Report dated:** 19 June 2012

**File Number:** D12/42893

**1. Report Summary**

Council is in receipt of Local Development Application LDA2011/612, at 7-9 Rutledge Street, Eastwood for the construction of a part 7 part 12 storey mixed use building containing 79 units, commercial / retail tenancies on the ground floor and basement parking.

As part of the proposal, the proponents are seeking to enter into a Voluntary Planning Agreement (VPA) with Council. The VPA forms a contractual agreement between Council and the Developer. The purpose of this report is for Council to determine whether it will endorse the VPA should the application be approved by Council. The VPA offers public benefit together with complying with Council's requirements in respect of Section 94 Contributions.

It is recommended that Council determine whether the proposed development is acceptable and if supported, endorse the Voluntary Planning Offer.

**RECOMMENDATION:**

- (a) That if Council resolves to approve Local Development Application 2011/0612 at 7-9 Rutledge Street, Eastwood then Council should endorse the Voluntary Planning Agreement made by Rutledge Street Pty Ltd dated 8 June 2012.
- (b) That the above be communicated to the proponents.

**ATTACHMENTS**

- 1 Voluntary Planning Agreement – 7-9 Rutledge St, Eastwood

Report Prepared By:

**Adrian Melo**  
Client Manager

Report Approved By:

**Liz Coad**  
Manager Assessment

**Dominic Johnson**  
Group Manager - Environment & Planning

Agenda of the Planning and Environment Committee Report No. 9/12, dated Tuesday 17 July 2012.

**ITEM 3 (continued)**

**ATTACHMENT 2**

**ITEM 3 (continued)**

**ATTACHMENT 4**

**2. Site (Refer to map.)**



**3. Councillor Representations**

Nil.

**4. Political Donations or Gifts**

Any political donations or gifts disclosed? No.

**5. Background**

An offer for a VPA was submitted by the proponent at time of lodgement of the Development Application for 7-9 Rutledge St, Eastwood on the 28 November 2011. This VPA was considered by Council's Executive Team at a meeting held 16 December 2011. This original offer was not supported by the Executive Team as, excluding matters necessary and consequential to the development application, it totalled \$75,000.00.

Following the initial consideration of the VPAs by Executive Team, a letter was sent to the applicant dated 23 December 2011 suggesting amendments to the VPA and that Council would expect the value of the VPA to equate to approximately 20% of the applicable Section 94 Contributions. Following the letter, Council Officers met with the proponents on the 4 April 2012. During the meeting the applicant was advised of Council's expectations regarding Voluntary Planning Agreements. At this meeting the applicant agreed to amend the VPA offer to equal 20% of the total s94 Contributions.

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Agenda of the Planning and Environment Committee Report No. 9/12, dated Tuesday 17 July 2012.

**ITEM 3 (continued)**

**ATTACHMENT 2**

**ITEM 3 (continued)**

**ATTACHMENT 4**

The applicant submitted an amended VPA proposing a one off cash contribution of \$100,000.00 equating to 9.7% of applicable s94 Contributions. This was considered by Council's Executive Team at its meeting held 19 April 2012 and was not supported. The applicants were informed of this in a letter dated 19 April 2012.

On 24 April 2012, the proponents submitted an amended VPA offer proposing that the one-off cash contribution for the development be raised to \$205,315.00. This equated to approximately 20% of applicable s94 Contributions and was considered acceptable by the Executive Team on 4 May 2012.

Following support of the offer from the Executive Team, the VPA was considered by Council's Voluntary Planning Agreement Panel on 29 May 2012. At this meeting, the VPA Panel identified substantial areas of concerns regarding the wording of the explanatory note and associated VPA. The proponent was advised of the concerns relating to the Explanatory Note on the 29 May 2012 and the concerns relating to the VPA instrument in a letter dated 1 June 2012. The final version of the explanatory note was received by Council on 30 May 2012 and the final version of the VPA was received by Council 8 June 2012.

**6. Report**

Council has received Local Development Application LDA2011/612, at 7-9 Rutledge Street, Eastwood. The development comprises the construction of a part 7 part 12 storey mixed use building containing 79 units, commercial / retail tenancies on the ground floor and basement parking.

