

4 JUNE 2019

NOTICE OF MEETING

You are advised of the following meeting:

THURSDAY 13 JUNE 2019.

City of Ryde Local Planning Panel Meeting No. 4/19

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

English

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

Arabic

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

Armenian

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

Chinese

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

Farsi

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

Italian

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

Korean

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

Meeting Date: Thursday 13 June 2019
Location: Council Chambers, Level 1A, 1 Pope Street, Ryde
Time: 5.00pm

NOTICE OF BUSINESS

Item **Page**

DECLARATIONS OF INTEREST

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There are no LPP Planning Proposals

DEVELOPMENT APPLICATIONS

1 4 LOVELL ROAD, EASTWOOD - TORRENS TITLE SUBDIVISION OF ONE LOT INTO TWO LOTS - LDA2018/0390

Report prepared by: Assessment Officer - Town Planner

Report approved by: Manager - Development Assessment; Senior Coordinator - Major Development; Director - City Planning and Environment

Report dated: 28 May 2019 **File Number:** GRP/09/6/12/1/2 - BP19/617

City of Ryde Local Planning Panel Report

DA Number	LDA2018/0390
Site Address & Ward	4 Lovell Road, Eastwood West Ward
Zoning	R2 Low Density Residential under RLEP 2014
Proposal	Torrens title subdivision of one lot into two lots
Property Owner	Giuseppe Mazzaferro
Applicant	C & A Surveyors Pty Ltd
Report Author	Madeline Thomas – Senior Town Planner
Lodgement Date	8 October 2018
No. of Submission	None
Cost of Works	\$10,000.00
Reason for Referral to RLPP	Variations in excess of 10% to the following Development Standard: <ul style="list-style-type: none"> • Clause 4.1C of RLEP 2014 – Minimum lot size for battle-axe lots
Recommendation	Approval
Attachments	Attachment 1 – Draft Conditions of Consent Attachment 2 – SEE including Clause 4.6 request Attachment 3 – A3 Plans

ITEM 1 (continued)**1. Executive Summary**

This report is an assessment of a development application for the Torrens Title subdivision of one (1) lot into two (2) lots at No. 4 Lovell Road, Eastwood.

The application was lodged on the 8 October 2018 and notified between 10 October 2018 and 26 October 2018. No submissions were received in response to the notification.

The proposal involves the subdivision of the existing dual occupancy (detached) which was approved under DA 278/91. The approval was granted on 28 January 1992 in accordance with *Sydney Regional Environmental Plan No. 12 – Dual Occupancy (SREP 12)*, which has since been repealed.

The proposal does not comply with the development standard imposed Clause 4.1 of the *Ryde Local Environmental Plan 2014 (RLEP 2014)* in respect to a required minimum lot size of 580m². The proposed lot at the front of the site (Lot 2) has an area of 523.4m² which is 56.6m² less than the minimum requirement and represents a variation of 9.8%.

The proposal also does not comply with the Clause 4.1C of the RLEP 2014 in respect to the minimum lot size of 740m² for battle-axe lots. The proposed battle-axe lot (Lot 1) has an area (excluding the battle-axe handle) of 609.2m² which is 130.8m² less than the minimum requirement and represents a variation of 17.7%.

The applicant has provided a written request under Clause 4.6 of the RLEP 2014 to justify both non-compliances. The request has been considered in the assessment of this application and is supported as it demonstrates that:

- Each minimum lot size development standard is unreasonable and unnecessary;
- There are sufficient environmental planning grounds that justify the departure from each standard; and
- That the proposal satisfies the objectives of both the development standard and the R2 Low Density Residential zone.

The development does not result in any unacceptable impacts to the surrounding properties.

Given the reasons detailed above, the development application is recommended for approval subject to appropriate conditions of consent provided in Attachment 1 of this report.

ITEM 1 (continued)

2. The Site and Locality



Figure 1: Aerial view of the subject site in its context.

The site is located on the northern side of Lovell Road and is legally known as Lot 13 of Section 1 in DP 7076, No. 4 Lovell Road, Eastwood.

The site is generally rectangular in shape and has a site area of 1226.2m².

Currently, the site accommodates a detached dual occupancy, comprising of a single storey dwelling at the rear of the lot with a detached garage, and a single storey dwelling at the front of the site. Landscaping consists of planted species within a domestic setting.

Approval for the detached dual occupancy was granted via DA 278/91, under *Sydney Regional Environmental Plan No. 12 – Dual Occupancy (SREP 12)*, which is now repealed.

The site adjoins a motor vehicle repair shop and petrol station to the west (No. 2 Lovell Road, Eastwood) and multi-housing development to the east (No. 6 – 8 Lovell Road, Eastwood), as shown in **Figure 1**.

ITEM 1 (continued)

As the site is located within an R2 Low Density Residential zone, surrounding development includes detached dwellings varying in age, scale and architectural style.

The site slopes downward from the front boundary to the rear boundary by approximately 3m.

Figures 2 to 5 show photographs of the subject site and surrounds.



Figure 2: The existing dwelling at the front of the site.



Figure 3: The existing driveway and dwelling at the rear of site.

ITEM 1 (continued)



Figure 4: The motor vehicle repair shop to the west.



Figure 5: Multi-dwelling housing to the east.

3. The Proposal

The application seeks approval for the Torrens Title subdivision of one (1) lot into two (2) lots.

Each proposed lot will contain an existing dwelling.

The proposed subdivision is illustrated in **Figure 6** below.

ITEM 1 (continued)

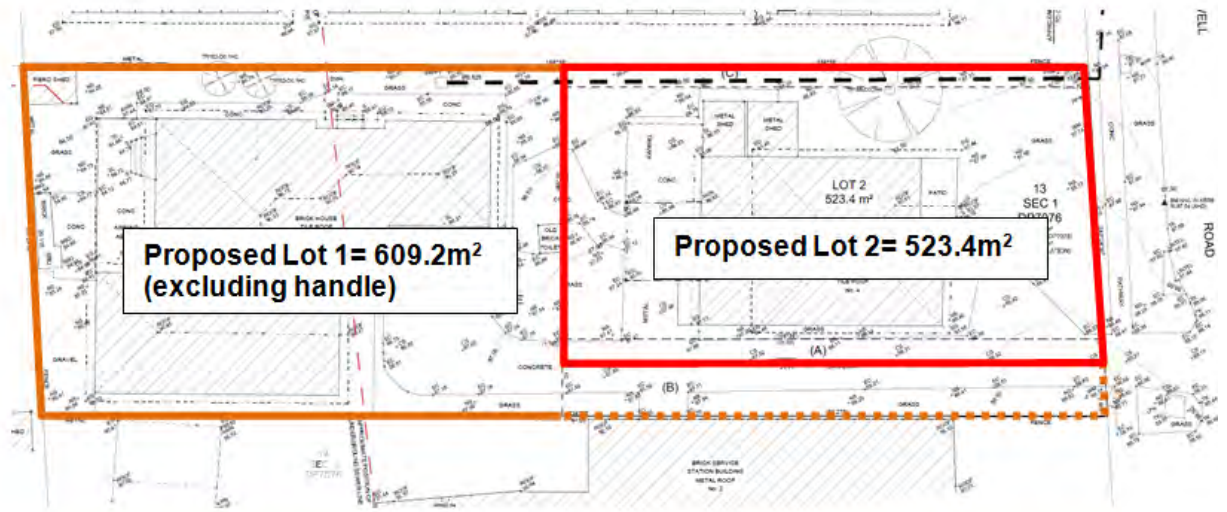


Figure 6: The proposed subdivision (Source: C & A Surveyors NSW P/L).

Lot 1

Proposed Lot 1 has a total area of 702.8m² (including the battle-axe handle). The area of the lot (excluding the battle-axe handle) is 609.2m².

Proposed Lot 1 has a frontage to Lovell Road of 3.005m in the form of the battle-axe handle. The existing concrete driveway on the site would be located in both the proposed battle-axe handle and within Proposed Lot 2, as shown in **Figure 7** below.

Legal access for both lots will be provided by the two rights of carriageway proposed to collectively encompass the entire driveway, identified as (A) and (B) in **Figure 7** below.

The right of carriageway identified as (A) is located within Proposed Lot 2, with a width of 1.4m. The right of carriageway identified as (B) is located within the battle-axe handle for Proposed Lot 1, with a width 3m.

Proposed Lot 1 also contains an existing single storey dwelling and garage at the rear of the site.

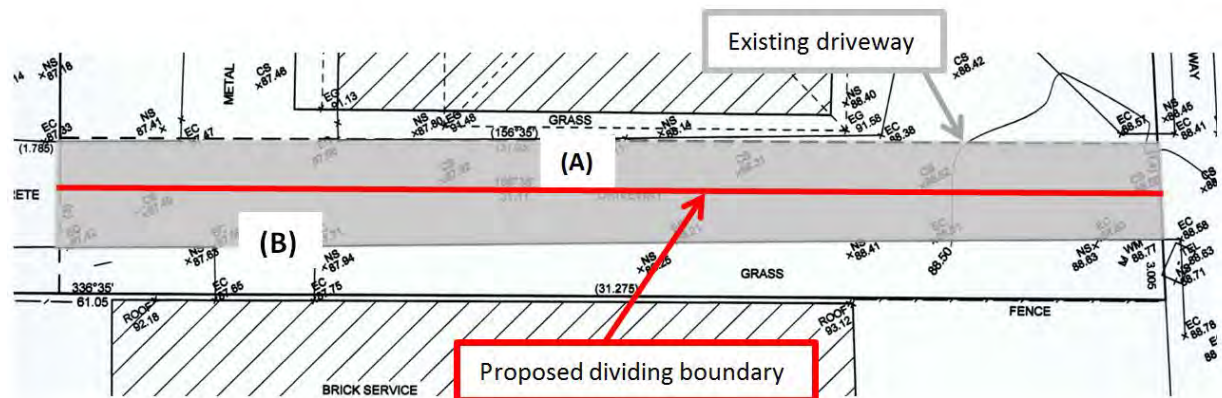


Figure 7: Proposed dividing boundary in relation to the existing garage.

ITEM 1 (continued)Lot 2

Proposed Lot 2 has a total area of 523.4m².

This lot has a frontage to Lovell Road of 17.11m and a depth of approximately 31.1m.

As stated previously, proposed Lot 2 contains a 1.4m wide right of carriageway to encompass the portion of the driveway within this lot. The proposal also includes a 1.2m wide easement for services along the eastern boundary.

The proposal does not involve any physical works, as the existing dwellings, access, stormwater infrastructure and landscaping were established at the time of the dual occupancy construction. However, Council's Senior Development Engineer has requested that additional stormwater infrastructure be provided to facilitate the proposed subdivision, including the provision of a swale along the downstream edge of proposed Lot 2 to ensure that any surface flow is contained to the lot. The stormwater works required have been imposed by conditions of consent (see **Condition 12 & Conditions 22 to 28**).

4. Background**Site History**Development Application 91/278

On the 28 January 1992, development consent to construct a second detached dwelling house containing four bedrooms to the rear of the existing dwelling to form a detached dual occupancy was granted.

Development Application 92/65

In March 1992, approval was granted to a development application which involved moving the approved dwelling at the rear of the site 2m closer to the rear boundary to avoid the sewer main traversing the site.

Development Application 93/151

On 24 May 1993, approval was granted for a one into two lot Torrens title subdivision of the existing dual occupancy. The site was not subdivided and this consent lapsed.

LDA2008/854

On 19 February 2009, approval was granted to a development application for the alterations and additions to the rear dwelling.

ITEM 1 (continued)
Application History

This development application (LDA2018/0390) was submitted to Council on 8 October 2018.

9 November 2018

A letter was sent to the applicant on 9 November 2018, raising the following issues:

“The site falls to a natural valley aligned along the rear of properties fronting Lovell Road and Welby Street. This overland flowpath is unfortunately not preserved by an easement nor are there any drainage services in this easement.

Council has over the years had a number of ongoing complaints in relation to this overland flow from owners of Lovell Road and Welby Street (including the subject site) and therefore stormwater management in this region is problematic and unresolved.

Council has recorded complaints regarding stormwater runoff through this area. Additional complaints have been received concerning stormwater runoff from the upstream property of 2 Lovell Road. With this in mind, a Torrens title subdivision of the lot will only serve to complicate and exacerbate the stormwater management issues in this region.

There is also the possibility that subdivision of the site will sterilise future development of the lot given that there may be no ability to implement a stormwater management system which is compliant with the DCP.

Accordingly the following options are advised:

- *Investigation of the current stormwater management system and clarify the satisfactory nature of this. Note that it would appear the current roof areas discharge to Lovell Road under a charged system there is no information regarding the surface drainage (e.g. driveways).*
- *Any future development of the lot will need to comply with Councils controls. This is to be demonstrated by presenting a conceptual development showing compliance with the DCP Part 8.2 (Stormwater and Floodplain Management).*
- *The acquisition of an easement through downstream lots to allow a legal point of discharge could be investigated.*
- *A strata subdivision of the lot, which would enable the sale of one of the dwellings, would be accepted without further consideration of the stormwater management matters.”*

ITEM 1 (continued)11 February 2019

The applicant provided additional information and amended plans with a concept stormwater plan for a future dwelling on proposed lot 1, should the site ever be redeveloped.

Council's Senior Development Engineer has reviewed the concept plan and concludes that proposed Lot 1 could be developed in the future, and therefore does not raise any further objection to the proposal.

The amended plan did not result in any changes to the proposed subdivision plan as originally submitted, and therefore, re-notification was not required as per the provisions of the *Ryde Development Control Plan 2014*.

5. Planning Assessment

An assessment of the development in respect to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979* is detailed below.

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

In accordance with Clause 7 of the SEPP, a consent authority must consider if the land is contaminated, the extent of the contamination, suitability of the proposed use and remediation to standards to ensure if the proposal is suitable.

A search of the NSW Environmental Protection Authority (EPA) Contaminated Land database was conducted with respect to the proximity of the site to the garage (at No. 2 Lovell Road). There were no records within the database which identified the site as being affected by contamination.

It is also noted that the proposal only involves the subdivision of the existing dual occupancy, and does not involve any construction or excavation work.

Therefore, it is considered that the subject site satisfies the requirements of the SEPP with regard to the proposed development.

SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The *Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005* applies to the whole of the Ryde local government area.

ITEM 1 (continued)

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above SREP. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development.

The objective of improved water quality is satisfied through compliance with the provisions of the Ryde Development Control Plan 2014 (Part 8.2).

The proposed development raises no other issues and otherwise satisfies the aims and objectives of the SREP.

5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)

Under RLEP 2014, the property is zoned R2 Low Density Residential, and the proposed development is permissible with Council's consent.

The following is an assessment of the proposed development against the applicable provisions from the RLEP 2014.

Clause 2.3 - Zone Objectives and Land Use Table

The objectives of the zone include the following:

- *To provide for the housing needs of the community within a low density residential environment.*

Comment

The development will provide for the housing needs of the community within a low density residential development.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

Comment

This objective is not applicable to the proposed development.

- *To provide for a variety of housing types.*

Comment

The subdivision of the two dwellings will not sterilise the site, and will not prevent a variety of housing types from existing on the site.

The proposal is considered to be consistent with the above objectives.

ITEM 1 (continued)
Part 4 – Principle Development Standards

Clause	Proposed	Compliance
4.1 Minimum subdivision lot size		
580m ²	Lot 2 = 523.4m²	No Clause 4.6 written request has been submitted See discussion beneath this table
4.1C Minimum lot size for battle-axe lots		
740m ² (excluding area of battle-axe handle)	Lot 1 = 609.2m² excluding handle (702.8m ² including handle)	No Clause 4.6 written request has been submitted See discussion beneath this table
4.4(2) & 4.4A(1) Floor Space Ratio		
0.5:1 Lot 1 = 304.6m ² Lot 2 = 261.7m ²	Lot 1: 243.5m ² (0.4:1) Lot 2: 127.1m ² (0.24:1)	Yes

Clause 4.1 – Minimum subdivision lot size

Clause 4.1 of the RLEP 2014 states that the size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum lot size for the site. In this instance, the minimum lot size for the site is 580m².

Proposed Lot 2 has an area of 523.4m² and therefore does not comply with this development standard.

A Clause 4.6 variation request has been submitted with this application, and is discussed below. This variation is supported as the applicant has demonstrated that the development standard is unreasonable and unnecessary in this instance, that there are sufficient environmental planning grounds to vary the standard, and that the objectives of the zone and development standard are met.

Clause 4.1C – Minimum lot size for battle-axe lots

Clause 4.1C of the RLEP 2014 states that, despite Clause 4.1 of the RLEP 2014, the minimum lot size for a battle-axe lot is 740m². This clause also specifies that the access handle is not to be included in calculating the lot size.

Proposed Lot 1 is a battle-axe lot which has an area (excluding the battle-axe handle) of 609.2m², and therefore does not comply with this development standard. A Clause 4.6 variation request has been submitted with this application, and is discussed below.

ITEM 1 (continued)

This variation is supported as the applicant has demonstrated that the development standard is unreasonable and unnecessary in this instance, that there are sufficient environmental planning grounds to vary the standard, and that the objectives of the zone and development standard are met.

Clause 4.6 - Exceptions to development standards

Clause 4.6 under the RLEP 2014 provides that:

- (1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- (2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
- (3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
 - (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*
- (4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
 - (ii) *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, and*
 - (b) *the concurrence of the Secretary has been obtained.*
- (5) *In deciding whether to grant concurrence, the Secretary must consider:*

ITEM 1 (continued)

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
 - (b) *the public benefit of maintaining the development standard, and*
 - (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

- (6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
 - (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
 - (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

- Note.** When this Plan was made it did not include all of these zones.

- (7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*

- (8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*
 - (a) *a development standard for complying development,*
 - (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
 - (c) *clause 5.4,*
 - (ca) *clause 4.3, to the extent that it applies to the land identified as "Town Core" on the Ryde Town Centre Precincts Map*
 - (cb) *clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),*
 - (cc) *clause 6.9.*

In order to determine if consent shall be granted to the proposal, Clause 4.6(a) requires that Council is satisfied that:

- "(1) The written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of this proposed development (cl 4.6(3)(a) and cl 4.6(4)(a)(i)); and*

ITEM 1 (continued)

- (2) *The written request adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i)); and*
- (3) *The proposed development will be in the public interest because it is consistent with the objectives of the standard in question - set out in cl 4.3 of the LEP (cl 4.6(4)(a)(ii)); and*
- (4) *The proposed development will be in the public interest because it is consistent with the objectives of the [R2 Low] Density Residential Zone (cl 4.6(4)(a)(ii))”*

The applicant submitted a written request prepared by Planning Direction Pty Ltd to address both the minimum subdivision lot size (Clause 4.1) and the minimum lot size for battle-axe lots development standards (Clause 4.1C) in the RLEP 2014.

Clause 4.1 requires any lot within land zoned R2 Low Density Residential resulting from a subdivision to have a minimum lot size of 580m². Proposed Lot 2 has an area of 523.4m², which represents a variation of 56.6m² (9.8%) to the development standard.

Clause 4.1C requires battle-axe lots to have a minimum lot size of 740m², not including the battle-axe handle area. Proposed Lot 1 has an area of 609.2m² (excluding the access handle), which represents a variation of 130.8m² (17.7%) to the development standard.

There are four “gates” through which a variation request must successfully pass before there can be a decision that compliance with the development standard is deemed satisfactory. The four gates are considered below in relation to the variation of both development standards:

1. *The written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of this proposed development (cl 4.6(3)(a) and cl 4.6(4)(a)(i)*

In *Wehbe v Pittwater Council (2007) 156 LGERA 446; [2007] NSWLEC 827*, ways in which the applicant can demonstrate the development standard is unreasonable and unnecessary are summarised below:

- The objectives of the development standard are achieved notwithstanding non-compliance with the standard;
- The underlying objective or purpose of the development standard is not relevant to the development, so that compliance is unnecessary;
- Underlying objective or purpose would be defeated or thwarted if compliance was required, so that compliance is unreasonable;
- The development standard has been abandoned by the council; or
- The zoning of the site was unreasonable or inappropriate so that the development standard was also unreasonable or unnecessary (note this is a limited way of establishing that compliance is not necessary as it is not a way to effect general planning changes as an alternative to strategic planning powers).