A VPA is a contractual agreement between Council and a developer under which public benefit for a public purpose is delivered as part of a Development Application. The Development Application and VPA are considered jointly as they are interlinked. The Assessment Report for the proposed development is to be reviewed and the Development Application determined by Council at the same Council Meeting.

**Summary of VPA Offer**

The planning agreement seeks to provide a one off monetary contribution to Council of \$205,315. The proposed agreement does not seek the suspension of Section 94 Contributions that will continue to apply to the subject development.

It must be noted that the proposed development fails to comply with the applicable planning controls as detailed within the Assessment Report. The Assessment Report recommends that Council refuse the Development Application.

The material public benefits proposed to be made to support the proposed non-compliances is a one off monetary contribution of \$205,315 to Council.

**Consultation**

The Voluntary Planning Agreement was advertised in the Ryde City View newsletter circulated within the Northern District Times between 30 May 2012 and 27 June 2012. No submissions were received during this period.

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Agenda of the Planning and Environment Committee Report No. 9/12, dated Tuesday 17 July 2012.

**ITEM 3 (continued)**

**ATTACHMENT 2**

**ITEM 3 (continued)**

**ATTACHMENT 4**

**Consideration of the Voluntary Planning Agreement**

The Section 93F of the *Environmental Planning and Assessment Act 1979* details various matters that must be addressed by a VPA.

It should be noted that the VPA satisfies all requirements of Section 93F and it is recommended that should Council seek to approve the associated Development Application, Council endorse the Voluntary Planning Agreement Offer.

A detailed consideration of Section 93F is provided below.

Environmental Planning and Assessment Act 1979, Clause 93F		
Clause 93F	Proposal	Complies?
<p>(1) A planning agreement is a voluntary agreement or other arrangement under this Division between a planning authority (or 2 or more planning authorities) and a person (the <b>developer</b>):</p> <p>(a) who has sought a change to an environmental planning instrument, or</p> <p>(b) who has made, or proposes to make, a development application, or</p> <p>(c) who has entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies,</p> <p>under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.</p>	<p>The proponents are seeking to provide:</p> <ul style="list-style-type: none"> <li>- A one off monetary contribution of \$205,315</li> </ul> <p>The above is in addition to the applicable Section 94 Contributions and can be used where deemed appropriate by Council.</p> <p>The provisions of additional funds are considered to constitute material public benefit which shall be used and applied towards a public purpose.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>(2) A public purpose includes (without limitation) any of the following:</p> <p>(a) the provision of (or the recoupment of the cost of providing) public amenities or public services,</p> <p>(b) the provision of (or the recoupment of the cost of providing) affordable housing,</p> <p>(c) the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land,</p>	<p>No public amenities or public services are provided.</p> <p>No affordable housing is provided.</p> <p>No transport is provided.</p>	<p>N/A</p> <p>N/A</p> <p>N/A</p>

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**ITEM 3 (continued)**

**ATTACHMENT 2**

**ITEM 3 (continued)**

**ATTACHMENT 4**

<b>Environmental Planning and Assessment Act 1979 Clause 93F</b>		
<b>Clause 93F</b>	<b>Proposal</b>	<b>Complies?</b>
<i>(d) the funding of recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure,</i>	The monetary contribution will be paid to Council to be utilised where deemed appropriate. Council's expenditures will be for public amenities, public services or other infrastructure.	Yes
<i>(e) the monitoring of the planning impacts of development,</i>	No monitoring of planning impacts is provided.	N/A
<i>(f) the conservation or enhancement of the natural environment.</i>	No conservation or enhancement of the natural environment is provided.	N/A
<b>(3) A planning agreement must provide for the following:</b>		
<i>(a) a description of the land to which the agreement applies,</i>	It is considered that the VPA adequately satisfy the requirement of this part.	Yes
<i>(b) a description of:</i> <i>(i) the change to the environmental planning instrument to which the agreement applies, or</i> <i>(ii) the development to which the agreement applies,</i>		
<i>(c) the nature and extent of the provision to be made by the developer under the agreement, the time or times by which the provision is to be made and the manner by which the provision is to be made,</i>		
<i>(d) in the case of development, whether the agreement excludes (wholly or in part) or does not exclude the application of section 94, 94A or 94EF to the development,</i>		
<i>(e) if the agreement does not exclude the application of section 94 to the development, whether benefits under the agreement are or are not to be taken into consideration in determining a development contribution under section 94,</i>		
<i>(f) a mechanism for the resolution of disputes under the agreement,</i>		
<i>(g) the enforcement of the agreement by a suitable means, such as the provision of a bond or guarantee, in the event of a breach of the agreement by the developer.</i>		