ITEM 1 (continued)

The applicant states that strict compliance with each development standard is unreasonable and unnecessary in the circumstances of the site as the proposed subdivision “*would not detract from the residential character of the locality as the housing already exists on-site*” and that no changes to the presentation to the street or the use of the site would result from the proposal.

It is concurred with that both development standards proposed to be varied are unreasonable and unnecessary in this instance given the subdivision will not change the appearance of the site and will not detract for the residential character of the street and broader area.

It is further considered that strict compliance with these development standards would be unreasonable, as these standards do not consider the existing detached dual occupancy configurations in the Ryde Local Government Area that have been approved by the now repealed *Sydney Regional Environmental Plan No. 12 – Dual Occupancy* (SREP 12). It is noted that, under the RLEP 2014, *detached* dual occupancy development is not permitted in the R2 Low Density Residential zone.

2. *The written request adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(i))*

The applicant states that there are sufficient environmental planning grounds to justify contravening the development standard as:

- Considerations relating to overshadowing and privacy have previously been resolved with the issue of development consent for the dual occupancy development.
- All utility services are available to the site and no trees are required to be removed to facilitate the proposed subdivision.

It is concurred with that the proposed subdivision will not have an adverse impact on adjoining properties, and that there are sufficient environmental planning grounds to justify the contravention of both development standards.

3. *The proposed development will be in the public interest because it is consistent with the objectives of the standard in question - set out in cl 4.3 of the LEP (cl 4.6(4)(a)(ii))***Clause 4.1 – Minimum subdivision lot size**

The objectives of this development standard are as follows:

- a) *To retain streetscape, amenity, landscaped areas and private open space in residential zones,*

ITEM 1 (continued)

- b) *To ensure that lot sizes enable sufficient areas of open space within each lot as to enable the retention and embellishment of green linkage corridors in residential zones*

Clause 4.1C – Minimum lot size for battle-axe lots

The objectives of this development standard are as follows:

- a) *To maintain visual amenity and character of the land to which this clause applies,*
b) *To retain the residential amenity of that land by providing suitable landscape areas and vehicular access.*

The applicant has stated that:

- *The proposed battle-axe handle is in keeping with the immediate subdivision pattern and the size of the proposed allotments are in keeping with the character and lot pattern of other allotments in the greater neighbourhood.*
- *The proposed subdivision pattern and driveway arrangement enables the retention of existing landscape content at the front and sides of the site.*

In addition to the above justification provided by the application, it is considered that the proposed development is consistent with each development standard for the following reasons:

- The subdivision will not alter the private open space arrangements for the existing dual occupancy. The provision for the private open space areas were considered at the time of the dual occupancy approval.
- The proposed subdivision will not impact the character of the street, as it is a formalisation of the existing arrangements on the site.
- Vehicular movements, using the existing driveway, will not be impeded by the proposed subdivision, which incorporates a right of carriageway across the entire driveway so that each lot is provided with adequate vehicular access.

4. *The proposed development will be in the public interest because it is consistent with the objectives of the R2 Low Density Residential Zone (cl 4.6(4)(a)(ii))*

In regard to cl 4.6(4)(a)(ii), the applicant states that the proposal is consistent with the objectives of the R2 Low Density Residential zone being:

Objectives of the R2 Low Density Residential zone

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

ITEM 1 (continued)

- *To provide for a variety of housing types.*

The applicant provides the following comments with regard to how the proposed development application is consistent with the R2 zone objectives:

“The proposed subdivision will be consistent with the character, scale and prevailing nature of lot size in the locality which vary from smaller allotments similar in size to the subject site.”

It is considered that the proposal is consistent with the zone objectives, as the proposal involves the subdivision of existing dual occupancy development, which will continue to provide for the housing needs of the community within a low density residential environment.

Conclusion

On consideration of these matters, the applicant has demonstrated that the proposal opens all of the gates required to vary the two development standards, and therefore, the Clause 4.6 variation request is supported.

5.3 Draft Environmental Planning Instruments

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

5.4 Development Control Plans
City of Ryde Development Control Plan 2014 (RDCP 2014)

The following sections of the RDCP 2014 are of relevance, being:

- **Part 3.3 – Dwelling Houses and Dual Occupancy (attached).**
- **Part 8.2 - Stormwater Management.**

Part 3.3 – Section 2.4 – Subdivision

Section 2.4 of Part 3.3 of the RDCP 2014 contains the relevant controls for subdivision in residential zones. Compliance with the relevant controls is assessed below:

Control	Proposed	Compliance
All lots (except hatchet shaped lots)		
Minimum lot size of 580m ²	Lot 2 = 523.4m ²	No See Section 5.2 of this report in relation to RLEP 2014 compliance
Minimum road frontage of 10m	Lot 2 = 17.11m	Yes
Lot width of not less than 15m at a	Width at 7.5m from front	Yes

ITEM 1 (continued)

Control	Proposed	Compliance
All lots (except hatchet shaped lots)		
distance of 7.5m from the frontage of the lot	boundary (Lot 2) = 17m	
Hatchet shaped lots		
Minimum lot size of 740m ² (not including access handle)	Lot 1 = 609.2m ²	No See Section 5.2 of this report in relation to RLEP 2014 compliance
Minimum road frontage of 3m	3.005m	Yes
Minimum access corridor of 3m	3.005m	Yes

The non-compliances in respect to the minimum lot size have been addressed within Section 5.2 of this report under RLEP 2014.

5.5 Planning Agreements OR Draft Planning Agreements

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

6. The likely impacts of the development

The impacts associated with the proposed development have already been addressed in the report.

The development is considered satisfactory in terms of environmental impacts.

7. Suitability of the site for the development

The proposed development is considered to be a suitable development for the site, being permissible in the zone.

As detailed earlier in this report, the development formalises the existing arrangement on the subject site in the form of a detached dual occupancy, and is consistent with the character of the area and appropriately responds to the natural and built environmental assets and constraints of the site.

8. The Public Interest

The development is considered to be in the public interest as it is reasonably consistent with the relevant planning controls.

Where variations to the minimum lot size development standards occur, the proposed variation is not considered to have any adverse impact to adjoining properties. The development complies with the objectives of the planning controls.

ITEM 1 (continued)**9. Submissions**

In accordance with the RDCP 2014 *Part 2.1 Notice of Development Applications*, the owners of surrounding properties were given notice of the application between 10 October 2018 and 26 October 2018.

In response, no submissions were received.

10. ReferralsInternal Referrals**Senior Development Engineer**

The amended plans were referred to Council's Senior Development Engineer for consideration.

The following comments have been provided:

Background

It is understood the current development was constructed under a planning approval in the early 1990's and subdivision of the lot was approved under a following planning approval. This second application was not acted upon at the time due to the property being under the ownership and occupation of one family and it is understood this approval has since expired.

The initial review identified that the subject lot falls to the rear, towards a natural valley which is aligned with the rear boundaries of Lovell Road and Welby Street. Council is aware this area is susceptible to overland flows and ideally a drainage easement and associated services should be located in the valley. Logistically this is impossible to realise without the coordination of all downstream properties (two lots of strata titled development) and so is not anticipated to occur in the immediate future. Regardless, it was requested that the applicant attempt to acquire a drainage easement through these lots.

Noting that the existing development is configured for Torrens Title subdivision, and that the present drainage system seemed to be operating adequately (no submission of objection to this application has been received from downstream properties), then the applicant was advised that the subdivision may be acceptable provided the applicant could demonstrate that a compliant drainage system could be implemented.

A meeting with the applicant in December revealed that the present system discharges to Lovell Road via a large diameter pipe (configured as an on-site detention (OSD) system) which drains against the fall of the land (via gravity) to

ITEM 1 (continued)

Lovell Road. Due to the grade of the line against the fall, the depth of the pipe is extreme.

The applicant has provided further information, which is considered as follows:

- The applicant attempted to acquire an easement to drain water from the owners along Welby Street. However, only sporadic responses were received with all rejecting the request. The response was the same in Council's attempt to resolve the drainage issue downstream of the site. Accordingly an easement is not an option.*
- The stormwater plan has presented a concept development for the rear lot (Lot 1) and retained the existing dwelling for the front lot (Lot 2). It is proposed that the existing OSD (located on the northern side of Lot 2 and serving Lot 1) is retained. A greater part of the driveway discharges to the OSD system. There is no OSD for Lot 2, however this could be provided with a series of above ground rainwater tanks if required for future development. In general, the nominated system is generally acceptable. A review of the OSD system notes it is not strictly compliant with Council's present policy requirements (in terms of minimum PSD and SSR requirements) however, this would be extremely difficult to rectify but could be resolved in future development which will warrant a second OSD system to be implemented.*

Recommendation

The concept stormwater management system is considered to be generally acceptable. It is apparent the system has been operating for some time without adverse impact to the adjoining property however, the following measures will need to be implemented prior to subdivision:

- A swale should be implemented along the downstream edge of Lot 2 to ensure that any surface flow is contained to the lot.*
- In addition to the easement over Lot 2 (which benefits Lot 1), a new drainage easement should be aligned over the Lot 1, benefitting Lot 2, in the event that there is any chance of an easement being established at the rear.*
- A restrictive covenant is to be defined over the rear 6m of Lot 1, restricting future development in this portion so as to allow for an absorption/dispersal system.*

These may be implemented as conditions of consent."

Conditions have been imposed under **Conditions 12 and Conditions 22 to 28.**

ITEM 1 (continued)**11. Conclusion**

Upon consideration of the development against Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other relevant statutory provisions, the proposal is considered to be suitable for the site and is in the public interest.

Therefore the development, LDA2018/0390, is recommended to be approved for the following reasons:

1. The development is consistent with the objectives of the relevant provisions of the RLEP 2014 with minimal impact to adjoining properties.
2. The proposed subdivision formalises the existing arrangements of the detached dual occupancy and does not create the opportunity for any additional dwellings on the site.
3. The applicant has demonstrated that the proposal has sufficient environmental planning grounds to vary the minimum lot size development standard.
4. No submissions have been received in response to this application.

12. Recommendation

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

The Local Planning Panel grant consent to development application LDA2018/0390 for the Torrens Title subdivision of one lot into two lots, subject to conditions of consent outlined in **Attachment 1** of this report.

ATTACHMENTS

- 1 Draft Conditions of Consent
- 2 SEE including Clause 4.6 Request
- 3 A3 Plans - subject to copyright provisions - CIRCULATED UNDER SEPARATE COVER

ITEM 1 (continued)

Report Prepared By:

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Assessment Officer - Town Planner

Report Approved By:

Sandra Bailey
Manager - Development Assessment

Tony Collier
Senior Coordinator - Major Development

Liz Coad
Director - City Planning and Environment

ITEM 1 (continued)
ATTACHMENT 1

ATTACHMENT 1

Draft conditions of consent – 4 Lovell Road, Eastwood

LDA2018/0390

GENERAL

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

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

Document Description	Date	Plan No/Reference
Plan of proposed subdivision prepared by C & A Surveyors NSW Pty Ltd	15 November 2018	93323-18 DP1D
Stormwater Management Plan as amended in red	11 February 2019	180458-SD Sheets 1-3, Revision B

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. **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.
4. **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.
5. **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.
6. **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.

ITEM 1 (continued)

ATTACHMENT 1

7. **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.
8. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
9. **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.
10. **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.

PRIOR TO SUBDIVISION 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.

11. **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

ITEM 1 (continued)

ATTACHMENT 1

submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.

12. **Stormwater Management.** To ensure there are no outstanding implications with the stormwater management systems of each of the subdivided lots, the following measures as marked in accordance with the plans by Quantum Engineers (Refer to Project No. 180458-SD Sheets 1-3 Rev B dated 11 February 2019) and noted following must be implemented prior to the issue of a Subdivision Certificate;

- The surface inlet pits and drainage line which serve as the drainage system for the existing concrete driveway.
- The swale, surface inlet pit and drainage line along the downstream edge of Lot 2.

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

- The certification must state that the submitted design are in accordance with the requirements of AS 3500.3 (2003) and Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures where applicable.

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.

13. Site Sign

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

14. **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

ITEM 1 (continued)

ATTACHMENT 1

insurance is in force before any building work authorised to be carried out by the consent commences.

15. **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).

16. Excavation adjacent to adjoining land

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

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.

ITEM 1 (continued)

ATTACHMENT 1

17. **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.
18. **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*.
19. **Noise from construction and demolition work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from demolition and construction work.
20. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
21. **Construction materials.** All materials associated with construction must be retained within the site.
22. **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 Quantum Engineers (Refer to Project No. 180458-SD Sheets 1-3 Rev B dated 11 February 2019) submitted in compliance to the condition labelled "Stormwater Management." and the requirements of Council in relation to the connection to the public drainage system.
23. **Erosion and Sediment Control.** The applicant shall install erosion and sediment control measures at the commencement of works on the site. Suitable erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.

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.

24. **Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to Council with the application for a Subdivision

ITEM 1 (continued)

ATTACHMENT 1

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 the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the site complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, or compliant with the original approval, and any modifications has been constructed in accordance with all conditions of this consent relating to the discharge of stormwater from the site.

25. **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 a Subdivision Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the works required under the condition "*Stormwater Management*" and finished surface levels which convey stormwater runoff.
26. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the existing onsite detention system which will service Lot 1. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's standard terms for such systems, as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7 and to the satisfaction of Council. The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.
27. **Restriction as to User – Future Absorption / Dispersal System.** A restriction as to user is to be placed on the property title of Lot 1 to prevent any future works in a region adjoining the downstream boundary so as to ensure there is future provision for a absorption/ dispersal trench at the rear of the site. The terms of the restriction shall be generally in accordance with Council's standard terms (available from Council's website) and must include / specify;
 - The area of the restrictive covenant must be defined on the plan of subdivision and is a region 6m from the rear boundary, spanning the site width on Lot 1.
 - That the defined area is not to contain any new structures or hardstand surfaces which will hamper or impair the dispersal of water from the stormwater management system.

ITEM 1 (continued)

ATTACHMENT 1

- That the owner must not do or permit or suffer to be done anything which would obstruct or impede the free flow of water in, over, under or through the Area in any way.
- Must list Council as the body empowered to release, vary, or modify the restriction or covenant referred to in these terms.
- Any additional terms Council considers warranted in the detailed review of the covenant.

The terms must be to the satisfaction of Council and are to be included with the application for a Subdivision Certificate.

28. **Drainage Easement.** To ensure that Lot 2 has access to future drainage services or drainage easement aligned along the rear of properties fronting Lovell Road or Welby Street, an Easement to Drain Water must be created over Lot 1 which benefits Lot 2. The easement is to emanate from the rear northeastern corner of Lot 2 and extend to the rear of Lot 1 adjoining the eastern boundary and must be no less than a metre wide.
29. **Final Occupation Certificate.** The final occupation certificate associated with Development Consent DA1992/65, any related Building Approvals and any related S4.55 (S96) applications, must be issued for the entire development prior to the release of the Subdivision Certificate.
30. **Final Plan of Subdivision.** The submission of a final plan of subdivision plus three copies suitable for endorsement by the Authorised Officer.
31. **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
32. **Existing Easements and Restrictions.** The applicant must acknowledge all existing easements and restrictions of the use of land on the final plan of subdivision.
33. **Removal of encroachments.** All structures, services etc. are to be wholly contained within the legal property boundaries of each lot. All existing structures and services etc are either to be demolished, relocated and/or have appropriate easement/s registered over the encroachment to ensure their legal operation. Prior to issue of Subdivision Certificate, a certificate shall be obtained from a registered surveyor and submitted to the Principal Certifying Authority to confirm this requirement has been met.

ITEM 1 (continued)

ATTACHMENT 1

34. **Registration of easements.** The registration of all necessary easements is required to ensure all proposed lots will have legal access to all utility services, drainage and vehicular access. Prior to release of the Subdivision Certificate, certification shall be obtained from a registered surveyor and submitted to Council confirming the above requirement will be met upon registration of the linen plan at the Land and Property Information.
35. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

36. **Utility provider – compliance.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc).
37. **88B Instrument.** If required, the submission of an instrument under Section 88B of the Conveyancing Act 1919 with 2 copies, creating any Easements, Positive Covenants and Restrictions on use, the City of Ryde being the authority empowered to release vary or modify the same.
38. **Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Subdivision Certificate satisfactory evidence is to be provided to the Principal Certifier that arrangements have been made for:
- (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Alternatively, demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

And

ITEM 1 (continued)

ATTACHMENT 1

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

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

End of Conditions

ITEM 1 (continued)

ATTACHMENT 2



Planning Direction Pty. Ltd.
Town Planning & Development Services

STATEMENT OF ENVIRONMENTAL EFFECTS

Proposed Two Lot Subdivision

at

No 4 Lovell Road Eastwood

**Prepared by: Nigel White - Bachelor of Applied Science
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ITEM 1 (continued)

ATTACHMENT 2

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LIST OF FIGURES:

**Figure 1 - Cadastral plan identifying the Subdivision Pattern
in the Precinct**

ITEM 1 (continued)

ATTACHMENT 2

1.0 INTRODUCTION

This statement of environmental effects has been prepared to accompany a development application that is being submitted to Ryde Council. The applicant seeks development consent to undertake the following development on land known as No 4 Lovell Road Eastwood:

- Subdivide the existing lot (which contains two approved detached dwellings) into two lots.

The proposal has been prepared in accordance with the provisions of Ryde Local Environmental Plan 2014 and Ryde Development Control Plan 2014.

The application relates to the provision of a battleaxe configured subdivision.

As a matter of background, Council approved a detached dual occupancy on the site in the early 1990s. Council also approved building application LDA 2008/854, CC No PCA 2010/132 dated the 24/4/2010 to infill floor space between the garage and the rear dwelling. All floor space on-site has been formally approved by Council.

On the 24th May 1993 Council approved a 2 lot subdivision at the site - development consent No 151/93. This subdivision consent was not acted upon given the subject site was and has remained in family ownership till the present. The subdivision of the site as proposed is now sought to enable the property to be sold as separate dwellings.

No physical works are proposed with the subdivision other than the erection of typical boundary fencing between the two dwellings. It is understood stormwater and sewerage connections were appropriately installed at the time of construction to facilitate the subdivision of the land.

This statement of environmental effects is intended to assist Ryde Council in its assessment of the development application and includes;

- A description of the site and the locality and a description of the proposed development;

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood	Page No 2
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- A description of the statutory framework in which the development application will be assessed inclusive of the local planning instruments and the provisions of the Environmental Planning and Assessment Act 1979; and
- Conclusions in respect of the proposed development.

This statement of environmental effects should be considered in conjunction with the survey plan prepared by *Craig and Rhodes P/L* and the subdivision plan prepared by *C & A Surveyors*.

ITEM 1 (continued)

ATTACHMENT 2

2.0 SITE AND CONTEXT

2.1 Subject Site

The subject site is situated on the northern side of Lovell Road and is known as No 4 Lovell Road Eastwood.



Locality Plan

The subject site is legally identified as Lot 13 in Section 1 in Deposited Plan 7076.

The subject site is a large single allotment with a near regular configuration. The subject site has a street frontage and width dimension of 20.115m and a depth dimension of 61m.

The subject site has a total area of approximately **1,228.02m²**. A survey plan is included with the application.

Existing improvements on the subject site consist of a single storey rendered residence at the street frontage and a detached single storey

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 4

brick dwelling at the rear of the site. The existing dwellings are in good condition and approved pursuant to dual occupancy legislation applicable at the time. The subject site is not heritage listed and is not contained within a conservation precinct.



Existing Dwelling



View down the driveway of the rear detached dwelling

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 5

With regards to topography the subject site has a gradual fall to the rear boundary. It is understood that stormwater from the site however is directed via gravity flow to the street as formalised at the time of the dual occupancy development.

The subject site is effectively devoid of significant trees.

The subject site benefits from service connection to all essential utilities.

2.2 Site Context

The subject site is situated within an established low density residential precinct characterised by a mix of single and two storey dwellings. The dwellings in the precinct are generally well presented.