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ITEM 3 (continued)

ATTACHMENT 2

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ATTACHMENT 4

Environmental Planning and Assessment Act 1979 Clause 93F		
Clause 93F	Proposal	Complies?
(3A) A planning agreement cannot exclude the application of section 94 or 94A in respect of development unless the consent authority for the development or the Minister is a party to the agreement.	The VPA does not exclude the operation of Section 94 on the proposed development.	Yes
(5A) A planning authority, other than the Minister, is not to enter into a planning agreement excluding the application of section 94EF without the approval of:  (a) the Minister, or  (b) a development corporation designated by the Minister to give approvals under this subsection.	Section 94EF does not apply to the proposal.	N/A
(6) If a planning agreement excludes benefits under a planning agreement from being taken into consideration under section 94 in its application to development, section 94 (6) does not apply to any such benefit.	The VPA <u>does not</u> seek the exclusion of the application of Section 94.	N/A
(7) Any Minister, public authority or other person approved by the Minister is entitled to be an additional party to a planning agreement and to receive a benefit under the agreement on behalf of the State.	No additional parties are proposed.	N/A
(8) A council is not precluded from entering into a joint planning agreement with another council or other planning authority merely because it applies to any land not within, or any purposes not related to, the area of the council.	No joint planning agreement with another council or planning authority is proposed.	N/A
(9) A planning agreement cannot impose an obligation on a planning authority:  (a) to grant development consent, or  (b) to exercise any function under this Act in relation to a change to an environmental planning instrument.	The planning agreement does not impose an obligation to grant development consent or change an environmental planning instrument.  Whilst the VPA forms part of the Development Application, support of the VPA does not grant approval to the Development Application.	Yes
(10) A planning agreement is void to the extent, if any, to which it requires or allows anything to be done that, when done, would breach this section	The works proposed under the VPA are to be subject to further consideration by Council and will be determined as part of the application.	Yes

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**ITEM 3 (continued)**

**ATTACHMENT 2**

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**ATTACHMENT 4**

Environmental Planning and Assessment Act 1979 Clause 93F		
Clause 93F	Proposal	Complies?
or any other provision of this Act, or would breach the provisions of an environmental planning instrument or a development consent applying to the relevant land.	Subject to careful consideration of the proposed works by Council and standard conditions of consent, it is unlikely that the matters to be dealt with under the application and VPA will breach to <i>Environmental Planning and Assessment Act 1979</i> , applicable environmental planning instruments or development consent applying to the subject site.	

As identified above, it can be seen that the proposed Voluntary Planning Agreement satisfies the principles underlying the use of planning agreements and fulfils several categories of works that Council will consider as part of a VPA. Notwithstanding the above, further consideration of the Voluntary Planning Agreement and the public interest and benefit is detailed below.

The merits of the Voluntary Planning Agreement were discussed during several Executive Team meetings and an internal Panel chaired by Council's Group Manager, Environment and Planning. It was considered that the VPA provided public benefit and was in the public interest. A break down of the value of VPA and the Section 94 Contributions is provided below.

Item	Value
VPA - Cash Contribution	\$205, 315.00
Contribution under Council's Section 94 Contribution Plan	\$1, 022, 948.69
<b>Total Contributions to Council</b>	<b>\$1, 228, 263.69</b>

It can be seen that the proposed VPA represents public benefit. Normally, to ensure that the VPA is registered on the title of the land it would be necessary to impose a condition on the consent for this to occur prior to the issue of any Construction Certificate. This condition would be included if Council was of a mind to approve the Development Application.

**7. Policy Implications**

There are no policy implications through adoption of the recommendation.

**8. Critical Dates**

It is recommended that the VPA be considered jointly with the Development Application. Accordingly, the VPA must be determined at the same Council meeting as the Development Application.