Existing development on the immediately adjoining properties comprises of the following:

- Adjoining the subject site to the west is a long standing service station. A large brick wall constructed to the common boundary provides a visual disconnect between properties.
- Adjoining the subject site to the east is a villa development.
- Properties backing onto the subject site across the rear in Welby Street include a grouping of battleaxe subdivided lots. Notably properties in Lovell Road on both sides of the street also include battleaxe and/or small lot subdivisions creating a unique pocket of development within the street block - please refer to **Figure 1** - cadastral plan.

The proposed subdivision will introduce no physical change in the streetscape nor will it be inconsistent with the subdivision character of the locality.

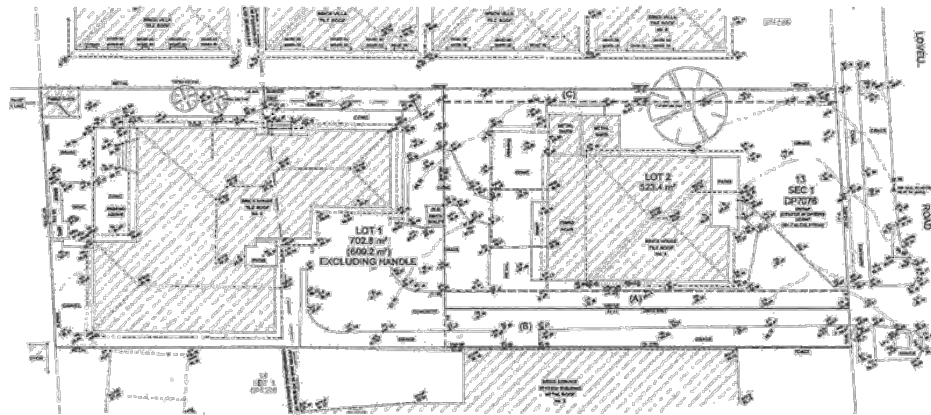
ITEM 1 (continued)

ATTACHMENT 2

3.0 PROPOSED DEVELOPMENT

The applicant seeks development consent subdivide the existing lot into two lots at No 4 Lovell Road Eastwood:

3.1 Proposed Torrens Title Subdivision



Proposed Subdivision Plan



View of existing driveway and path of the battleaxe handle.

ITEM 1 (continued)

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The following is a numerical summary of the proposed Subdivision: -

Proposed Lot 1 - Battleaxe Lot

Area -	Total area including the access handle - 702.8m ² Area of the body of the lot excluding the access handle 609.2m ²
Width -	20.115m
Depth -	30.885m along the eastern boundary
Battleaxe Handle -	3m + 1.4m ROW over the front lot

Proposed Lot 2 - Street fronting allotment

Area -	523.4m ²
Minimum Width -	17.11m
Minimum Depth -	30.16m

The proposed subdivision provides for two allotments involving a division in the vicinity of Council's approval for the original dual occupancy development. Each lot comfortably accommodates its dwelling, private open space and car parking arrangements. It is proposed to provide a reciprocal right of carriageway over the existing driveway with ample width for vehicle manoeuvring and the safe passage of pedestrians. An easement for stormwater is proposed over the front lot along the eastern boundary over the path of the existing stormwater pipe servicing the rear lot.

No physical changes are proposed on-site other than the erection of a dividing fence centrally on-site.

No streetscape changes are proposed.

ITEM 1 (continued)

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4.0 RYDE LOCAL ENVIRONMENTAL PLAN 2014

4.1 Zoning and Zone Objectives

The subject land is zoned R2 Low Density Residential pursuant to the Ryde LEP 2014.



Land Zoning Extract – R2 Low Density Residential

It is noted that the LEP does not separately define residential subdivision. The land use table does not include subdivision as a permissible use however subdivision is permissible pursuant to Clause 2.6.

Clause 2.6 of the LEP relates to Subdivision—consent requirements

(1) Land to which this Plan applies may be subdivided, but only with development consent.

Notes.

ITEM 1 (continued)

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1

If a subdivision is specified as exempt development in an applicable environmental planning instrument, such as this Plan or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, the Act enables it to be carried out without development consent.

2

Part 6 of State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 provides that the strata subdivision of a building in certain circumstances is complying development.

(2) Development consent must not be granted for the subdivision of land on which a secondary dwelling is situated if the subdivision would result in the principal dwelling and the secondary dwelling being situated on separate lots, unless the resulting lots are not less than the minimum size shown on the Lot Size Map in relation to that land.

Note.

The definition of secondary dwelling in the Dictionary requires the dwelling to be on the same lot of land as the principal dwelling.

Comment:

According to the above criteria the subject site may be subdivided with development consent.

The specified zone objectives for the R2 zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

Comment:

An assessment of the proposal against the Residential R2 zone objectives indicates that the zone objectives can be met.

The salient elements of this assessment follow:

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 10

- The proposed subdivision simply relates to the formalisation of a prior development consent so as to enable the separation and sale of the two dwellings on the subject site. Such provides for the housing needs in the community via affordable housing options in a well serviced area.
- Any future development application may include additional uses as required.
- The proposed subdivision will generate a varied housing type being and affordable housing option under Torrens Title as opposed to the Strata Title villa option as exists next door. The proposal does not alter the character of the locality.

Having regard to the above, the proposal is consistent with the zone objectives and represents a form of development that by virtue of the objectives is encouraged in the locality.

4.3 Relevant Clauses of the LEP

Clause 4.1 of the LEP establishes the minimum allotment size and provides the following objectives in relation to subdivision: -

Clause 4.1 relates to the **minimum subdivision lot size**

(1) The objectives of this clause are as follows:

(a) to retain streetscape, amenity, landscaped areas and private open space in residential zones,

(b) to ensure that lot sizes enable sufficient areas of open space within each lot so as to enable the retention and embellishment of green linkage corridors in residential zones.

(2) This clause applies to a subdivision of any land shown on the Lot Size Map that requires development consent and that is carried out after the commencement of this Plan.

(3) The size of any lot resulting from a subdivision of land to which this clause applies is not to be less than the minimum size shown on the Lot Size Map in relation to that land.

(4) This clause does not apply in relation to the subdivision of any land:

(a) by the registration of a strata plan or strata plan of subdivision under the Strata Schemes Development Act 2015, or

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood	Page No 11
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(b) by any kind of subdivision under the Community Land Development Act 1989.

Comment:

Pursuant to the lot size map, a minimum lot size of 580m² applies for the lot with street frontage.

The subject site circumstances are extraordinary as described previously. The Ryde LEP 2014 does not recognise the current circumstance of subdividing a detached dual occupancy.

It is noted that clause 4.1A relates to *Dual occupancy (attached)* and permits subdivision as follows:

(1) Despite clause 4.1, development consent may be granted for the Torrens title subdivision of a lot if:

(a) before the day Ryde Local Environmental Plan 2014 (Amendment No 2) commences a dual occupancy (attached) has been constructed on the lot or an occupation certificate has been issued for that development, and:

(i) the lot to be subdivided has an area of at least 580 square metres, and

(ii) one dwelling will be situated on each lot resulting from the subdivision, and

(iii) each resulting lot will have an area of not less than 290 square metres, or

(b) on or after the day Ryde Local Environmental Plan 2014 (Amendment No 2) commences a dual occupancy (attached) has been constructed on the lot, and:

(i) the lot has an area of at least 580 square metres and a road frontage of at least 20 metres, and

(ii) one dwelling will be situated on each lot that has an area of not less than 290 square metres and a road frontage of not less than 10 metres, and

(iii) an occupation certificate has been issued for that development.

(2) Development consent may only be granted to the strata subdivision of a dual occupancy (attached) on land in Zone R2 Low Density Residential if the land has an area of at least 580 square metres.

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 12

The applicant therefore is reliant on the provisions of clause 4.1 of the LEP to effect the subdivision. In doing so a variation from the standard arises. A clause 4.6 variation is thus submitted justifying the variation in this instance.

Clause 4.1C relates to Minimum lot size for battle-axe lots

(1) The objectives of this clause are as follows:

(a) to maintain visual amenity and character of the land to which this clause applies,

(b) to retain the residential amenity of that land by providing suitable landscaped areas and vehicular access.

(2) This clause applies to land in Zone R2 Low Density Residential, Zone R3 Medium Density Residential and Zone R4 High Density Residential other than land identified as North Ryde Station Precinct on the Centres Map.

(3) Despite clause 4.1, the minimum lot size for a battle-axe lot that is land to which this clause applies is 740 square metres.

(4) If a lot is a battle-axe lot or other lot with an access handle and is land to which this clause applies, the area of the access handle is not to be included in calculating the lot size.

Comment:

The proposed rear lot in the subdivision is also non-compliant. A clause 4.6 variation is thus submitted justifying the variation in this instance.

Clause 4.3 of the LEP relates to Height of buildings

(1) The objectives of this clause are as follows:

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

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

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

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

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood	Page No 13
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- (e) to emphasise road frontages along road corridors.*
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.*

Comment:

A maximum building height of 9.5m applies to the site. Both existing dwellings on the subject site are single storey and are well under the maximum building height.

Clause 4.4 of the LEP relates to Floor Space Ratio.

- (1) The objectives of this clause are as follows:*
 - (a) to provide effective control over the bulk of future development,*
 - (b) to allow appropriate levels of development for specific areas,*
 - (c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*
- (2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.*

Comment:

A maximum floor space ratio of 0.5:1 applies to the site.

Based on the proposed lots, a maximum FSR applies as follows:

Lot	Lot size	Floor space	FSR
1	523.4sqm	127.1sqm	0.24:1
2	702.8sqm	243.5sqm	0.35:1
excluding handle	609.2sqm		0.4:1

Based on the above, the proposed subdivision will maintain compliant floor space per lot.

Clause 4.6 of the LEP relates to Exceptions to development standards. The applicant seeks an exception to the minimum lot size development standard for both lots in the proposed subdivision.

ITEM 1 (continued)

ATTACHMENT 2

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Clause 4.6 of the LEP notably is designed to provide flexibility when applying development standards particularly when the variation of the standard enables a better development outcome.

Provided below is a clause 4.6 justification in respect of the site area departure.

The proposed development relates to the creation of a battleaxe subdivision with the following numerical controls:

Lot	Proposed Lot size
1	523.4sqm
2	702.8sqm excluding the access handle 609.2sqm

The variation proposed from the minimum lot size control for the street fronting lot is 56.6sqm or 9.75% and the variation proposed from the rear lot standard is 130.8sqm or 17.67%.

It is significant to note that allotments within the precinct vary significantly in lot area and configuration.

The proposal effectively maintains the boundaries created with the issue of development consent for the dual occupancy development originally. Accordingly the approved living space and green space offered by each dwelling is retained without altering the site circumstance.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

Comment:

The subdivision development standard is not expressly excluded from the operation of clause 4.6.

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 15

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

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

Comment:

Strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the site for the following reasons:

- The existing allotment is a significant large allotment with a substantive width and is readily capable of being adequately subdivided to provide two reasonably sized allotments.
- The immediate precinct has a varied range of allotment sizes and the adjoining rear lots and eastern lots has a similar subdivision pattern. The proposed subdivision would not detract from the residential character of the locality as the housing already exists on-site.
- The proposed front allotment would retain the existing dwelling and streetscape presentation of the site. No change is proposed to the streetscape with the retention the existing driveway access arrangements. Further no additional traffic considerations arise given that the existing driveway crossing will be retained to continue to service the development.
- Considerations relating to overshadowing or privacy have previously been resolved with the issue of development consent for the dual occupancy development. No change is proposed with the subdivision other than to improve privacy between the dwellings on the subject site with the erection of dividing fencing.
- Both lots will benefit from exceptional exposure to northern sunlight.
- All utility services are available to the site and no trees are required to be removed to facilitate the proposed subdivision.

It is reasonably concluded that *“there are sufficient environmental planning grounds to justify contravening the development standard”* in this instance.

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 16

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) 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, and

Comment:

The subject site and development circumstance is a rare occurrence within the Ryde Municipal area. The proposed variation applies to an approved development containing detached dwellings.

Minimal physical works are necessary to effect the subdivision and the subdivision when registered will not be obvious to neighbours or have streetscape implications.

The subdivision as proposed will follow through on previous planning for the site. It should be noted that a formal subdivision approval had been issued for the site however the consent was not enacted. As there are no impacts arising from the proposal and the proposal relates to a formalisation of previous development consented development, the proposal should not contravene the public interest.

The objectives of the zone are:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide for a variety of housing types.*

The objectives of the subdivision standard are:

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development.

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 17

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Comment:

The proposed subdivision will be consistent with the character, scale and prevailing nature of lot sizes in the locality which vary from smaller allotments similar in size to the subject site.

The proposed subdivision will not result in any undue environmental impacts as the built form exists on-site and will be retained.

The proposed battleaxe handle is in keeping with the immediate subdivision pattern and the size of the proposed allotments are in keeping with the character and lot pattern of other allotments in the greater neighbourhood (particularly with adjoining properties to the north and east).

The proposed subdivision pattern and driveway arrangement enables the retention of the existing landscape content at the front and sides of the site.

The objectives of the subdivision standard are to allow flexibility in the application of the numerical controls allowing for particular site circumstances. Such is highly relevant to the subject application.

Having regard to the above the proposal is consistent with the objectives of the subdivision standard and the objectives of the zone.

(b) the concurrence of the Director-General has been obtained.

Comment:

It is expected that the Council will obtain the concurrence of the Director-General as required (possibly through delegation).

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 18

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

Comment:

The variation does not raise any matter of significance for State or regional environmental planning.

There is no particular public benefit that would be achieved by strictly maintaining the development standard or compromised by approving the subdivision layout as proposed.

As previously stated the subdivision is site specific to an approved and existing detached dual occupancy development. Future development opportunities on each lot is limited given the site circumstances and as such the existing building envelopes will remain on each proposed lot.

The numerical lot area requirement does not reflect contemporary living requirements and need for affordable housing opportunities. Departure from the development standard in this instance will yield an appropriate lot size consistent with the character of the area and lot configuration nearby. Accordingly approval of the application is in the public interest as a comparable site with a similar circumstance is rare within the Ryde LGA. A precedent is therefore unlikely to be set with the approval of this application.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RUI Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 19

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note.

When this Plan was made it did not include all of these zones.

Comment:

Not relevant as the development application is for land subdivision within an R2 zone.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(ca) clause 4.3, to the extent that it applies to the land identified as "Town Core" on the Ryde Town Centre Precincts Map,

(cb) clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),

(cc) clause 6.9.

It is assumed that the consent authority will keep the required records.

The proposal does not seek to vary a subdivision standard for an attached dual occupancy pursuant to clause 4.1A.

Conclusion

No adverse matters arise in respect of the above considerations.

The proposed variation from the development standard is reasonable and appropriate in this instance.

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 20

The proposed subdivision provides low density affordable housing opportunity with the creation of the 2 lots.

Approval of the application is therefore appropriate given the site specific circumstances pursuant to Clause 4.6 of the LEP without undermining the intent of the provision.

Clause 5.10 of the LEP relates to **Heritage conservation** and states the following:

Heritage items (if any) are listed and described in Schedule 5. Heritage conservation areas (if any) are shown on the Heritage Map as well as being described in Schedule 5.

(1) Objectives

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Ryde,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

Comment:

The subject site is not heritage listed and is not in a conservation area. The subject site does not adjoin a heritage listed property.

Clause 5.11 of the LEP relates to **Bush fire hazard** reduction and states the following:

Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.

Note.

The Rural Fires Act 1997 also makes provision relating to the carrying out of development on bush fire prone land

Comment:

The subject site is not within a bush fire zone.

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 21

Clause 6.2 of the LEP relates to Earthworks

(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

(2) Development consent is required for earthworks unless:

(a) the earthworks are exempt development under this Plan or another applicable environmental planning instrument, or

(b) the earthworks are ancillary to development that is permitted without consent under this Plan or to development for which development consent has been given.

(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:

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

(b) the effect of the development on the likely future use or redevelopment of the land,

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

(d) the effect of the development on the existing and likely amenity of adjoining properties,

(e) the source of any fill material and the destination of any excavated material,

(f) the likelihood of disturbing relics,

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

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

Note.

The National Parks and Wildlife Act 1974, particularly section 86, deals with harming Aboriginal objects.

Comment:

Minimal earthworks are required as part of the proposal associated with shallow trenching for services and boundary fencing.

No issues arise in this regard.

ITEM 1 (continued)

ATTACHMENT 2

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Clause 6.4 of the LEP relates to Stormwater management

(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

(2) This clause applies to all land in residential, business and industrial zones.

(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

(a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and

(b) includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and

(c) avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.

Comment:

All essential services are available to the site. The stormwater design as already implemented is specific to the development and met prior Council requirements. No changes are envisaged or required.

ITEM 1 (continued)

ATTACHMENT 2

5.0 RYDE DEVELOPMENT CONTROL PLAN 2014

Development Control Plan (DCP) 2014 came into effect on 12th September 2014.

The DCP applies to all land within the Local Government Area (LGA) and provides complimentary controls and considerations to the Local Environmental Plan (LEP) 2014.

The DCP is to be read in conjunction with Ryde LEP 2014.

The relevant part of the DCP is Part 3.3 which contains controls specific to subdivision.

Clause 2.4 of the LEP relates to Subdivision

Minimum lot sizes apply to subdivision of land under Ryde Local Environmental Plan 2014 (refer to Clauses 4.1 Minimum subdivision lot size and 4.1C Minimum lot size for battle-axe lots).

Note: For controls relating to the subdivision of dual-occupancies (attached) see Clause 4.1A Dual occupancy (attached) strata subdivision of the Ryde Local Environmental Plan 2014. For the purposes of Clause 4.1A, the term dual occupancy (attached) is considered to include duplex buildings.

Duplex building means a single building not more than 2 storeys high that contains 2 dwellings that are attached to one another.

Objectives

1. *To retain streetscape, amenity, landscaped areas and private open space in residential zones.*
2. *To maintain a consistent density of development in low density residential areas.*
3. *To ensure that lot sizes enable sufficient areas of open space to be provided within each lot so as to enabling the retention and embellishment of green linkage corridors within residential zones.*

ITEM 1 (continued)

ATTACHMENT 2

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Controls

a. Where subdivision of land is proposed, each lot (other than a hatchet shaped lot) must have:

- i. an area of not less than 580 m²;*
- ii. frontage to a road of not less than 10 m; and*
- iii. a width of not less than 15 m at a distance of 7.5 m from the frontage of the lot.*

b. Each hatchet shaped lot must have:

- i. an area of not less than 740 m² (not including the access corridor and any part of the lot that is intended for access to other lots);*
- ii. a frontage to a road of not less than 3 m; and*
- iii. an access corridor not less than 3 m wide*

Comment:

The proposed 2 lots subdivision does generate comply width for both lots and a compliant access handle width.

The departure from the numerical site area controls have been described and justified pursuant to clause 4.6 of the LEP previously in this report.

A consistency of lot pattern will be maintained in the street block and a diversity of affordable housing choice achieved.

No streetscape implications arise and the density on-site remains low density detached housing. The proposal is reasonable in the context of the site and surrounding development.

ITEM 1 (continued)

ATTACHMENT 2

5.0 SECTION 4.15 CHECKLIST

The following provides an assessment of the proposal against the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979.

(1) Matters for consideration—general In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:*
 - (i) any environmental planning instrument, and*
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) any development control plan, and*
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
 - (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,*

Comment:

The proposal is permissible and satisfies the objectives of Ryde Local Environmental Plan 2014 and prescriptive and performance controls of the DCP pursuant to clause 4.6 of the LEP.

The proposed subdivision is appropriate in consideration of the streetscape objectives, access and amenity.

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 26

b. the likely impacts of that development, including environmental impacts on both the natural and built environments and social and economic impacts in the locality.

Comment:

A detailed site analysis was undertaken to determine the appropriate location of the internal subdivision boundary having regard to Council's planning controls, the circumstances of the site and neighbouring properties and the desired future character of the locality.

The proposed subdivision provides for the retention of current living standards on-site in a higher amenity living environment given the proposed erection of privacy fencing between properties. The proposed subdivision does not compromise the amenity of neighbouring properties.

In view of the above the development will have acceptable social and environmental implications given the nature of the zone.

c. the suitability of the site for the development.

Comment:

The subject site has an area and configuration suited to the subdivision pattern proposed. The design solution is based on sound site analysis and responds positively to the characteristics of the site and adjoining development.

d. any submissions made in accordance with the Act or the regulations.

Comment: Nil

e. the public interest

Note.

See section 75P (2) (a) for circumstances in which determination of development application to be generally consistent with approved concept plan for a project under Part 3A.

ITEM 1 (continued)

ATTACHMENT 2

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Comment:

The proposed subdivision is purely domestic in nature and provides for the orderly division of space on-site given the existence of 2 dwellings, within a well serviced locality therefore satisfying urban consolidation initiatives and furthering the public interest.

(2) Compliance with non-discretionary development standards—development other than complying development If an environmental planning instrument or a regulation contains non-discretionary development standards and development, not being complying development, the subject of a development application complies with those standards, the consent authority:

(a) is not entitled to take those standards into further consideration in determining the development application, and

(b) must not refuse the application on the ground that the development does not comply with those standards, and

(c) must not impose a condition of consent that has the same, or substantially the same, effect as those standards but is more onerous than those standards, and the discretion of the consent authority under this section and section 4.16 is limited accordingly.

(3) If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:

(a) subsection (2) does not apply and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and

(b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard.

Note. The application of non-discretionary development standards to complying development is dealt with in section 4.28 (3) and (4).

Comment:

The application has merit and is consistent with the intent of the controls given the site context.

(3A) Development control plans

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 28

If a development control plan contains provisions that relate to the development that is the subject of a development application, the consent authority:

(a) if those provisions set standards with respect to an aspect of the development and the development application complies with those standards—is not to require more onerous standards with respect to that aspect of the development, and

(b) if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—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, and

(c) may consider those provisions only in connection with the assessment of that development application.

In this subsection, standards include performance criteria.

Comment:

The provisions of the development control plan have been considered as part of the application. The proposal is reasonable in this regard.

(4) Consent where an accreditation is in force A consent authority must not refuse to grant consent to development on the ground that any building product or system relating to the development does not comply with a requirement of the Building Code of Australia if the building product or system is accredited in respect of that requirement in accordance with the regulations.

(5) A consent authority and an employee of a consent authority do not incur any liability as a consequence of acting in accordance with subsection (4).

(6) Definitions In this section:

(a) reference to development extends to include a reference to the building, work, use or land proposed to be erected, carried out, undertaken or subdivided, respectively, pursuant to the grant of consent to a development application, and

(b) non-discretionary development standards means development standards that are identified in an environmental planning instrument or a regulation as non-discretionary development standards.

Comment: Not applicable.

ITEM 1 (continued)

ATTACHMENT 2

Statement of Environmental Effects - No 4 Lovell Road Eastwood Page No 29

6.0 CONCLUSION

The proposed subdivision is consistent with the zoning and zone objectives. The proposed subdivision does give rise to a non-compliance with the site area development standards but such is reasonable in this instance given the extraordinary site circumstances. Approval of the site area variation can occur pursuant to a clause 4.6 variation. The LEP also recognises the need for flexibility when applying the numerical control under certain circumstances. Such is appropriate with the subject application.

The proposed subdivision will be consistent with the character and existing subdivision pattern in the precinct and will maintain reasonable allotment sizes within the precinct.

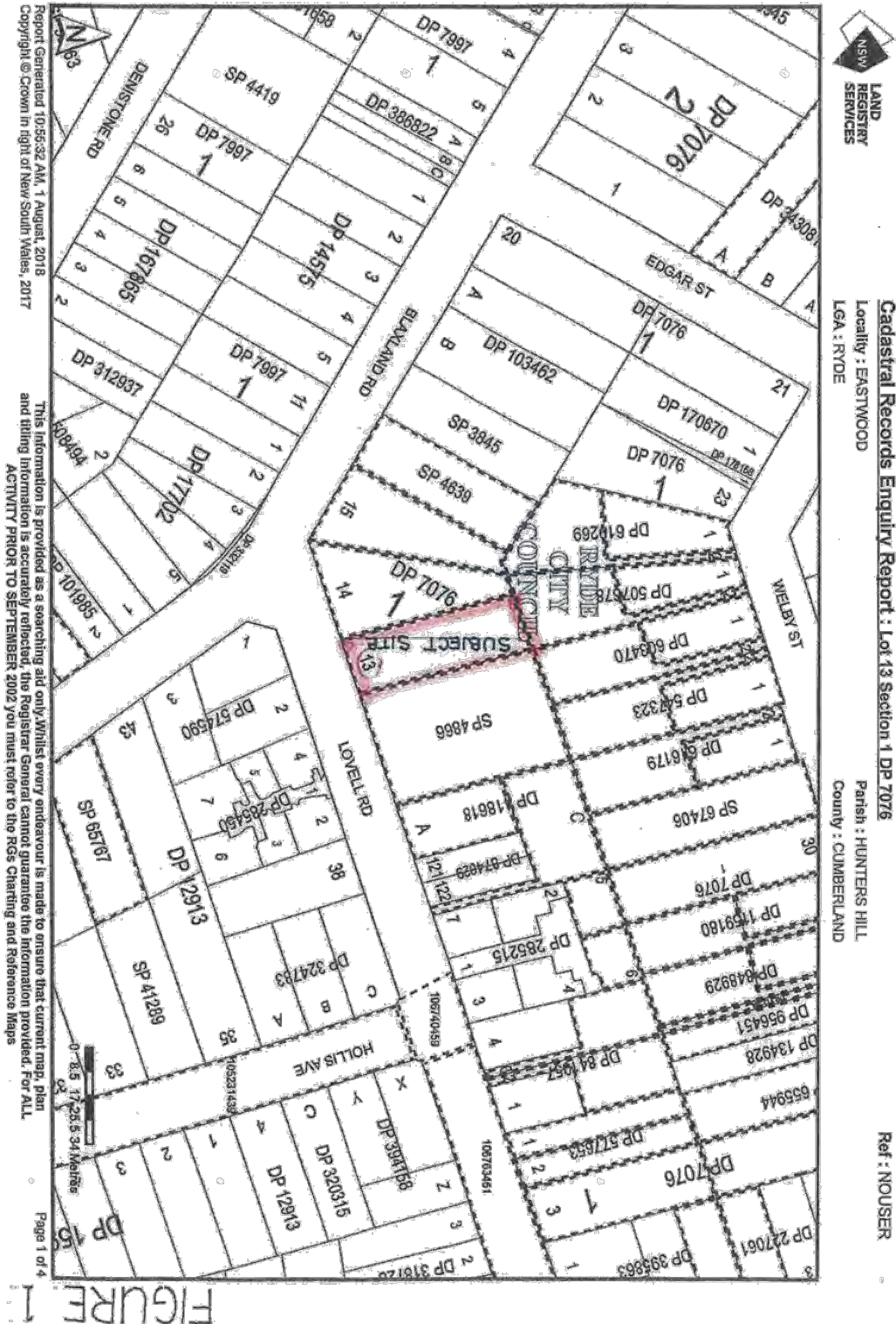
The proposed subdivision simply endorses the approved development on-site and represents orderly sequence of approvals as originally intended and supported by Council under a previous plan.

The proposal is reasonable pursuant to the provisions of the LEP/DCP.

In view of the above, the proposed subdivision is appropriate and Council approval is recommended.

ITEM 1 (continued)

ATTACHMENT 2



ITEM 1 (continued)

ATTACHMENT 2

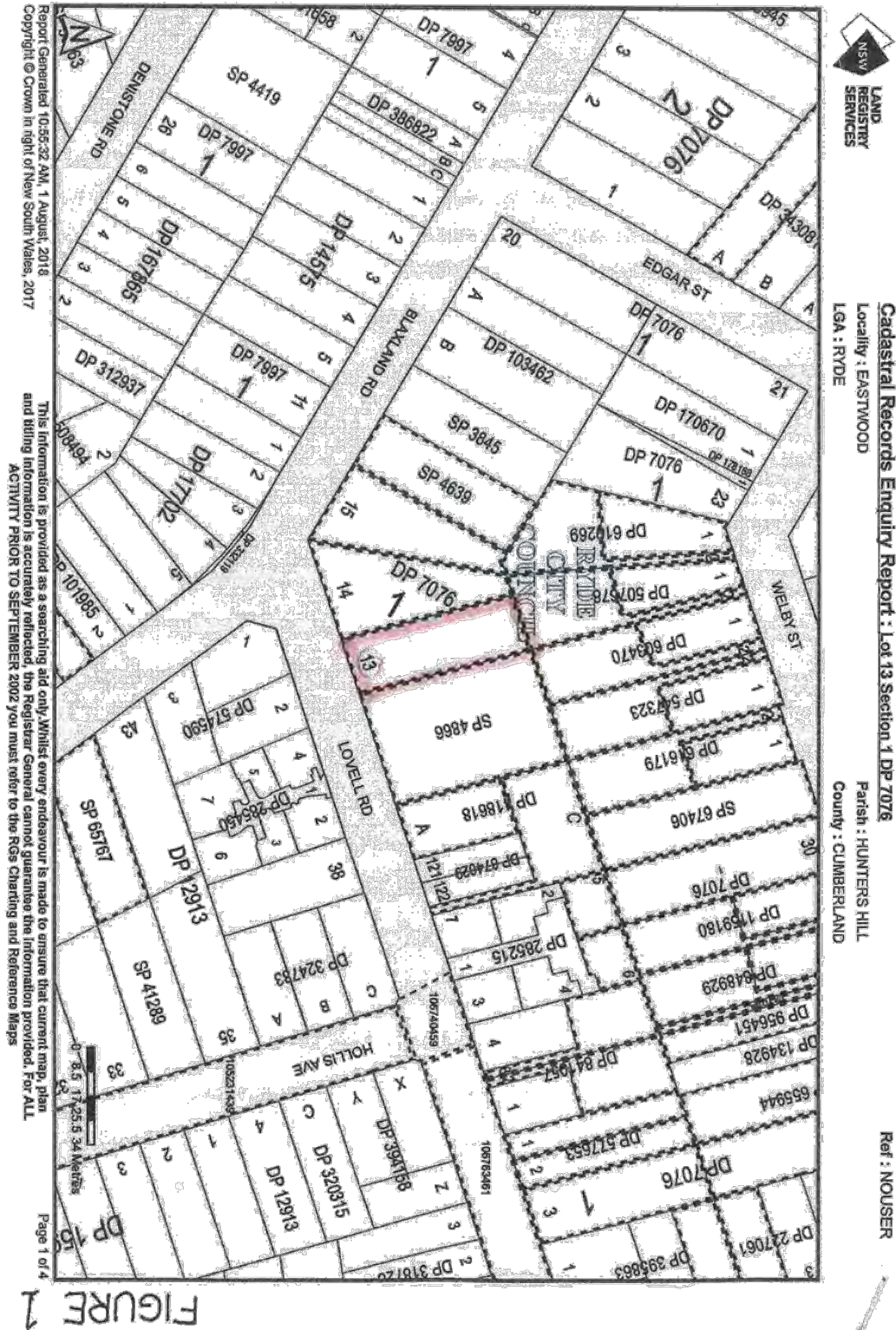


FIGURE 1

2 176-186 BLAXLAND ROAD, RYDE - DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A THREE STOREY RESIDENTIAL FLAT BUILDING CONTAINING 37 APARTMENTS AND ASSOCIATED SITE WORKS - LDA2018/0427

Report prepared by: Senior Coordinator - Major Development

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

Report dated: 30 May 2019 **File Number:** GRP/09/6/12/1/2 - BP19/628

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2018/427
Site Address & Ward	176 – 186 Blaxland Road, Ryde Central Ward
Zoning	R4 High Density Residential
Proposal	Demolition of existing structures and construction of a 3 storey residential flat building containing 37 apartments and associated site works
Property Owner	Blaxland Rd Holdings Pty Ltd
Applicant	Sasco Developments Pty Ltd
Report Author	Tony Collier – Senior Coordinator Major Development
Lodgement Date	2 November 2018
No. of Submissions	Eleven (11) submissions + one (1) petition including 34 signatures
Cost of Works	\$10,195,149.00

ITEM 2 (continued)

Reason for Referral to LPP	<ul style="list-style-type: none"> • Contentious development – is the subject of 10 or more unique submissions by way of objection. • Sensitive development – development to which <i>State Environmental Planning Policy No 65 – Design Quality Residential Apartment Development</i> applies.
Recommendation	Approval
Attachments	Attachment 1: Draft conditions of consent Attachment 2: Clause 4.6 variation Attachment 3: Architectural plans.

1. Executive Summary

The following report is an assessment of a development application for the proposed demolition, excavation, and construction of a residential flat building containing 37 apartments, basement parking for 52 vehicles, and associated site works at 176-186 Blaxland Road, Ryde.

The overall height of the building is three storeys. The development presents as a linear building along Blaxland Road and breaks the rear portion of the building into 2 wings effectively creating a 'U' shaped building. The centralized courtyard contains the communal open space. The development proposes 37 apartments comprising 11x1 bedroom units, 19x2 bedroom units and 7x3 bedroom units.

Vehicular access is proposed from Blaxland Road. The development will contain parking over two basement levels, 30 car spaces inclusive of 2 accessible car spaces located on Basement Level 1 and 22 car spaces including 3 accessible spaces and 7 visitor car spaces on Basement Level 2.

Eleven (11) submissions and one (1) petition which includes 34 signatures were received objecting to the application during the notification period. The most common concerns raised in the submissions related to inadequate off street parking, increased traffic congestion, unacceptable height breach, overdevelopment of the site, built form being out of character with the locality, excessive excavation leading to flooding concerns, privacy concerns, construction impacts relating to traffic and work hours, insufficient open space provided on site and insufficient notification to adjoining neighbours. These matters are addressed in full detail in Section 9 of this report.

ITEM 2 (continued)

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

- **Building Height**

The proposed height of the building exceeds the allowable maximum building height under the developments standards set out in Ryde LEP 2014. The development standard for height of buildings for the site is 11.5m. The overall height achieved by this development will be 12.9 metres, which represents a variation of 12.17%. The height variation is restricted to the roof and lift of the linear building adjacent to Blaxland Road. It is considered that the proposal will result in a built form that is compatible with the current and future desired character of the surrounding area.

A Clause 4.6 variation has been submitted and is addressed in full detail in Section 5.2 of this report.

- **Building Separation**

There are a number of variations sought in this respect as follows:

- South boundary (adjoining No. 174 Blaxland Road) requires 9 metres, however 8 metres is proposed.
- West boundary (rear) requires 9 metres, however 8 metres is proposed.
- North boundary (adjoining No. 190 Blaxland Road) requires 6 metres, however 3 metres is proposed.

These non-compliances are considered satisfactory as the development will provide an acceptable urban form, amenity and open space areas.

- **Communal Open Space**

The ADG requires that the site provide 748m² as communal open space. The development proposes an area of 312m². Despite this being a significantly large variation, the variation is considered acceptable on merit as it is considered that designing the private open space for adjacent apartments along the rear of the site area in lieu of communal open space is a better planning outcome to respond to the adjacent lower scale residential properties in this location.

- **Apartment Size and Layout**

The master bedroom of the one bedroom apartments does not achieve 10m². The variation is minor and occurs due to the additional storage space within the room.

Following an assessment of the development application, it is considered that these non-compliances are acceptable on planning grounds.

Assessment of the application against the relevant planning framework, and consideration of various design matters by Council's technical departments has not identified any fundamental issues of concern. Consequently, the report concludes that the application is sound in terms of its design, function and relationship with its neighbors.

ITEM 2 (continued)

The development application is recommended for approval subject to appropriate conditions of consent included in **Attachment 1**.

2. The Site and Locality

The site is made up of the following addresses (see **Figure 1**) which are legally defined as:

- 176 Blaxland Road – Lot 23, DP 6046;
- 178 Blaxland Road – Lot 22, DP 6046;
- 182 Blaxland Road – Lot 21, DP 6046;
- 184 Blaxland Road – Lot 1, DP 938083; and
- 186 Blaxland Road – Lot 1, DP 962761.

The site is a rectangular shaped allotment with a combined frontage of 60.96m to Blaxland Road. The site has a total site area of 2989m².

The north-eastern side boundary has a length of 50.36m and south-western side boundary has a length of 50.29m. The rear boundary has a combined length of 57.92m.



Figure 1: Aerial photograph of site.

ITEM 2 (continued)

No. 176 to 178 Blaxland Road accommodates a single brick community centre building which is built over the two lots.

There is a driveway located on the south-western boundary. Approximately two-thirds of the site (the rear portion) is vacant. Eucalypt street trees line the front setback area facing Blaxland Road as can be seen in **Figure 2** below.



Figure 2: Single storey community centre located at 176 - 178 Blaxland Road.

No. 182 Blaxland Road accommodates a Single story brick dwelling with tiled roof with a detached fibro shed in the rear yard.

There is a driveway located on the south-western side with access provided off Blaxland Road (see **Figure 3**).



Figure 3: Single storey dwelling located at 182 Blaxland Road.

ITEM 2 (continued)

No. 184 Blaxland Road is a vacant lot with lapped and capped timber fencing across its frontage, with access off Blaxland Road (see **Figure 4**).



Figure 4: Vacant land located at 184 Blaxland Road.

No. 186 Blaxland Road accommodates a single storey fibro shop with glazed shopfront, built boundary to boundary.

There is no vehicular access from Blaxland Road (see **Figure 5**).



Figure 5: Single storey shop located at 186 Blaxland Road.

ITEM 2 (continued)

The site has a cross-fall of approximately 8.59m from the front north-eastern corner of No. 186 Blaxland Road to the rear south-western corner of No. 176 Blaxland Road. An existing Sydney Water sewer line and sewer manhole contravenes the site at the rear, and its exact location is shown in **Figure 6**.



Figure 6: Map showing location of existing sewer line (represented by blue line).

There are a mixture of single and two storey dwellings, residential flat buildings and scattered commercial premises surrounding the site. On the opposite side of Blaxland Road is the Top Ryde Shopping Centre bounded by predominately residential flat buildings with associated commercial/retail space at the ground level.

The northern end of Blaxland Road has been transformed into a cul-de-sac near the Blaxland Road and Lane Cove Road intersection. The road closure appears in a temporary fashion, closed off by solid concrete bollards, and is illustrated in **Figure 7**. The NSW Roads and Maritime Service (RMS) has confirmed that Blaxland Road at this point will not have access to Lane Cove Road in the future, however the formal closure of the road has not been funded.

ITEM 2 (continued)



Figure 7: Blaxland Road closure as viewed from Blaxland Road looking south towards the site.

There are twenty (20) trees present on the site as shown in **Figure 8**, including two trees located on the adjoining property to the south, at No. 174 Blaxland Road. The most common species include Lemon Scent Gum, Smooth Barked Apple, Peppercorn Tree and Willow Myrtle.

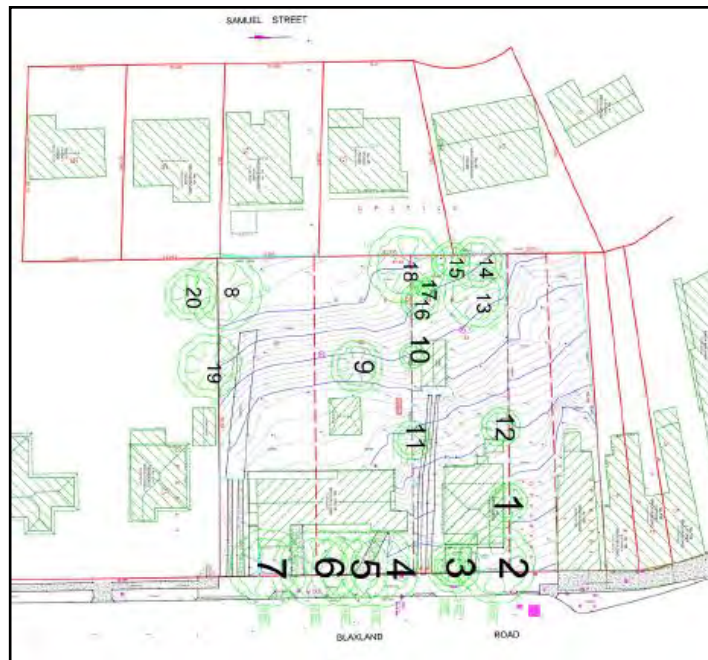


Figure 8: Survey of trees on subject property (Note: T19 and T20 are located on adjoining site to the south).