Agenda of the Planning and Environment Committee Report No. 9/12, dated Tuesday 17 July 2012.

**ITEM 3 (continued)**

**ATTACHMENT 2**

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**9. Financial Impact**

If Council is of the view that the variations to the planning controls are acceptable and that the Development Application should be supported, then the VPA should also be supported as the VPA represents a public benefit.

**10. Other Options**

There are two options in considering the VPA:

- (1) If Council agrees with the recommendation to refuse LDA2011/0612 as detailed in the assessment report, then the VPA should also be refused.
- (2) Council may choose to reject the VPA offer but approve the DA. This option is not supported as it would result in a loss of the additional contribution proposed.

**11. Conclusion**

Through entering into a VPA for the subject development, Council will receive additional funds to be spent for the public benefit. Council must still determine whether the proposed non-compliances with the applicable planning controls and their associated amenity impacts are acceptable. The VPA has been clearly identified as relating to a planning purpose, providing public benefit and is in the public interest.

ITEM 3 (continued)

ATTACHMENT 2

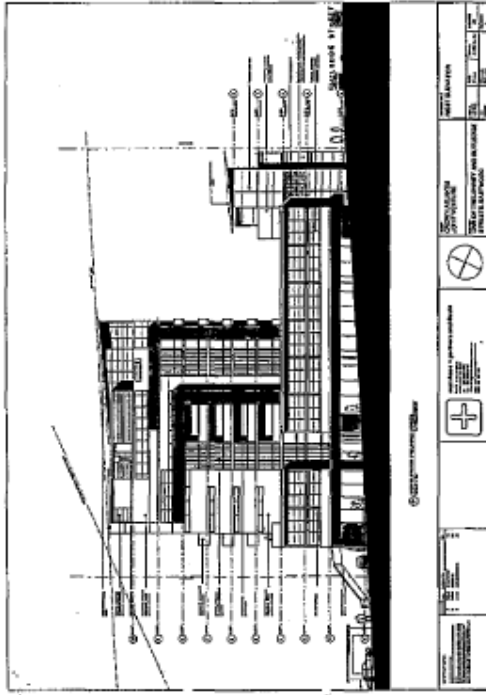
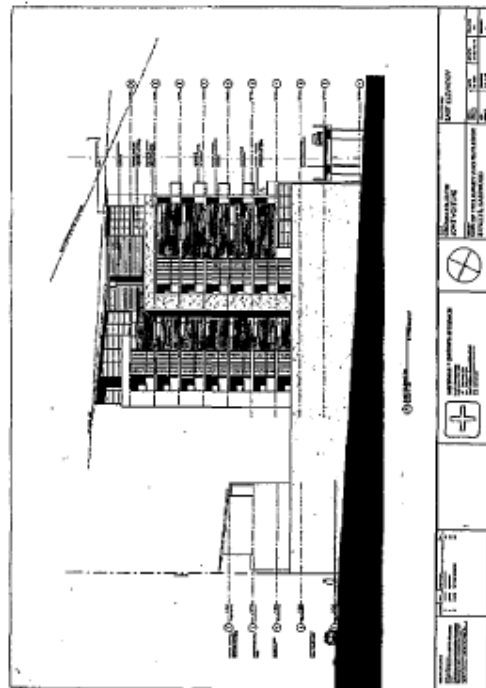
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ATTACHMENT 5

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ITEM 3 (continued)