ITEM 2 (continued)**3. The Proposal**

The proposal seeks approval for the demolition of existing structures and the construction of a 3 storey residential flat building comprising 37 residential apartments (11 x 1 bedroom units, 19 x 2 bedroom units and 7 x 3 bedroom units).

Parking is provided over two levels of basement containing 52 car parking spaces, bicycle bays and storage cages.

Specific details of each level are as follows:

Level 1

- 30 resident parking spaces (including 2 accessible spaces) and apartment storage within basement;
- Two lifts and fire stairs;
- Two lobby areas providing access between basement parking and units/communal open space;
- Communal open space;
- Sewer manhole plant room; and
- Units 101, 102, 103, 104, and 105.

Level 2

- Carpark entry ramp;
- 22 parking spaces (including 3 accessible spaces, 7 visitor spaces and 13 resident spaces) and apartment storage within the basement;
- Two separate lifts and fire stairs;
- Two lobby areas providing access between basement parking and units; and
- Units 201, 202, 203, 204, and 205.

Level 3

- Substation Chamber;
- Carpark entry driveway;
- Two building entries off Blaxland Road, including mailboxes;
- Two lobbies providing access to units in both the north-west and north-east buildings, each containing a lift and fire stairs;
- Units 301, 302, 303, 304, 305, 306, 307, 308, 309, 310 and 311.

Level 4

- Two lift lobbies including each containing 1 lift and fire stairs; and
- Units 401 to 408.

ITEM 2 (continued)

Level 5

- Two lift lobbies including each containing 1 lift and fire stairs; and
- Units 501 to 508.

Thirteen (13) trees (numbered 1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 & 18 as shown previously in **Figure 8**) are proposed to be removed.

Photomontages of the development are provided in **Figures 9 to 12**.



Figure 9: Blaxland Road elevation of the proposed development.



Figure 10: Rear elevation of the development.

ITEM 2 (continued)



Figure 11: South West elevation of the development.



Figure 12: North East elevation of the development.

4. Background

In May 2016, the land owner applied to Council for a Planning Proposal over part of the subject site.

The Planning Proposal requested that the land use zoning of 176 - 178 Blaxland Road be changed from SP2 Infrastructure to R4 High Density Residential and the following associated changes:

- Amending the maximum building height to 11.5 metres;

ITEM 2 (continued)

- Amending the maximum floor space ratio to 1:1; and
- Amending the minimum lot size to 580m².

On 1 June 2018, Amendment No. 18 to the *Ryde Local Environmental Plan 2014* was gazetted and the above noted changes came into effect.

The applicant attended a pre-lodgment meeting with the Ryde Urban Design Review Panel (UDRP) on 14 June 2018. The Panel raised significant concerns with the relationship of the built form envelope to the context, particularly in relation to site boundaries.

As the site shares boundaries with a lower scale R2 Low Density Residential zone, the Panel highlighted that any development would need to achieve a reasonable transitional relationship between the higher density development and the low density dwellings.

Other concerns brought to the applicant's attention related to:

- potential site isolation of 190-192 Blaxland Road;
- the two-part linear building built form;
- street setback and retention of trees along Blaxland Road frontage;
- side boundary conditions;
- height exceedance; and
- location and usefulness of communal open space.

The subject development application was significantly amended from the pre-lodgment scheme and was lodged with Council on 2 November 2018.

The UDRP reviewed the DA on 29 November 2018 and the Panel was generally supportive of the proposal in its current form.

During the assessment process, the applicant submitted amended details and plans to address any concerns that were raised.

The following table provides a summary of the development application.

Date	Comments
6 December 2018	Email to applicant advising of: <ul style="list-style-type: none"> • concerns raised in submissions; • outstanding geotechnical advice; and • additional information required to address site isolation issue.
7 December 2018	Applicant submitted responses to concerns raised in objections.
11 December 2018	Amended Geotechnical advice submitted by applicant.
17 December 2018	Applicant advised of further outstanding geotechnical information, public domain and waste concerns.

ITEM 2 (continued)

Date	Comments
18 December 2018	Applicant submitted additional site isolation information.
19 December 2018	Applicant submitted additional geotechnical advice.
20 December 2018	Applicant submitted additional information to satisfy waste and public domain matters.
3 January 2019	Applicant advised of outstanding landscaping matters.
18 February 2019	Additional landscaping information submitted by the applicant.
1 March 2019	Applicant advised of outstanding engineering matters.
11 March 2019	Applicant submitted additional information to satisfy engineering matters.
18 March 2019	The applicant was advised that the engineering matters remained unresolved.
20 March 2019	Applicant advised Council of registration of drainage easement.
20 March 2019	Applicant advised by Council of possible option to address engineering concerns.
3 April 2019	Additional engineering information submitted to Council by applicant.
8 April 2019	Internal meeting held with Council's Waste officer, Traffic Engineer and Senior Development Engineer to address outstanding driveway/intercom issues.
8 April 2019	Applicant advised by Council that engineering matters now resolved.

5. Planning Assessment

5.1 State Environmental Planning Instruments

State Environmental Planning Policy (Building Sustainability Index: BASIX)

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. As such, a BASIX Certificate has been prepared for the development (Certificate No. 967775M, issued Friday 12 October 2018) which provides the development with a satisfactory target rating.

Appropriate conditions will be imposed requiring compliance with the BASIX commitments detailed within the Certificate. See **Conditions 3 and 131**.

State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55)

The requirements of State Planning Policy No. 55 – Remediation of Land apply to the subject site.

In accordance with Clause 7 of the SEPP, Council must consider if the land is contaminated. If it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The applicant submitted a Preliminary Site Investigation report, prepared by Genviron Group, dated May 2016. The report concluded that, based on the investigation undertaken it was considered that the risk of soil contamination on the site is low, and the site is suitable for the proposed development subject to recommendations.

ITEM 2 (continued)

Council's Environmental Health Officer has supported the findings of the Preliminary Site Investigation and has raised no objections to the approval of this application subject to one condition. This condition will require the applicant to notify Council and the PCA if any information is discovered during demolition and construction that may change this view on site contamination. See **Condition 46**.

SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the subject site and has been considered in this assessment.

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the SREP. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development.

The objective of improved water quality is satisfied through compliance with the provisions of the *Ryde Development Control Plan 2014 - Part 8.2*.

The proposed development raises no other issues and otherwise satisfies the aims and objectives of the SREP.

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

This policy aims to improve the design quality of residential flat development in NSW. It recognises 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.

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

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

Urban Design Review Panel (UDRP)

The proposal was reviewed by the UDRP on 14 June 2018 prior to lodgement and again on 29 November 2018 after the lodgement of the application.

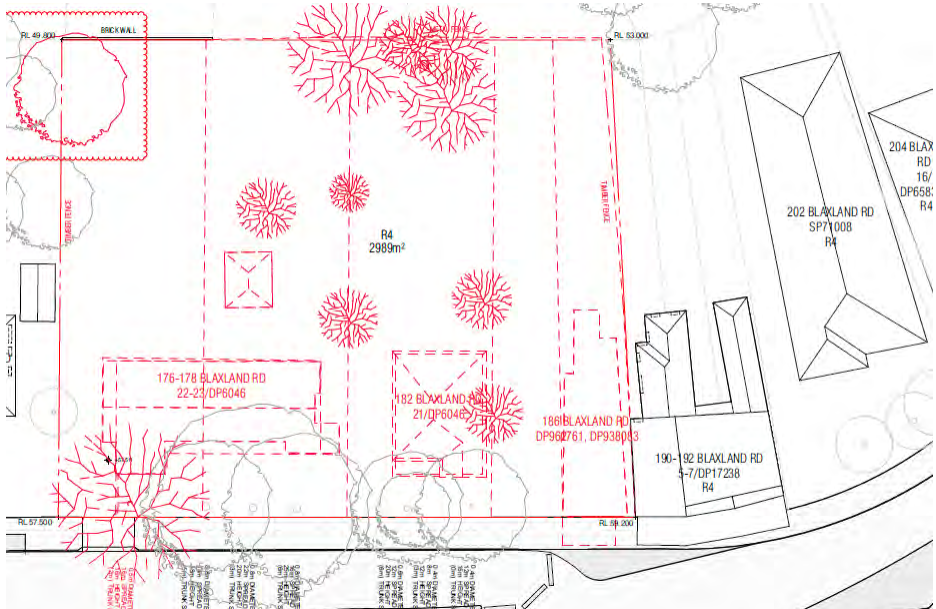
The UDRP's latest comments are provided below, as well as commentary on how the proposal has responded to their comments. The UDRP noted that generally

ITEM 2 (continued)

supportive of the proposal in its current form subject to their comments being satisfactorily addressed.

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><u>Urban Design Review Panel</u></p> <p><i>The site is located at 176 to 186 Blaxland Road Ryde and is currently occupied by a low scale building, shop and dwelling house. The site shares boundaries with a lower scale R2 zone characterised by existing detached houses to the south and to the rear. An existing shop top building to the immediate north-east has a party wall along the shared side boundary.</i></p> <p><i>The proposal retains a linear building along Blaxland Road and breaks the rear portion of the building into 2 wings effectively creating a 'u' shaped building. The resulting centralised courtyard accommodates the relocated communal open space.</i></p> <p><i>Trees along the site frontage are largely retained in conjunction with arborist advice. The retention of trees is essential to separation and outlook for creating better residential amenity along this busy road frontage.</i></p> <p><i>Isolation of adjacent site to the north-east remains a concern and the proponent is requested to provide Council with appropriate documentation demonstrating efforts to amalgamate the property.</i></p> <p><u>Assessing Officer Comments</u></p> <p>The subject development adjoins the site at 190 to 192 Blaxland Road, Ryde, which comprises three separate lots, each containing a two storey commercial building owned by separate entities. The combined site provides a site area of approximately 634m² and a combined frontage of 15.95m. This site at 190 to 192 Blaxland Road, Ryde cannot be amalgamated with the adjacent land on its north-eastern side at No. 202 Blaxland Road, Ryde, because there already exists a residential flat building. Figure 13 shows the subject site and the adjoining property.</p>

ITEM 2 (continued)

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
	 <p>Figure 13. Site amalgamation. The subject site is demonstrated in red and the adjacent R4 zoned property.</p> <p>While the site frontage and area would enable the redevelopment of the site, one of the critical issues would be vehicular access. It is highly unlikely that RMS would permit access to the site from Blaxland Road as this site only has a frontage to the slip lane.</p> <p>The applicant was advised to consult with the adjoining property owners to acquire their land in order for it to be developed with the subject site. The applicant has provided evidence that the developer of the subject site formally approached the owners of the three adjoining properties at 188 to 192 Blaxland Road, Ryde, through their solicitor. The applicant has not received any response from any of the owners of the adjoining properties. The applicant also advised that they had previously informally approached the owners, who made it clear they were not interested in selling due to the fact they have long term businesses running from these premises, and they wished for this to remain the case.</p> <p>Site isolation has been addressed in the planning principle established in <i>Melissa Grech v Auburn Council</i> [2004] NSWLEC 40 and expanded in <i>Karavellas v Sutherland Shire Council</i> [2004] NSWLEX 251. The planning principles however are only applicable where it can be demonstrated that the adjacent sites are isolated. The obligation to make reasonable offers to acquire an isolated site only arises where the subject development will restrict the development potential and isolate an adjacent site.</p> <p>As advised, 188 to 192 Blaxland Road is three separate lots. If each lot was to be redeveloped by itself, the most likely redevelopment would be an extension of the existing use. It is however more likely that these properties would be redeveloped as a group. As advised above, the greatest constraint to redevelopment is vehicular access. Any redevelopment would need to provide an alternative access to Blaxland Road. This could be achieved with access</p>

ITEM 2 (continued)

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
	<p>via Samuel Street. Such an access arrangement already exists with the RFB at 202 Blaxland Road.</p> <p>The applicant has also provided a valuation report which demonstrates the highest and best use of 188 to 192 Blaxland Road, Ryde is a commercial development, which is already occurring on the site.</p> <p>In this instance, the requirements of the planning principle in Grech and Karavellas are not applicable to the subject development application.</p>
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building’s purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</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><u>Urban Design Review Panel</u></p> <p><i>The proposal exceeds the height plane along a portion at the rear of the linear building along Blaxland Road. The modelling of the building form has been amended to include a centralised courtyard which also reduces the number of units facing the adjacent property. The rear building wings are 3 storeys with the top storey recessed and well within the height plane. The height exceedance of the linear building reflects the sloping landform and is located in the centre of the site away from properties to the rear. The proposal also meets solar access requirements for adjacent private properties.</i></p> <p><i>The rear setback is 8m and below the ADG recommended 9m at a zone boundary. The variation is supported on merit as the proposed building height for the rear building wings are below the permissible height plane; the redesign reduces the number of apartments facing the rear boundary; and the landscape design incorporates generous planting including trees along the rear of the site.</i></p> <p><i>The drive structure for the driveway was a concern of the Panel in the last meeting. The drive structure has been retained. While the extent of hardscape is a concern, the generous planting zone along boundary; maximised retention of trees along the Blaxland Road frontage; views over driveway to the distant west from the street; and the location of the substation within the building are positive outcomes for the streetscape and adjacent property.</i></p> <p><u>Assessing Officer Comments</u></p> <p>Discussion regarding height of building development standard is provided under the “Clause 4.6” heading further along in this report.</p> <p>The comments relating to the rear setback and drive structure are noted.</p>
<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area’s existing or projected population.</p>	<p><u>Urban Design Review Panel</u></p> <p><i>Acceptable.</i></p> <p><u>Assessing Officer Comments</u></p> <p>The development complies with the floor space ratio in RLEP 2014. This development is consistent with the desired future character of the area.</p>

ITEM 2 (continued)

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
<p>Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	
<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p><u>Urban Design Review Panel</u></p> <p><i>The proposal achieves 70% natural ventilation and 73% solar access, but also has 23% of apartments with no sun. The Panel notes that the previous scheme at DA achieved 100% compliance but at the expense of the built form response to the context. The Panel supports the amended proposal and recommends further amendment to two south facing apartments to improve the solar access performance of these apartments. Refer to Amenity.</i></p> <p><u>Assessing Officer Comments</u></p> <p>The previous DA scheme that the Panel is referring to is the pre-lodgment scheme. This scheme proposed two separate linear buildings that were parallel to Blaxland Road. This scheme resulted in minimal setbacks and a greater impact to the adjoining residential properties. This scheme was not supported by the Council Officers or the UDRP and the applicant amended the scheme to the current proposal.</p> <p>The applicant has provided a BASIX Certificate to demonstrate that the development can meet the energy and water use targets set by the BASIX SEPP.</p> <p>The design of the development will also comply with the soil depth, cross ventilation and general amenity requirements of the ADG.</p> <p>The layout for the two apartments has been amended. This is addressed in detail under amenity.</p> <p>The development complies with this planning principle.</p>
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the streetscape character of the streetscape and neighbourhood.</p> <p>Good landscape design</p>	<p><u>Urban Design Review Panel</u></p> <p><i>Retention of mature trees along site frontage is highly supported. The redesign to locate communal open space centrally to development is supported as shown in the landscape architect's design. Proposed tree planting in deep soil along the rear boundary improves the interface between properties.</i></p> <p><i>Private open space for adjacent apartments for the remaining of the site area in lieu of communal open space is considered an appropriate response adjacent to the adjacent lower scale residential properties.</i></p> <p><i>Boundary planting along the driveway is well considered and generous enough to support a range of planting and transition between development scales.</i></p> <p><u>Assessing Officer Comments</u></p>

ITEM 2 (continued)

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
<p>enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>Noted. The development complies with this planning principle.</p>
<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p><u>Urban Design Review Panel</u></p> <p><i>Apartments 101 and 201 are single aspect, south facing and adjacent the car park entry with deep floor plans and an inboard room which is currently sized sufficient to be used as a bedroom. The redesign of the apartment or building wing is recommended to reduce apartment depth measured from the external building line and to provide improved daylight and ventilation to all habitable rooms.</i></p> <p><i>Screened windows facing the communal courtyard are not required. Building separation is sufficient and the proposed landscape design includes generous planters separating communal open space uses and private windows. It is preferable to allow residents to control their privacy and improve opportunities for daylight access and outlook. Similarly, the use of 'ear' windows could be reviewed.</i></p> <p><i>Lift lobbies to level 01 and 02 are within and open to the car park. The 'lobby' shares space with disabled car park access. A dedicated and secure pedestrian lobby is required for each.</i></p> <p><i>Bike parking is currently insufficient. There is an opportunity to integrate bike parking sensitively within the building frontage, potentially at the entry courtyard to the substation, which could be secure and easily accessed.</i></p> <p><i>Apartment storage needs to be clarified. There appears to be less than 50% storage in the basement to support storage of larger items such as bikes. It is also not evident how the storage is allocated and accessed within the basement. A plan that allocates space to each apartment is required.</i></p> <p><u>Assessing Officer Comments</u></p> <p>The applicant has amended the layout of apartments 101 and 201. While solar access to the apartments will not be changed, the amenity of the apartments</p>

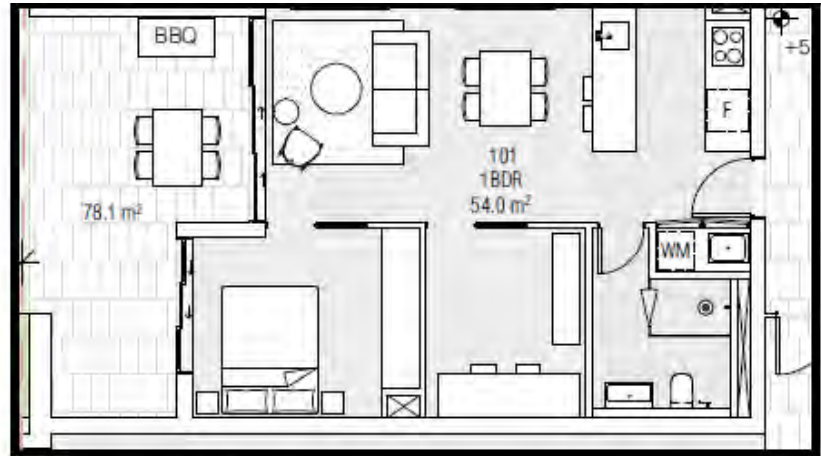
ITEM 2 (continued)

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
	<p>will be improved.</p> <p>Apartment 101 has been reconfigured so that the unit itself has been brought forward. The windows of the unit are now positioned along the edge of the building, and the balcony has been pushed out beyond the building line. A batten awning has been introduced over the balcony to allow for better penetration of natural light into the apartment (see Figure 14).</p> <div data-bbox="762 660 1340 1433" data-label="Figure"> </div> <p>Figure 14: Reconfigured layout of Apartment 101.</p> <p>Apartment 201 has also been reconfigured by reducing the balcony depth and as a result the windows have been brought forward closer to the edge of the building, which allows more natural light into the unit (see Figure 15). Whilst the edge of the balcony has been moved closer to the western boundary, the screen planting, and privacy screen will ensure that visual and acoustic privacy is maintained.</p>

ITEM 2 (continued)

SEPP 65 – Design Quality of Residential Flat Buildings

UDRP Comments



Previous Layout



Amended layout

Figure 15: Reconfigured layout of Apartment 201.

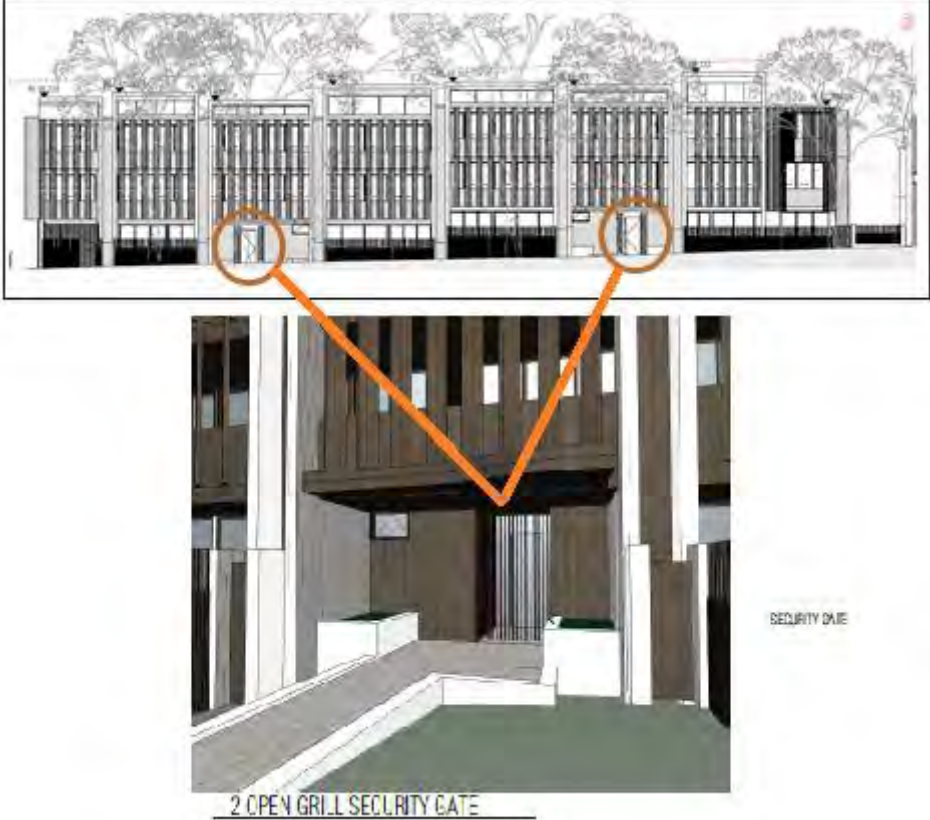
Amended plans have also been submitted to Council showing the screening on the windows facing the communal open courtyard has been deleted. The applicant has maintained the 'ear' windows to the second bedroom to four units that face the communal open courtyard. The removal of the other screening to the windows in these apartments will improve solar access. For this reason, no objection is raised to the retention of the 'ear' windows.

The Panel also raised concerns about the lift lobbies to level 1 and 2 requiring a dedicated and secure pedestrian lobby. As proposed the lift lobby takes advantage of being next to the disabled car parking and the associated shared zone. This is demonstrated in **Figure 16**. This arrangement is considered acceptable.

ITEM 2 (continued)

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
	<div data-bbox="758 414 1337 817" data-label="Image"> </div> <p data-bbox="762 891 1248 920">Figure 16: Entry lobby of levels 1 and 2.</p> <p data-bbox="580 952 1508 1041">The amended plans have also included secure bicycle parking within the front setback area, forwards of the substation chamber, as suggested. This has been designed to be similar to the fencing along the front boundary.</p> <p data-bbox="580 1075 1468 1164">The applicant has also provided additional information clarifying apartment storage external to the units, and how the storage will be allocated. The storage provision will comply with the ADG requirements.</p>
<p data-bbox="175 1189 263 1218">Safety</p> <p data-bbox="175 1249 566 1585">Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p data-bbox="175 1617 550 1863">A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p data-bbox="580 1189 917 1218"><u>Urban Design Review Panel</u></p> <p data-bbox="580 1249 1516 1400"><i>Deeply recessed undercroft building entries and indirect entry paths and sight lines along a busy road are a concern. It is understood that design for safety needs to respond to tree retention. Open grill security gates could reinforce the openness and landscape character of the street setback while providing additional safety for residents.</i></p> <p data-bbox="580 1433 933 1462"><u>Assessing Officer Comments</u></p> <p data-bbox="580 1467 1516 1585">we need to reconcile this before the Council meeting Tuesday week. Additional gates have been provided to the pedestrian access areas for both the northern and southern lobbies, and are illustrated in Figure 17 below. This arrangement is considered to address the Panel's safety concerns.</p>

ITEM 2 (continued)

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
	 <p>Figure 17: New gates to the lobby entrances along the Blaxland Road elevation.</p>
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><u>Urban Design Review Panel</u></p> <p><i>Acceptable.</i></p> <p><u>Assessing Officer Comments</u></p> <p>The development will include the following housing mix:</p> <ul style="list-style-type: none"> • 11 x 1 bedroom apartments; • 19 x 2 bedroom apartments; and • 7 x 3 bedroom apartments. <p>The proposed range of apartments provides a suitable mix of housing in response to current housing demand and responds to the need for economic housing choice within an area with good public transport access, social and commercial facilities.</p> <p>Adaptable units are also proposed.</p>

ITEM 2 (continued)

SEPP 65 – Design Quality of Residential Flat Buildings	UDRP Comments
<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure.</p> <p>Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p><u>Urban Design Review Panel</u></p> <p><i>The conceptual approach to building form, architectural modelling and material selection has the potential to deliver a sensitive and beautiful architectural response to the site conditions.</i></p> <p><i>The applicant is encouraged to further develop the detailed design to ensure constructability of design elements to realise the architectural concept. In particular the detailed resolution of the timber blade elements is essential to achieving the design intent.</i></p> <p><u>Assessing Officer Comments</u></p> <p>The concern raised by the Panel is that the use of materials may be amended throughout the construction process and this can result in a different development. To reduce the likelihood of this happening, it is proposed to include the following condition on any consent:</p> <p><i>“Prior to the release of the first Occupation Certificate, the project architect is to certify that the materials and finishes detailed on drawings numbered DA200, DA201, DA202, DA203, DA204 and DA400 have been used in the construction of the project.” See Condition 170.</i></p>


Apartment Design Guide (ADG)

The SEPP also requires the Consent Authority to take into consideration the requirements of the ADG with regard to the proposed residential apartment building.

The following table addresses the relevant matters.

Clause	Proposal	Compliance
<p>Part 2 - Development Controls</p> <p>Note: This part explains the application of building envelopes and primary controls including building height, floor space ratio, building depth, separation and setbacks. It provides tools to support the strategic planning process when preparing planning controls. It is used here only to ascertain degrees of compliance with the most applied controls under Parts 3 and 4 later in this table.</p>		
<p>Building Depth</p> <p>Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.</p>	<p>The development is infill development on a wide, rather than deep, block of land.</p> <p>As a response to the dimensions of the site, the depth of the rear building is 15.8m and the depth of the front building is 16m.</p>	<p>Yes</p>
<p>Building Separation</p> <p>Minimum separation distances for buildings up to 4 storeys should be:</p> <ul style="list-style-type: none"> 12m between habitable rooms / balconies 	<p>As the development is three storeys, the ADG requires a 12m separation distance. Applying half the minimum separation distance results in a required 6m setback distance. The adjoining sites on the western and northern boundaries contain single storey dwellings within an R2 Low Density Residential zone. In this circumstance the ADG</p>	<p>No Variation acceptable.</p>

ITEM 2 (continued)

Clause	Proposal	Compliance
<ul style="list-style-type: none"> • 9m between habitable / balconies and non-habitable rooms • 6m between non-habitable rooms. 	<p>requires an additional 3m. This results in a 9m setback to the boundaries adjoining a low density zone.</p> <p>The development has provided a predominant setback of 8m along the rear and south-western side boundaries. Along the rear boundary, the ground floor terrace encroaches the 8m setback by a maximum of 1.5m. Along the side boundary, the terrace for the ground floor unit and two 'ear' windows encroach the 8m setback. The 8m setback was supported by the UDRP on merit given the proposed building height for the rear building is below the permissible height plane and there are fewer apartments facing the rear boundary. Furthermore, the landscape design incorporates generous planting including trees along the two boundaries of the site as demonstrated in Figure 18. Finally, it is considered that there are also no overlooking impacts and architectural relief is provided.</p>  <p>Figure 18. Landscaping plan for the rear of the site.</p> <p>The building separation between this development and the commercial development at 188 Blaxland Road under the ADG is required to be 6m. This commercial building is currently built to the boundary for the first 10.32m and is then setback a minimum of approximately 1m off the boundary after that. Along this north-eastern boundary, the development proposes a minimum setback of 3m to 4.89m, with a slight encroachment to 2.7m for the 'ear windows. This is considered acceptable as the 'ear' windows prevent overlooking from the apartments living area to the adjoining property and provide some architectural relief. No objection is raised to the side setback. Any redevelopment of the adjoining site is likely to take advantage of the existing setbacks which would result in a zero setback. Regardless of this, the proposed development has given consideration to privacy impacts to the adjoining property. All apartments along the north-eastern boundary have been orientated to the front and back of the site. Side (north-east) facing windows have been carefully</p>	

ITEM 2 (continued)

Clause	Proposal	Compliance
	treated with screens and high sill windows to maintain the privacy for the existing neighbouring apartments.	
<p>Front, Rear & Side Setbacks</p> <p>See discussion under the relevant Development Control Plan.</p> <p>Determine street setback controls relative to the desired streetscape and building forms, for example:</p> <ul style="list-style-type: none"> • define a future streetscape with the front building line • match existing development • step back from special buildings • retain significant trees • in centres the street setback may need to be consistent to reinforce the street edge • consider articulation zones accommodating balconies, landscaping etc. within the street setback • use a setback range where the desired character is for variation within overall consistency, or where subdivision is at an angle to the street • manage corner sites and secondary road frontages 	<p>There is no DCP applicable to this site so the requirements of the ADG apply.</p> <p>The proposed building will be setback 6m from the front boundary, which is in line with the future desired character of the adjoining R2 zoned residential area. The setback allows for existing trees and deep soil planting which provides screening to the development. The proposed setback is considered consistent with the streetscape.</p> <p>Rear and side setbacks have been considered earlier in the report.</p>	<p>Yes</p>
<p>Part 3 - Siting the Development</p> <p>This part provides guidance on the design and configuration of apartment development at a site scale. Objectives, design criteria and design guidance outline how to relate to the immediate context, consider the interface to neighbours and the public domain, achieve quality open spaces and maximise residential amenity. It is to be used during the design process and in the preparation and assessment of development applications</p>		
<p>3B Orientation</p> <p>Building types and layouts respond to the streetscape and site while optimising solar access and minimising overshadowing of neighbouring properties in winter.</p>	<p>The building layout has been orientated to face Blaxland Road or the rear boundaries. The layout of the building is not out of character with the existing streetscape.</p>	<p>Yes</p>
<p>3C Public domain interface</p> <p>Transition between private & public domain is achieved without compromising safety and security and amenity of the public domain is retained and enhanced.</p>	<p>The introduction of the security gates within the lobby areas has improved safety and security, and the interface with private and public domain is proposed to transition well.</p>	<p>Yes</p>

ITEM 2 (continued)

3D Communal & public open space

Provide communal open space to enhance amenity and opportunities for landscaping & communal activities.

1. Provide communal open space with an area equal to 25% of site;
2. Minimum 50% of usable rea of communal open space to receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June.

The ADG requires that the site provide 748m² as communal open space. The development has proposed a combined area of 312m². This area is located at the rear of the site in between the two wings as demonstrated in Figure 19.

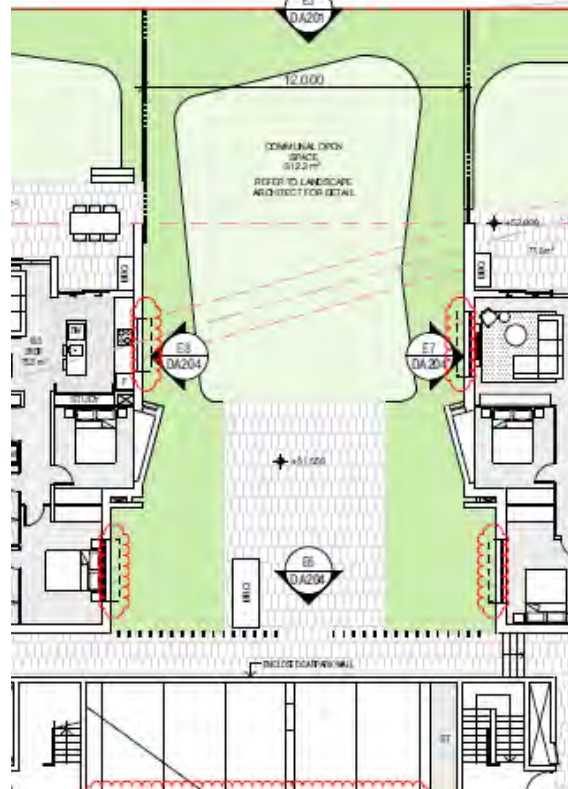


Figure 19. Communal open space area at the rear of the site.

Despite this variation being significant, the extent of communal open space has been supported by Council's UDRP for the following reasons:

- Rather than include the entire rear setback area into the communal open space, this area has been allocated to the adjoining apartments. This results in a lesser impact to the adjoining R2 zoned land in terms of acoustic privacy.
- Allocating the rear setback to the adjoining apartments also reduces any conflicts in respect to overlooking that would occur if the space was allocated as communal open space.
- Each apartment has been provided with a generous sized balcony or terrace which exceeds the ADG requirements.
- The rear setback has been extensively landscaped with trees and shrubs that will assist in softening the appearance of the

No
Variation
acceptable.


ITEM 2 (continued)

	<p>building from the R2 zoned land. The landscaping is demonstrated in Figure 18.</p> <p>In these circumstances, the variation to communal open space is supported.</p>													
<p>3E Deep Soil Zone</p> <p>Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality.</p> <p>1. Deep soil zones are to be provided equal to 7% of the site area and with min dimension of 3m – 6m.</p>	<p>7% (209.23m²) of the site area is to be deep soil. The development has provided 289m² of deep soil zones within rear setback, which equates to 9.66% of the site area and is considered satisfactory.</p>	Yes												
<p>3F Visual Privacy</p> <p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="178 1167 624 1525"> <thead> <tr> <th>Building Height</th> <th>Habitable rooms & balconies</th> <th>Non habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m(4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m(4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	See discussion under Building Separation.	<p>No</p> <p>Variation acceptable. See full discussion under Building Separation.</p>
Building Height	Habitable rooms & balconies	Non habitable rooms												
Up to 12m(4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<p>3G Pedestrian Access & entries</p> <p>Pedestrian access, entries and pathways are accessible and easy to identify.</p>	The development proposes two pedestrian entries to the building from Blaxland Road. These entries are accessible and easy to identify.	Yes												
<p>3H Vehicle Access.</p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p>	The development has proposed a 5.5m wide vehicle entry. This access point will provide adequate sight distances with an intercom at the top of the driveway for visitors to utilise, and a signalised point at the bottom of the driveway to allow for vehicles to pass safely. The access point will achieve safety and minimize conflicts with other vehicles and pedestrians.	Yes												
<p>3J Parking Provisions.</p> <p><u>Car parking</u></p>	The site is not within 800m of a railway station, therefore Council's car parking requirements apply.	Yes												

ITEM 2 (continued)

<p>For development on sites that are within 800m of a railway station, the minimum parking for residents and visitors to be as per RMS Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less.</p> <p><u>Bicycle Parking</u> Provide adequate motorbike, scooter and bicycle parking space (undercover).</p>	<p>See full discussion later in this report under Part 9.3 – Parking Controls.</p> <p>The development complies with Council's car parking requirements. Adequate bicycle parking has also been provided.</p>	
<p>Part 4 - Designing the Building This part addresses the design of apartment buildings in more detail. It focuses on building form, layout, functionality, landscape design, environmental performance and residential amenity. It is to be used during the design process and in the preparation and assessment of development applications</p>		
<p>4A Solar & daylight access</p> <p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.</p> <p>No more than 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p> <p>Design should incorporate shading and glare control, particularly for warmer months</p>	<p>70% (equal to 26) of the apartments are required to receive a minimum of 2 hours solar access. A total of 28 units (75%) will receive the required 2 hours of direct sunlight between 9am and 3pm midwinter.</p> <p>27% (10) of the apartments will receive no sunlight. It should be noted that the pre DA scheme achieved 100% compliance with the solar access. As advised in the background of the report, this scheme was not supported by the UDRP as this scheme resulted in significantly greater adverse impact to the adjoining R2 zoned properties. The current DA has been supported by the UDRP despite this variation to the solar access requirements. The non-compliance is due to the layout as well as the orientation of the site. This variation is considered acceptable in the circumstances of the case.</p> <p>The BASIX Certificate is included with the application demonstrating that the proposal achieves the required thermal comfort levels. Materials and finishes which incorporate shading and glare control measures including awnings are proposed.</p>	<p>Yes</p>
<p>4B Natural Ventilation</p> <p>At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building.</p> <p>Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.</p>	<p>26 apartments (70%) will be cross ventilated.</p>	<p>Yes</p>

ITEM 2 (continued)

<p>4C Ceiling Heights</p> <p>Ceiling height achieves sufficient natural ventilation and daylight access. The development is required to provide 2.7m minimum ceiling heights.</p>	<p>The development will achieve the minimum ceiling height of 2.7m.</p>	<p>Yes</p>
<p>4D Apartment size and layout</p> <p>Apartments are required to have the following minimum internal areas with one bathroom:</p> <ul style="list-style-type: none"> • Studio = 35m² • 1 bedroom = 50m² • 2 bedroom = 70m² • 3 bedroom = 90m² • 4 bedroom = 102m² <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan where the living, dining and kitchen are combined, there is to be a maximum depth of 8m from a window.</p> <p>Master bedrooms – minimum area 10m² Excluding wardrobe spaces.</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	<p>1 bedroom – range 50.3m² - 58.4m² 2 bedrooms – range 75m² - 85m² 3 bedrooms – 95m² - 97.7m²</p> <p>All of the apartments achieve or exceed the minimum requirements.</p> <p>All habitable rooms have a window compliant with the rates.</p> <p>The master bedrooms of the 1 bedroom apartments do not meet the minimum area of 10m². These rooms range from 9.1m² to 9.7m². These apartments all have large wardrobes that exceed the minimum requirements. It would have been possible to reduce the size of the wardrobes to ensure compliance, but it would have left an unusable portion of the room. The provision of additional storage space in these rooms is a better outcome. This is demonstrated in Figure 20.</p>  <p>APARTMENTS 302 SCALE 1:100 @ A3</p> <ul style="list-style-type: none"> APARTMENT SIZE = 9.3 m² EXTRA ROBE = 0.7 m² COMBINED = 10 m² <p>Figure 20. Typical layout of 1 bedroom apartment. Living rooms/combined living/dining area have a minimum:</p>	<p>Yes</p> <p>No Variation acceptable.</p>

ITEM 2 (continued)

	<ul style="list-style-type: none"> • 3.6m width for 1 bedroom apartments; and • 4m width 2 and 3 bedroom apartments. 																			
<p>4E Private Open Space and balconies</p> <p>All apartments are required to have primary balconies as follows:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Minimum area</th> <th>Min. depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> <td>N/A</td> </tr> <tr> <td>1 bedroom</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12m²</td> <td>2.4m</td> </tr> <tr> <td>Ground or podium</td> <td>15m²</td> <td>3m</td> </tr> </tbody> </table>	Dwelling type	Minimum area	Min. depth	Studio apartments	4m ²	N/A	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	Ground or podium	15m ²	3m	<p>Balconies meet minimum size requirements. Ground level courtyards meet required 15m² and minimum dimensions.</p>	Yes
Dwelling type	Minimum area	Min. depth																		
Studio apartments	4m ²	N/A																		
1 bedroom	8m ²	2m																		
2 bedroom	10m ²	2m																		
3+ bedroom	12m ²	2.4m																		
Ground or podium	15m ²	3m																		
<p>4F Common circulation and spaces.</p> <p>The maximum number of apartments off a circulation core on a single level is 8.</p> <p>Daylight and natural ventilation should be provided to all common circulation space above ground. Windows should be provided at the end wall of the corridor.</p>	<p>The development proposes a maximum of 4 apartments to be accessed from the circulation space. Daylight is provided by a block window.</p>	Yes																		
<p>4G Storage</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:</p> <table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m³</td> </tr> <tr> <td>1 bedroom apt</td> <td>6m³</td> </tr> <tr> <td>2 bedroom apt</td> <td>8m³</td> </tr> <tr> <td>3 + bedroom apt</td> <td>10m³</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>	Dwelling type	Storage size volume	Studio	4m ³	1 bedroom apt	6m ³	2 bedroom apt	8m ³	3 + bedroom apt	10m ³	<p>All of the apartments provide adequate storage. Storage is provided in the units and in the basement carpark.</p>	Yes								
Dwelling type	Storage size volume																			
Studio	4m ³																			
1 bedroom apt	6m ³																			
2 bedroom apt	8m ³																			
3 + bedroom apt	10m ³																			
<p>4H Acoustic privacy</p> <p>Noise transfer is minimised through</p>	<p>Appropriate acoustic privacy will be provided for each apartment.</p>	Yes																		