PLAN SHOWING PROPOSAL REFUSED BY LAND AND ENVIRONMENT COURT IN 2004



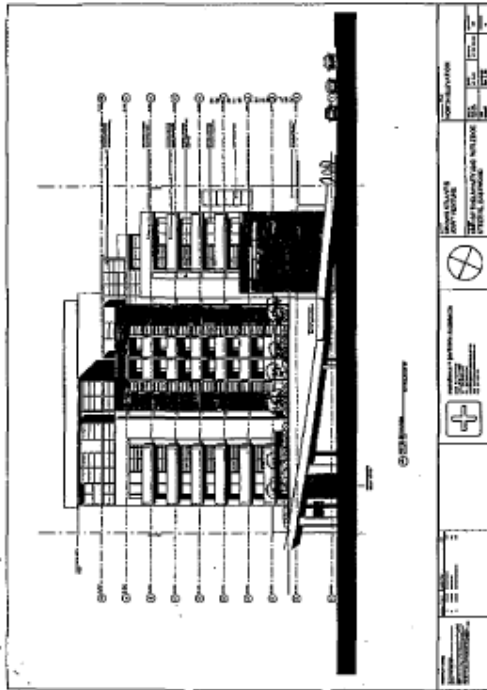
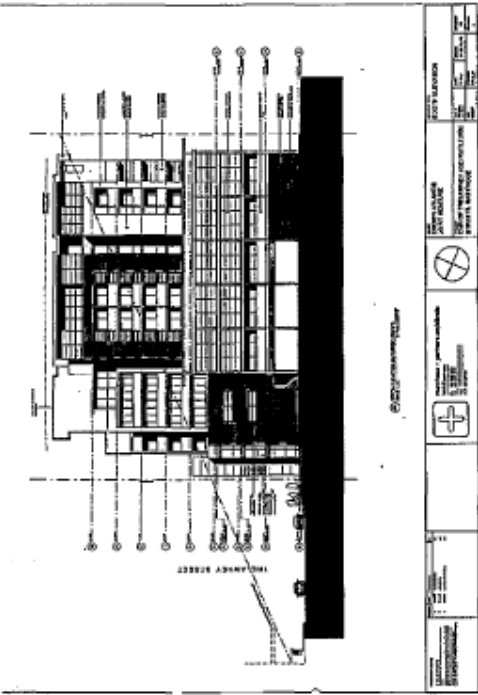
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ATTACHMENT 5



ITEM 3 (continued)

ITEM 3 (continued)

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ATTACHMENT 6



Extract from Ryde Local Environmental Plan 2010 Height of Buildings Map

Maximum Building Height (m)
0
9.5
11.5
12.5
14
15.5
18.5
21.5
22
26
27.5
30
30.5
33.5
37
44.5
75

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**ITEM 3 (continued)**

**ATTACHMENT 3**

**VOLUNTARY PLANNING AGREEMENT OFFER – 7-9 RUTLEDGE STREET, EASTWOOD.**

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**Report prepared by:** Client Manager  
**Report approved by:** Group Manager - Environment & Planning  
**Report dated:** 22 October 2014 **File No. LDA2011/0612**

**1. Report Summary**

**Applicant: Morris Bray Martin Ollmann Architects.**  
**Owner: Rutledge Properties Pty Ltd.**  
**Date lodged: 28 November 2011.**

Council at its meeting on 27 November 2012 considered a Local Development Application (DA) LDA2011/612, at 7-9 Rutledge Street, Eastwood to construct a part 7 and part 13 storey mixed use development containing 79 dwelling units, 912.34m<sup>2</sup> of retail floor space and 155 car parking spaces. At this meeting Council also considered a Voluntary Planning Agreement (VPA) as part of the proposal sought by the proponents. The VPA included a cash contribution element of \$205,315. In considering the VPA Council resolved to increase the cash contribution element from \$205,315 to \$225,000.

Council is in receipt of amended plans relating to the DA for the construction of a part 7 and part 12 storey mixed use development containing 100 residential apartments, 613m<sup>2</sup> of commercial / retail tenancies on the ground floor and parking for 159 motor vehicles. The applicant has also submitted an amended VPA which shows an increase in cash contribution to \$225,000 in accordance with Council Resolution of 27 November 2012. This sum is subject to quarterly CPI increases as defined in clause 1.c of the Voluntary Planning Agreement.

The VPA offers public benefit together with complying with Council's requirements in respect of Section 94 Contributions. The VPA forms a contractual agreement between Council and the Developer.

The purpose of this report is for Council to determine whether the revised VPA offer is acceptable and if supported, it is recommended that it endorses the revised VPA.

**ITEM 3 (continued)**

**ATTACHMENT 3**

**RECOMMENDATION:**

- (a) That if Council resolves to approve Local Development Application 2011/0612 at 7-9 Rutledge Street, Eastwood then Council endorses the Voluntary Planning Agreement offered by Rutledge Street Pty Ltd which increases the cash contribution element from \$205,000.00 to \$225,000.00 subject to Council's quarterly CPI increase applied by City of Ryde's Section 94 Development Contributions Plan.
- (b) That the Acting General Manager be delegated authority to finalise the Voluntary Planning Agreement with Rutledge Street Pty Ltd.

**ATTACHMENTS**

- 1 Voluntary Planning Agreement - 7-9 Rutledge St, Eastwood

Report Prepared By:

**Zia Ahmed**  
**Client Manager**

Report Reviewed By:

**Vince Galletto**  
**Team Leader, Building and Development Advisory Service**

Report Approved By:

**Liz Coad**  
**Manager - Assessment**

**Meryl Bishop**  
**Acting Group Manager - Environment & Planning**

## ITEM 3 (continued)

## ATTACHMENT 3

### 2. Background

An offer for a VPA was submitted by the proponent at time of lodgement of the Development Application for 7-9 Rutledge St, Eastwood on the 28 November 2011. The VPA offer was subsequently modified to reflect Council's expectations regarding Voluntary Planning Agreements as considered by Council's Executive Team (ET).

On 24 April 2012, the proponents submitted an amended VPA offer proposing that the one-off cash contribution for the development be raised to \$205,315.00. This equated to approximately 20% of applicable s94 Contributions and was considered acceptable by the Executive Team on 4 May 2012.

Council at its meeting on 24 July 2012 resolved among other matters that the Group Manager – Environment and Planning negotiate with the applicant for an increase in the VPA amount. Following a meeting with the applicant and Council staff, the applicant on 6 November 2012 agreed to increase the VPA cash contribution offer from \$205,315.00 by 10% to \$225,00.00.

Council at its meeting on 27 November 2012 resolved among other matters the following:

*“b. That the applicant shall submit a revised Voluntary Planning Agreement to Council to increase the cash contribution element of \$205,315 by 10% to \$225,000. The wordings of the VPA and the Explanatory Notes must comply with the Environmental Planning and Assessment Act 1979.”*

In response to the above resolution a revised VPA with an increased amount of \$225,000 has been submitted on 12 August 2013 along with a set of amended plans and supporting information. Final set of amended plans were received by Council on 16 September 2014, which is the subject of the Assessment Planner's report.

### 3. Report

A VPA is a contractual agreement between Council and a developer under which public benefit for a public purpose is delivered as part of a Development Application. The Development Application and VPA are considered jointly as they are interlinked and that this matter was previously considered by Council. The Assessment Report for the proposed development is to be reviewed and the Development Application determined by Council at the same time.

#### Summary of VPA Offer

The planning agreement seeks to provide a monetary contribution to Council of \$225,000 subject to Council's quarterly CPI increase applied by City of Ryde's Section 94 Plan. The proposed agreement does not seek the suspension of Section 94 Contributions that will continue to apply to the subject development.



### ITEM 3 (continued)

### ATTACHMENT 3

The material public benefit proposed to be made to support the proposed non-compliances is a one off monetary contribution to Council.

#### Consultation

The Voluntary Planning Agreement was advertised in the Ryde City View newsletter circulated as in the Northern District Times between 1 October 2013 and 30 October 2013. No submissions were received during this period.

The VPA has previously been considered directly by Council which resolved that the monetary contribution should be \$225,000.

Council's Development Contributions Coordinator has reviewed the revised VPA and found it to be in accordance with Council resolution of 27 November 2012. The Development Contributions Coordinator has noted that the mechanism provided in Section 1.c that will allow Council to increase the monetary contribution of \$225,000 by the increase in CPI between the date of offer to the date of execution of the VPA.

#### Consideration of the Voluntary Planning Agreement

The Section 93F of the *Environmental Planning and Assessment Act 1979* details various matters that must be addressed by a VPA. It should be noted that the VPA satisfies the principles of Section 93F in following ways:

- The above is in addition to the applicable Section 94 Contributions and can be used where deemed appropriate by Council.
- The provisions of additional funds are considered to constitute material public benefit which shall be used and applied towards a public purpose. Council's expenditures will be for public amenities, public services or other infrastructure.
- The VPA does not exclude the operation of Section 94 on the proposed development.
- The planning agreement does not impose an obligation to grant development consent or change an environmental planning instrument.
- Whilst the VPA forms part of the Development Application, support of the VPA does not grant approval to the Development Application.
- Subject to careful consideration of the proposed works by Council and standard conditions of consent, it is unlikely that the matters to be dealt with under the application and VPA will breach to *Environmental Planning and Assessment Act 1979*, applicable environmental planning instruments or development consent applying to the subject site.