ITEM 2 (continued)

<p>the siting of buildings, building layout, and acoustic treatments.</p> <p>Plant rooms, services and communal open space and the like to be located at least 3m away from the bedrooms.</p> <p>Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.</p>	<p>Plant rooms and the like have been located at least 3m away from the bedrooms.</p> <p>The landscape plan has provided appropriate details in the vicinity of the windows which adjoin the communal open space to ensure that privacy is maintained.</p>	
<p>4K Apartment mix</p> <p>A range of apartment types with different number of bedrooms (1 bed, 2 bed, 3 bed etc.) should be provided.</p>	<p>The development has incorporated 11 x 1 bedroom units, 19 x bedroom units and 7 x 3 bedroom units. The proposed development provides acceptable housing choice, which meets the general market needs.</p>	Yes
<p>4M Facades</p> <p>Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents.</p> <p>Building facades are expressed by the façade.</p>	<p>The building facades are strongly articulated and will provide visual interest and an acceptable contextual fit with the surrounding development.</p>	Yes
<p>4N Roof design</p> <p>Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use the roof space for residential accommodation and open space are maximised. Roof design incorporates sustainability features.</p>	<p>The development includes flat and skillion roofs that respond to the character of the street. The roof materials will consist of light weight cladding. The roof design incorporates skylight and roof lights allowing greater natural light into the top level apartments.</p>	Yes
<p>4O Landscape design</p> <p>Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable</p>	<p>Landscaping is proposed along the perimeter of the site, with deep soil zones within the front and rear setback. Council's Landscape Architect has advised that the amended landscaping plan is satisfactory.</p>	Yes
<p>4P Planting on structures</p> <p>Appropriate soil profiles are provided.</p>	<p>The development will comply with the minimum soil depth as specified in the ADG.</p> <p>Condition 27 has also been imposed to ensure compliance.</p>	Yes
<p>4Q Universal design</p> <p>Universal design features are included in apartment design to promote flexible housing for all community members. A variety of</p>	<p>Four adaptable apartments are proposed which are all "silver" living standard units (in accordance with the Livable Housing Guidelines)¹. There are 8 units in total that provide silver lining standards, therefore, the development complies with these requirements.</p>	Yes

ITEM 2 (continued)

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

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

5.2 Local Environmental Plans

Ryde Local Environmental Plan 2014 (RLEP 2014):

As discussed in the application history of the report, Council has previously considered a planning proposal for Nos. 176-178 Blaxland Road. This rezoned the site from SP2 Infrastructure to R4 High Density Residential. This was gazette on 1 June 2018.

Nos. 180-186 were zoned R4 High Density Residential under the provisions of RLEP 2014.

Within this zone the proposed residential flat building is identified as being permissible with consent.

Aims and objectives for the high density residential zones:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The proposal meets the objectives of the R4 zone in providing a mixture 1, 2 and 3 bedroom apartments which will assist in meeting the housing needs of the community within the City of Ryde.

Furthermore, there are also 4 accessible units to assist in increasing the amount of accessible housing stock for the community.

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Applicable Provisions

Clause	Proposal	Compliance
4.3 Height of buildings		
(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map .	Maximum permitted building height = 11.5m The proposed development provides a height of up to 12.9m, which results in a variation to the development standard of 1.4m (12.17%). The applicant has submitted a request under Clause 4.6 of the LEP seeking variation to the development standard. This has been discussed below the table.	No
4.4 Floor space ratio		
(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.	The maximum FSR applicable to the site is 1:1 (2,989m ²). The proposal has a gross floor area of 2,986.4m ² , equating to a FSR of 1:1.	Yes
4.6 Exceptions to development standards		
	As stated above, a Clause 4.6 variation has been submitted seeking variation to Clause 4.3 – Height of Buildings. This is discussed in detail below. In summary, the applicant states that compliance with the Height of Buildings standard is unreasonable and unnecessary in the circumstances because it achieves the objectives of the standard and the R4 zone and does not result in any amenity impacts to adjoin properties. It is considered that there are sufficient environmental planning grounds to support the variation.	Yes
6.2 Earthworks		
Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters: (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land,	Bulk excavation for the proposed development is likely to comprise of fill, residual clay and weathered shale bedrock. It is considered that the proposed excavation works will not detrimentally affect drainage patterns or soil stability in this locality. The site has a history of residential use only and is unlikely to contain contaminated soil.	Yes

ITEM 2 (continued)

Clause	Proposal	Compliance
(c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.	The earthworks associated with the proposed development are unlikely to have any negative amenity impacts on adjoining properties. The Site Waste Minimisation and Management Plan (SWMMP) specifies suitable waste facilities to be used for excavated materials.	

Clause 4.6 Exceptions to development standards

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard where it can be demonstrated that flexibility in the particular circumstances achieve a better outcome for and from development.

The applicant has provided a written request seeking to justify the variation to the development standard contained in Clause 4.3 – Height of Buildings.

The permitted height of the subject site is 11.5m and this is illustrated in **Figure 21**.

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Figure 21: Maximum building height of the site and surrounding properties.

The building proposes minor incursions to the 11.5m height plane which occur at the top of the site furthest from its Samuel Street residential neighbours. The variation is due to the site slope and need to achieve level access to Blaxland Road.

The additional height is offset by a lowering of the built form to the rear as shown in **Figure 22 and 23**. The overall height achieved by this development will be 12.9 metres, which represents a variation of 12.17%.

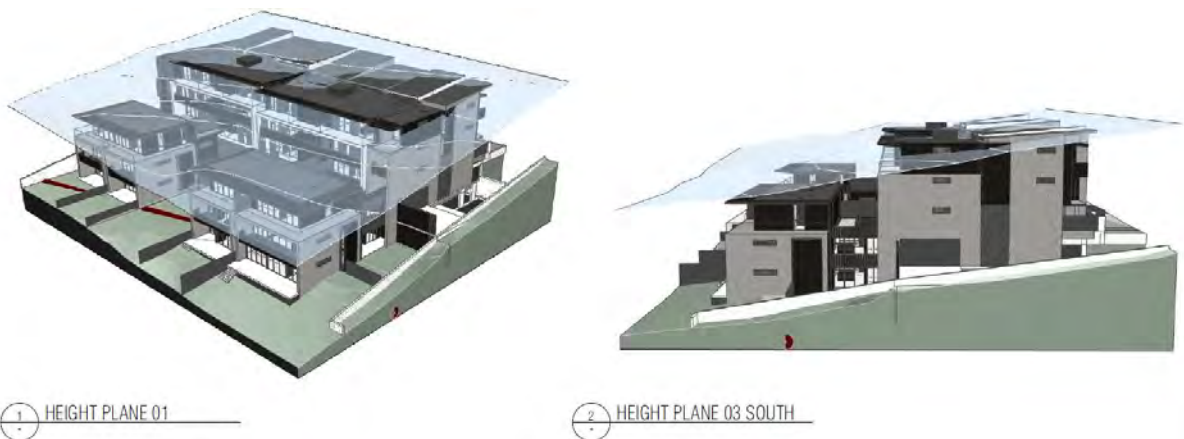


Figure 22: Building height plane illustrating extent of encroachments.

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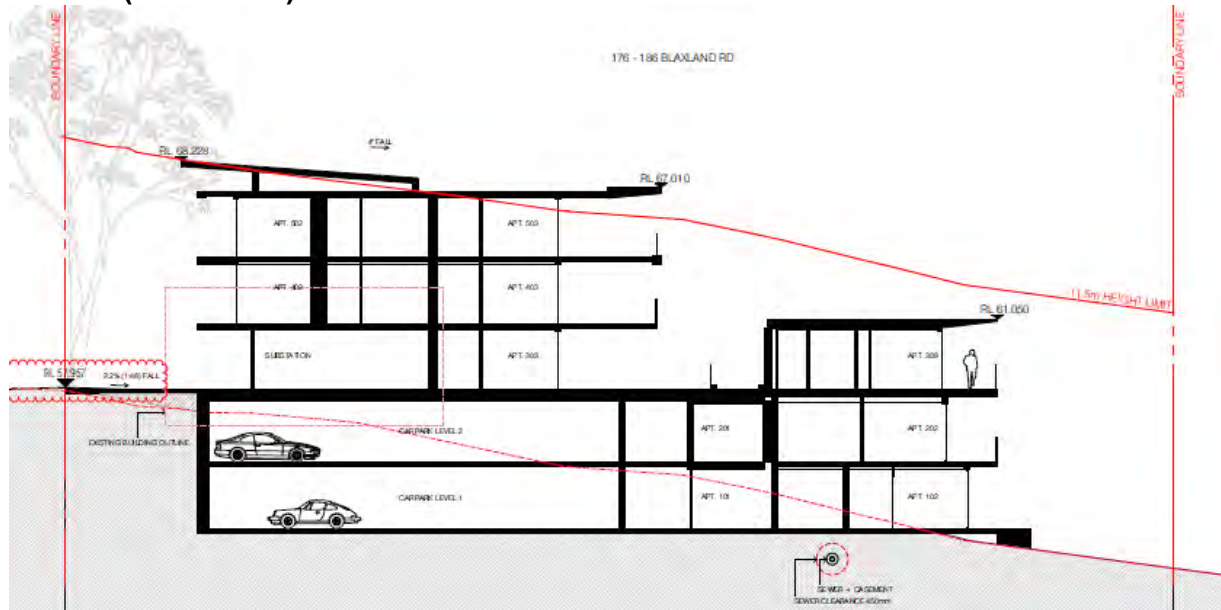


Figure 23: Section through the development showing the height non-compliance.

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion.

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure’s Guidelines for varying development standards was formulated. These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard?
- What is the underlying object or purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?; and
- Is the objection well founded?

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* expanded on the above and established the five part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

ITEM 2 (continued)

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary?
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that departs from the standard, making compliance with the development standard by others both unnecessary and unreasonable?
- Is the “*zoning of particular land*” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land? Consequently compliance with that development standard is unnecessary and unreasonable.

More recently in the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

The applicant has submitted a written Clause 4.6 variation which has been included in Annexure 1. A summary of the applicant’s Clause 4.6 is detailed below:

1. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

Strict application of the 11.5m maximum height limit development standard is considered to be unreasonable and unnecessary in the circumstances of the case. The analysis below demonstrates that the development achieves the objectives of the development standard and the zone objectives.

In addition to achieving these objectives, the development standard is considered to be unreasonable and unnecessary having regard to the individual circumstances of the case as it relates to the site. From an urban design perspective, the site is

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capable of supporting the development and warrants a relatively minor variation. Due to the slope of the site and the location of the non-compliance the additional height will not be discernible from any vantage point or private lands. The departing roof element is not located on an edge interface with a neighbor. The design and layout of the proposal is a desirable planning outcome which fits a site having a large cross fall (between 8-10m) and as such satisfies the sufficient environmental planning grounds test.

The site does not result in any isolation of adjoining smaller residential land parcels and does not unduly impact upon the adjoining low density residential properties.

The additional height is limited to the upper level, towards the middle of the site, located as the site falls from the street level. The areas of non-compliance are set well back from each street boundary. When viewing the building from Blaxland Road the development appears as three storeys. The development provides a natural step down the site. There are no edge effects of additional height along the boundaries. The side and rear boundaries are generous to provide more privacy and opportunity for larger trees and landscaping to grow and provide boundary delineation in the long term. Deep soil areas are achieved to the rear to support offset plantings.

Overall, the development provides a better planning outcome for the particular site and also the surrounding area in terms of streetscape, rhythm of development and visual fit based on the particular urban collective in which it is located.

The benefits described above also demonstrate that compliance with the development standard is unreasonable and unnecessary when considered in the context of the development surrounding the site.

2. Are there sufficient environmental grounds to justify the proposed contravention of the development standard?

The following justification is provided in support of the applicant's submission that environmental planning grounds exist for this particular development:

- *Good visual fit and balance within the streetscape having regard to the desired future character of this area and particularly the Macquarie Park Corridor precinct adjoining the site. It is the ability to enhance the streetscape that provides an opportunity to justify a variation of the HOB control.*
- *Ability to provide a well-mannered contextually appropriate building with no site isolation.*
- *Variation of the controls does not unreasonably add to the bulk and/or scale of the proposal. The HOB variation does not itself create any significant adverse impact in terms of bulk or scale.*
- *Acceptable amenity is provided to all adjoining sites and separation distances are appropriate.*
- *The submitted plans demonstrate how this development and likely future development will work together to create the new high-density neighbourhood that*

ITEM 2 (continued)

is envisaged for the area. The variation to HOB in this case works well within the parameters of creating that neighbourhood.

- *The surrounding vegetated tree canopy provides a green edge/back drop to the site.*
- *The variation does not impose a burden on adjoining properties as a result of the variation.*

3. Is the proposal in the public interest?

In order to demonstrate that this is indeed the case we provide a review below of the relevant objectives of the standard and the objectives of the zone.

Relevant Objective established in <i>Whebe v Pittwater</i>	Comment
(i) <i>The objectives of the standard are achieved notwithstanding non-compliances with the standard.</i>	<p><i>The subject proposal with the requested cl. 4.6(2) objection to HOB satisfies the objectives of the standard (see further discussion within this Statement).</i></p> <p><i>On this basis the Council has the power to exercise its discretion and allow for the variation.</i></p>
(ii) <i>The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary.</i>	<p><i>The objectives of the standard remain relevant notwithstanding that the proposed development is non-compliant.</i></p> <p><i>Following a review of the specific HOB objectives the proposal satisfies those objectives.</i></p> <p><i>The non-compliance in this case is the direct result of the slope of the site i.e. 8-10m drop from front to rear boundary. The non-compliance is relatively minor as the architect has stepped the development, thereby enabling the majority of the development to be compliant and limiting the variation towards the centre of the site – where the step in the development occurs. The bulk and scale at the rear is reduced to below the maximum to minimize perceived impacts of the additional built form 8 or more metres from the rear boundary.</i></p> <p><i>Having regard to the above Council has the power to exercise its discretion and allow for the variation.</i></p>
(iii) <i>the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable.</i>	<p><i>The zoning of the land is R4 High Density Residential, allowing the proposed density of units proposed (noting that the FSR for the development is compliant).</i></p> <p><i>Strict compliance with the 11.5m HOB standard would require a major redesign of the development, loss of yield and under-utilization</i></p>

ITEM 2 (continued)

Relevant Objective established in <i>Whebe v Pittwater</i>	Comment
	<i>of the site.</i>
(iv) <i>The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and</i>	<i>Whilst we have not reviewed Council's register of variations this clause is not relied upon at this time to justify the variation.</i>
(v) <i>The zoning of particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.</i>	<i>The zoning is appropriate and this objective is not relied upon to justify the variation.</i>

The objectives of clause 4.3 are as follows:

(a) To ensure that street frontages of development are in proportion with and in keeping with the character of nearby development;

Planning principles have established that in order for a development to be compatible it does not necessarily need to be the same. There is no potential for this development to have a jarring effect in the streetscape. Instead the built form emulates the established residential character and shop themes. The streetscape character is enhanced due to the redevelopment of the site. The design, layout and form of the new development breaks down the scale of the facades as does the use of the proposed external building materials, colours and finishes together with the retention of the mature trees that soften and screen the development.

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

The shadow diagrams submitted as part of the DA plan set demonstrate that the development is well oriented in terms of overshadowing of the adjoining residential properties. The immediate neighbor to the south is the most impacted, however shade in mid-winter only affects the site between 9am and 12 noon and then only one side of the house at noon. By afternoon the house and its surrounds receive direct sunlight. No other sites are impacted to any significant degree.

(c) To encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure:

The site is well located in terms of access to bus stops along Blaxland Road and Devlin Street – in both directions. It is also walkable distance to Top Ryde Shopping Centre and Town Centre.

ITEM 2 (continued)**(d) To minimise the impact of development on the amenity of surrounding properties;**

The subject proposal does not impact on adjoining development. The site is located so that its relationship to the adjoining sites is exceptional in terms of zoning, development standards, existing and likely future development. The site adjoins the following:

- *North-east: R4 High Density Residential.*
- *West and south-west: R2 Low Density Residential.*
- *East: B4 Mixed Use – Ryde Town Centre.*
- *South-east: Deferred matter.*

As noted above, the R4 residential development is located to the north of the site and is not affected by overshadowing. Shadow impacts to the southern neighbor (No. 74) are shown as acceptable.

(e) To emphasise road frontages along road corridors

The maximum height of development permissible in the immediate area is 11.5m for the R4 High Density Residential Development along Blaxland Road.

The proposed built form is reflective of the high-density zoning of the land and appropriate for the site's location. The built form proposed for this site mediates between the residential areas adjoining the arterial road and the shopping and commercial centre opposite. The proposed development has better alignment with current strategic planning policies designed to locate housing along transport link policies than the existing youth hall and dwelling. The site is ideally sited in proximity to a major shopping centre as well as bus links.

The following provides a review of the zone objectives:

- ***To provide for the housing needs of the community within a high-density residential environment.***

The proposal achieves the stated objectives by providing additional housing on land which permits this type and scale of residential development. The existing development on the site comprises only one single dwelling house – a significant underdevelopment of the development site.

The proposal offers genuine housing, in an accessible area. The site is an easy walk to the local services and facilities, including public transport along both Blaxland Road and Devlin Street. This objective is achieved.

- ***To provide a variety of housing types within a high-density residential environment.***

ITEM 2 (continued)

The proposal is designed to provide one, two and three bedroom units in an area where a variety of households dominate the population profile of the area. The proposal changes the onsite accommodation from one dwelling to thirty-seven (37) apartments providing increased choice in a high-density residential environment. The objective is achieved.

- ***To enable other land uses that provides facilities or services to meet the day to day needs of residents.***

N/A. The proposal comprises the redevelopment of the site as residential.

Summary

The written request has demonstrated that compliance is unreasonable or unnecessary as the objectives of the development standard (the height objectives) and the objectives of the Act are achieved.

The development despite the minor non-compliance with the development standard is consistent with the planning and environmental objectives of the control and in this instance, numerical compliance would not contribute to an improved outcome.

As such, it is considered that a complying development is neither reasonable nor necessary in circumstances of the case.

The proposal does not have unreasonable impacts on surrounding properties. Accordingly, there are sufficient environmental planning grounds to justify contravening the standard.

In summary, the proposal largely complies with the building height standard of RLEP 2014, with the exception of a projection through the mid-section of the site. Such a variation is reasonable on the basis that the breach of the height control does not result in a breach in maximum floor space so there is no link between the height variation and the overall intensity of site use.

Furthermore, the proposed height variation is situated in a location which will not result in any demonstrable detrimental impact to any sensitive land uses (e.g. residential or open space) so the impact of the variation is considered negligible.

5.3 Draft Environmental Planning Instruments

There are no relevant Draft Environmental Planning Instruments for the subject site.

ITEM 2 (continued)**5.4 Development Control Plans****Ryde Development Control Plan 2014 (RDCP 2014)**

The RDCP 2014 provides detailed provisions relating to urban centres and it aims to achieve the best outcomes for all development permitted under RLEP 2014.