**ITEM 3 (continued)**

**ATTACHMENT 3**

As identified above, it can be seen that the proposed Voluntary Planning Agreement satisfies the principles underlying the use of planning agreements and fulfils several categories of works that Council will consider as part of a VPA.

Notwithstanding the above, further consideration of the Voluntary Planning Agreement and the public interest and benefit is detailed below:

In Council's Resolution of 27 November 2012 Council raised the VPA cash contribution for 7-9 Rutledge Street from \$205,315 to \$225,000. At that time the development (and S94 contribution) related to a design for 79 units.

In submitting the amended proposal the applicant responded to the issues raised in the Resolution of 27 November 2012, which touched upon many design matters, and also took the opportunity to change the mix of units in the development. This now stands at 100 units. The previous S94 Contribution was calculated on the basis of 79 units comprising 16 x 1 bedroom, 43 x 2 bedroom, 20 x 3 bedroom and 912.34m<sup>2</sup> of retail space. The amended proposal has increased the dwelling to 100 apartments (69 x 1 bedroom and 31 x 2 bedrooms) with the retail component reduced to 613m<sup>2</sup>.

Whilst the amended proposal has increased the number of apartments, it shows a reduction in the number of bedrooms from 162 to 131 and a reduction in the retail floor space by 299.34m<sup>2</sup>. It is also noted that the proposal does not change the building footprint or the envelope.

The original VPA offer was calculated on the basis of 20% of the section 94 contributions amount. On the same basis the following is a comparison table of the VPA amount calculated by applying current contribution rates (Effective 22 October 2014):

	<b>Original DA with 79 Units and 912.34m<sup>2</sup> of retail space</b>	<b>Revised DA with 100 units and 613m<sup>2</sup> of retail space</b>
S94 Contributions amount	\$1,091,969.38	\$1,152,554.80
VPA amount @20% of the s94 contributions amount	\$218,393.86	\$230,510.96

Whilst it is noted above that the total amount offered by the VPA is \$5510.96 less than the amount payable, it equates to 19.52% of the section 94 contributions amount.

**ITEM 3 (continued)**

**ATTACHMENT 3**

However, no amendment to the submitted VPA is warranted for the following reasons:

- The VPA cash contribution is subject to the S94 rates applying at the date of execution. If the effective rate of the section 94 contribution amount is different than the above rates on the date of execution due to CPI increase, the contribution amount needs to reflect the new rates. The VPA amount would then be adjusted to the CPI increase. The proponents have provided an option in the VPA on page 2 under Section 1(c) which enables Council to adjust the VPA amount to the CPI increase,
- The amended VPA offer is in accordance with the Council resolution.
- The VPA amount equates to approximately 20% of the section 94 contributions.
- The Group Manager Environment & Planning & S94 Coordinator have both reviewed the amended VPA and raise no further objection to it.

It can be seen that the proposed VPA represents public benefit. Normally, to ensure that the VPA is registered on the title of the land it would be necessary to impose a condition on the consent for this to occur prior to the issue of any Construction Certificate. This condition would be included if Council was of a mind to approve the Development Application.

**4. Conclusion**

Through entering into a VPA for the subject development, Council will receive additional funds to be spent for the public benefit. The VPA has been clearly identified as relating to a planning purpose, providing public benefit and is in the public interest.

Council must still determine whether the proposed development is acceptable. There are three options available to Council when considering the merit of this VPA,

- (1) Endorse the VPA as it is in its current form as recommended by this report, or
- (2) Refuse the VPA for reasons deemed appropriate by Council, or
- (3) Seek amendments to the VPA as deemed appropriate by Council.

Option 1 is preferred and recommended as it will allow Council to receive additional funding from the developer as proposed by the VPA, and the amount offered is approximately 20% of the Section 94 Contribution which is considered acceptable.