The following parts of the RDCP 2014 are applicable to this site:

Part 7.2 – Waste Minimisation and Management

On-site collection is not feasible due to the existing slopes and height clearance requirement of a 4.5m for waste collection vehicles. Accordingly, the development will include a formal right over way over the driveway that will allow for the turning of an 11m waste vehicle. A waste storage area has been identified on the plans as being located in the basement of the building, below the driveway ramp into the building on Level 1. The bins will then be taken moved up to the collection point along the kerbside of Blaxland Road.

The submitted Waste Management Plan specifies that most demolition/construction waste will be taken to an approved waste facility and the remainder will be recycled and reused on site.

Part 8.2 – Stormwater and Floodplain Management

Council's Development Engineer has reviewed the stormwater plans and on-site detention design submitted by the applicant and the comments relating to these matters are set out in Section 10 (Referrals) of this report.

Part 9.2 - Access for People with Disabilities

The Premises Standards and the Access Code as contained within the BCA, specify a nationally applicable set of Performance Requirements in providing non-discriminatory access to, and use of, those buildings and areas of buildings to which they apply and provide technical Deemed-to-Satisfy Provisions for these Performance Requirements. A DA Access Report, prepared by Vista Access Architects (dated 11 October 2018), has been submitted by the applicant with the development application. The report stated that the development can achieve compliance with the relevant essential requirements.

Part 9.3– Parking Controls

In accordance with the DCP, the parking rates for a residential flat building are as follows:

- 0.6 to 1 space / one bedroom dwelling.
- 0.9 to 1.2 spaces / two bedroom dwelling.

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- 1.4 to 1.6 spaces / three bedroom dwelling.
- 1 visitor space / 5 dwellings.

The development provides the following parking provision:

Dwelling Type	Rate	No. of units	Provided	Compliance
1 bedroom/studio	0.6 to 1 space = 6.6 to 11	11	45	Yes
2 bedroom	0.9 to 1.2 spaces = 17.1 to 22.8	19		Yes
3 bedroom	1.4 to 1.6 spaces = 9.8 to 11.2	7		Yes
Visitors	1 per 5 units = 7.4 (8)	-	7	No
Total	42 to 53	37	52	Yes

The development proposes 52 car parking spaces. The 52 car parking spaces comply with Council's requirements. A condition of consent will be imposed to ensure that 8 visitor parking spaces rather than 7 are provided. See **Condition 173**.

Part 9.5 – Tree Preservation

Council's Landscape Architect has reviewed the landscape plan and Arborist Report submitted with the application and the comments relating to these matters are set out in Section 10 (Referrals) of this report.

5.5 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

Council's current Section 7.11 Development Contributions Plan 2007 (Interim Update (2014) effective 10 December 2014) requires a contribution for the provision of various additional services required as a result of increased development density.

Accordingly, the contribution is based on the additional floor space there is in the development proposal. The contributions that are payable with respect to the increased density on the subject site (being for residential development outside the Macquarie Park Area) are as follows:

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A Contribution Type	B Contribution Amount
Community & Cultural Facilities	\$97,615.34
Open Space & Recreation Facilities	\$252,648.66
Civic & Urban Improvements	\$77,962.61
Roads & Traffic Management facilities	\$10,598.33
Cycleways	\$6,642.71
Stormwater Management Facilities	\$21,720.71
Plan Administration	\$1,790.37
Total Contribution	\$468,978.73

A condition on the payment of Section 7.11 Contribution of **\$468,978.73** has been included in the draft notice of determination attached to this report. (See **Condition 53**).

As part of the recent planning proposal, consideration was given to Council's resolution for the provision of Affordable Housing. The applicant had advised that they did not want to enter into a Voluntary Planning Agreement but would prefer to provide affordable housing as part of a future development application.

Council resolved on 13 December 2016 to forward the Planning Proposal for a Gateway Determination, and to request the Department of Planning and Environment to impose a condition on the Gateway Determination to require the provision of affordable housing consistent with the City of Ryde Affordable Housing Strategy 2016-2031 and Council's policy position including 4% of dwellings on land to be rezoned as affordable housing.

The Gateway Determination was received on 3 February 2017, however the Department advised that it had not imposed the requested condition on the Gateway Determination as the City of Ryde was not part of State Environmental Planning Policy 70 – Affordable Housing (Revised Schemes)(SEPP 70) at the time of lodgement.

Council on the 22 August 2017 resolved to prepare a Planning Proposal for the inclusion of affordable provisions in RLEP 2014. The planning proposal was forwarded to the DPE for a Gateway Determination and has not yet been issued. As the Affordable Housing Planning Proposal has not yet been exhibited, it cannot provide the legislative basis on which to require affordable housing.

5.6 Any matters prescribed by the regulations

The development application was lodged and assessed in accordance with the relevant sections of the Environmental Planning and Assessment (EPA) Regulation 2000, as amended.

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The EPA Regulations 2000 require the consent authority to consider the provisions of the Building Code of Australia (BCA). The assessment of the application has considered these provisions. A Building Capability Statement (dated 10 October 2018) has been submitted with the application and states that *“In order to achieve compliance with the BCA, whilst preserving the functional and aesthetic requirements of the project, the use of performance-based designs may be required. It is our belief that performance based design can deliver a building that meets the Performance Requirements of the BCA”*.

A consent authority is also required to consider AS2601 given that this application also proposes demolition. Condition 29 has been imposed to ensure compliance.

6. The likely impacts of the development

The assessment of the proposed development demonstrates that, subject to the recommended conditions, the proposal will have minimal impact on the locality.

7. Suitability of the site for the development

The site is zoned R4 High Density Residential, in which residential flat buildings are permissible. It is considered that any adverse effects on adjoining properties can be minimised subject to the imposition of appropriate conditions. This site is considered suitable to accommodate the proposed development, and this has been demonstrated in the assessment of the application.

8. The Public Interest

The proposed development is considered to be in the public interest as the site is suitable for the 3 storey residential flat building which generally complies with the aims, objectives and development controls contained in the Ryde Local Environmental Plan 2014 and Ryde Development Control Plan 2014. The proposal will not result in unreasonable impacts on the amenity of adjoining properties and the streetscape.

9. Submissions

In accordance with DCP 2014 Part 2.1 Notice of Development Applications, the proposal was advertised in the Northern District Times on 14 November 2018 and adjoining property owners were notified of the application. Submissions about the proposal closed on 5 December 2018.

In response, eleven (11) unique submissions and one (1) petition including 34 signatures were received. **Figure 24** illustrates the location of the properties who lodged submissions in relation to the site.

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Figure 24: Location of objectors marked with red crosses.

The concerns raised in the submissions are summarised and addressed below.

- **Traffic study does not include that the area is serviced by a rear lane near 204 Blaxland Road and as such the traffic study does not include the impact of residents using local side streets (Samuel, Dunbar and Colston Streets) as overflow parking.**

Comment:

The laneway does not provide access to the subject site. The traffic report has not envisaged that the future residents of the proposed development would utilise the local side streets, as they do not lead to major thoroughfares. Cars are likely to proceed down Blaxland Road, into Parkes Street and continue either left or right depending on the final destination. Given the distance between the site and the local streets, it is unlikely that these streets will be used for overflow parking. Also, the development complies with the required parking requirement.

- **Notification to affected residents has been insufficient as residents in Samuel, Dunbar and Colston Streets will all be detrimentally impact by this development.**

ITEM 2 (continued)Comment:

Notification took place in accordance with Council's DCP provisions. The development application was notified to nearby residents and the application was also advertised in the local paper and a sign erected on the site advising of the development.

- ***Surrounding streets are very narrow and are already suffering from increased traffic congestion due to shopping centre patrons, workers and bus commuters using these streets for parking.***

Comment:

The proposed development will cater for a total of 52 car parking spaces which satisfies the Council's DCP 2014 Part 9.3 parking provisions. Therefore, it is considered that future occupants of this development are more likely to utilise the provided on-site parking as opposed to parking in the nearby streets. It should be noted that nearby streets are located a reasonable distance from the site so it is unlikely that residents would utilize this street parking.

- ***This development is the start of significant density increases and the cumulative impact has not been considered, and will have a substantial impact on small service roads in the immediate area.***

Comment:

This concern was assessed during the Planning Proposal process and in this regard, it was considered that the proposed development concept was in line with the metropolitan plan "A Plan for Growing Sydney" to accelerate housing supply and local housing choices in and around town centres. The increase in density also aligned with Council's vision set out in the City of Ryde 2025 Community Strategic Plan, in particular, addressing housing needs of the community. In this respect, as the site is just outside the Ryde town centre, it was considered that the centre is capable of absorbing additional residential development as it provides complimentary and supportive uses and amenities such as open space. It was also recognised that the site is supported by good public transport as the City to Parramatta and Hurstville to Macquarie Park bus corridors are available from Blaxland Road, in front of Top Ryde Shopping Centre.

- ***Council's flood diagrams indicate the area surrounding the development is flood prone and inundation which has previously occurred.***

Comment:

The subject site is not affected by flooding. All stormwater from the development will be collected and then piped to Council's drainage system via a drainage easement that is 1.5m wide through the downstream property of 47 Samuel Street. The development will not contribute to any local flooding.

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- ***Basement car parking and excessive excavation will cause additional significant stormwater problems.***

Comment:

As stated above, Council's Development Engineer has reviewed the proposed development and has not raised any concern regarding stormwater. In fact, it is considered that adequate measures will be in place to manage the stormwater and overland flows.

- ***The building intensity is totally out of character and unacceptable in the immediate area.***

Comment:

The development has complied with the height and floor space ratio controls applicable to the site as well as being consistent with the zone objectives. The development is consistent with the future desired character of the area.

- ***Visitor parking is insufficient to adequately accommodate the number of people living in the units.***

Comment:

The development has proposed 7 visitor car parking space. As Council's DCP requirements require 8 visitor spaces condition 172 has been imposed to reflect this.

- ***Construction impacts from such significant excavation will detrimentally impact the neighbouring properties that have small blocks and serviced by small streets on the western side.***

Comment:

The proposed excavation associated with the basement parking will be required to be carried out so as to not impact the neighbouring properties, namely 174 and 188 Blaxland Road. In this regard, a condition of consent will be imposed mandating pre and post dilapidation reports be submitted to Council prior to the excavation works commencing and at the end of the construction process. The dilapidation report will record the current condition of the neighbouring properties including any existing damage and the condition of any aspect of the property that are likely to be affected by the excavation.

- ***The proposal is well short of Communal Open Space. The argument stated in the SEE that the shortfall reflects a "trend in urban lifestyle away from shared spaces and entertainment to more intimate private spaces" (SEE p.19), clearly goes against the Apartment Design Guide stated importance of such space, in order to "provide amenity in the form of: landscape character and design; opportunities for group and individual recreation and activities; opportunities for social interaction; environmental and water cycle management; opportunities to modify microclimate; amenity and outlook for***

ITEM 2 (continued)

residents" (ADG p.54). Provision of above standard private open spaces should not be used to justify significant shortfall of communal open space.

Comment:

It is acknowledged that there is a non-compliance with regard to the 25% communal open space required by Part 3D 'Communal and Public Open Space' of the ADG. Rather than providing communal open space at the rear of the site, this has been allocated to individual apartments. This will result in improved amenity to the neighbouring properties as well as the apartments within the development. This aspect of the development was supported by Council's UDRP.

The development has provided more landscaped area than required by the ADG guidelines and is considered acceptable.

- ***South-West Elevation suggests that Level 5 units facing Samuel Street significantly breaches the height limit, by approximately 2 metres at balcony line.***

Comment:

It is acknowledged that there is a breach in the building height limit by approximately 2.26 metres. The breach is due to the topography of the land in that the site has a cross-fall of approximately 8.59m from the front north-eastern corner of 186 Blaxland Road to the rear south-western corner of 176 Blaxland Road. Figure 22 and 23 demonstrates the breach along the north western elevation of this development. Despite this breach, it is considered that there are no detrimental impacts to neighbouring properties as the building is setback more than 23 metres from the western boundary adjoining the properties in Samuel Street, limiting any potential overlooking.

- ***South-West Elevation and Floor Plans suggest an overlooking issue from units 202-205 and 309-311 onto Samuel Street dwellings' private open spaces and living areas. No reliable and permanent privacy control measures are currently proposed to address this issue. A view study is required to demonstrate effectiveness of the proposed privacy control.***

Comment:

The proposed development has been designed to minimise the number of apartments at the rear of the property. All apartments adjacent to the Samuel Street dwellings are separated by 8 metres, which is considered acceptable in this regard as the dwellings in Samuel Street, directly behind the development site are well setback providing an overall separation of at least 16 metres. Privacy screens have not been considered in this instance as this would hinder the solar access amenity of these units and further is not considered a necessary measure given the significant separation distance provided.

ITEM 2 (continued)

- ***The traffic report does not sufficiently quantify from survey, the current AM peak east-bound queue along the eastern end of Parkes Street and adjoining southern end of Blaxland Road, to cross or turn onto Lane Cove Road. No traffic control measures have been proposed to allow traffic from the development to readily turn westward along Parkes Street to access western destinations such as West Ryde Station or Parramatta. Under the current proposal, all vehicles from the development are restricted to cross or access Lane Cove Road, irrespective of the destinations, further unnecessarily increasing AM traffic.***

Comment:

Council's Traffic Engineer has reviewed the traffic report and commentary relating to traffic generation. In summary, it is considered that the net increase in traffic is expected to be about 8 additional vehicle trips per hour as a result of the proposed development. This is considered negligible on the road network.

- ***The houses down the hill from this site will be looking up at this development, part of which has been changed to R4. This is totally out of character with the houses in this quiet "cul de sac" to the west.***

Comment:

As noted above, on 1 June 2018 Amendment 18 to the Ryde Local Environmental Plan was gazetted which saw the zone changed to R4 High Density Residential, and the density and height of part of the subject site increased to be consistent with all other high density residential zones within the City of Ryde. As part of the Planning Proposal process, the applicant demonstrated to Council that the indicative design had merit, and that a greater height and FSR, based on the consolidated site, would provide an opportunity for development that will complement the existing and future amenity of the Top Ryde area.

During the time the Planning Proposal was notified, Council only received three (3) submissions, one from the RMS providing in-principle support to the proposal, and two (2) submissions opposing the Planning Proposal. One of the main points raised in the submissions related to streetscape impact of the proposed development on Samuel Street. In response, Council acknowledged the properties to the rear of the site (fronting Samuel Street), and the significant difference in levels existed between Blaxland Road and Samuel Street. It was concluded that this issue would be addressed by controls relating to the development providing significant rear boundary setbacks to manage impacts. In this respect, the development proposes an 8 metre setback to the edge of the balconies facing the rear boundary, and it should also be noted that the minimum separation between the subject development and the houses facing Samuel Street is 16.64 metres.

The development is consistent with the existing development in the R4 zoned sites.

ITEM 2 (continued)

- ***There is another application further up in Samuel Street (19 - 23) which if passed will have further impact on this quiet area. This also sets a precedent for further development along that same area. Our streets cannot cope with this accumulative effect.***

Comment:

There is a current development applicant before Council at 19-23 Samuel Street which proposes a new multi-dwelling housing containing 22 dwelling units. The development has been submitted under the provisions of the State Environmental Planning Policy (Affordable Rental Housing) 2009. The two development applications are significantly different in respect to zoning and the relevant planning controls. Neither application is expected to set a precedent for further development in this area.

- ***The workers associated with the construction process will have to park somewhere in close proximity and so Samuel, Dunbar, Colston and Parkes Street will be totally parked out. The huge disturbance of the demolition process with the constant noise for those residents who are having this at their back door and the neighbouring residents is mind-blowing.***

Comment:

To reduce the impact to the adjoining residential area, a construction management plan has been submitted with the applicant and it states that due to the proximity of the site to bus transport, all employees will be encouraged to travel to the site utilizing these bus and train services so as to avoid the number of vehicles parking on the streets around the site. All employees associated with the demolition and construction of the site will be provided with a transport information package promoting the use of public transport. Vehicles will also be encouraged to park within the basement once this is constructed. Any approval will also be conditioned in respect of construction hours and noise during construction. While any development will have an impact on the amenity of the adjoining properties, these conditions are intended to reduce this impact to acceptable levels.

- ***The overdevelopment in the Ryde area is out of control. Not all people wish to live in units. Those who bought in quiet suburban streets for that choice of lifestyle do not have a voice today.***

Comment:

Noted. Both the planning proposal and the DA were notified to the community and the issues raised by the community have been considered in the planning proposal report and this report.

- ***Car access to 190 Blaxland Road is from the back via a common driveway. With the additional construction workers, the back street will be impacting tenant's ability to access the property. Also, there is the potential for***

ITEM 2 (continued)

construction workers to use the private driveway to access the site increasing its use and making it dangerous for both them and car drivers.

Comment:

Council cannot control where the construction workers will park their vehicles. If private driveways are blocked, this is a matter for NSW Police.

- ***The proposed construction hours of operation are unacceptable as they cut right across the core hours of the business. This will have a negative impact to the tenant and their clients. We believe that the proposed hours are outside of Councils approved hours of operation. To have to listen to construction noise for 12 hours of the day is just not acceptable.***

Comment:

Hours of building work (including demolition) will be limited to 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. This is consistent with Council's standard practice.

- ***Construction-Traffic-Management-Plan - Appendixes - diagram pages 19 - 22 , outside of the construction zone only shows buildings 190 and 192. What happened to 188? Is the plan to include 188 in the overall construction site? In the event that 188 is included in the proposal, this very much changes the impact of the proposal and will severely impact the value of our property. We along with 192 will resemble the corner of Pope St and Blaxland Road.***

Comment:

No. 188 Blaxland Road is not included as part of the development site.

- ***Parking - the proposed construction has 37 units and only 52 parking spots. This is too few for the number of units. Most families have at least two cars and what about visitors. These cars will be parking on the street and once again impacting our tenant's clients.***

Comment:

52 car parking spaces are proposed within the development, which meets the minimum parking requirements under Ryde's DCP 2014 – Part 9.3 Parking.

ITEM 2 (continued)**10. Referrals****Heritage Advisor:**

The development proposal was referred to Council's Heritage Advisor who provided the following comments:

"The development proposal has been referred for heritage consideration as the subject site is within the vicinity of the following items of heritage significance listed under Schedule 5 of Ryde LEP 2014:

- i) 'Hattons Cottage' 158 Blaxland Road, Ryde (Item No.117)*
- ii) 'Great North Road' Victoria Road, Gladesville (Item No.154)*

Consideration of the heritage impacts:

The subject site comprises a number of individual allotments, many of which contain late 20th century buildings of little or no architectural value or interest.

No.182 Blaxland Road however, contains a single storey dwelling house which displays characteristics attributed to the Federation Arts and Crafts architectural style and dates from the early 20th century.

While the subject site nor 182 Blaxland Road is presently not identified as an item of heritage significance, at its meeting of 28 November 2017, in response to community concern, Council resolved to undertake a new heritage study to address gaps in the current heritage listings under the provisions of Schedule 5 of Ryde Local Environmental Plan 2014.

The heritage study has been scoped to consider post-settlement built heritage up to World War 2.

Although No.182 Blaxland Road reinforces the diminishing housing stock of early 20th century Federation Arts and Crafts styled brick dwellings in the Ryde locality, in my opinion, it is unlikely that the dwelling would satisfy the Heritage Council of NSW significance assessment criteria to warrant its retention and listing.

Consequently, demolition is supported, subject to an archival recording being undertaken prior to demolition works.

The subject site is within the vicinity of both the Great North Road (Blaxland Road) and Hattons Cottage. The significance of the Great North Road is largely embodied in its historical alignment rather than the physical fabric and elements of the roadway itself. There is potential for archaeological evidence in parts, however in this location, the road pavement and alignment has been significantly modified over many years and has very low potential to yield archaeological evidence associated with the road.

ITEM 2 (continued)

In the case of Hattons Cottage, it is sufficiently separated by distance so that the proposed built form will not result in any unacceptable impact on the setting or curtilage.

No objections are raised to the replacement built form subject to conditions.”

See **Conditions 51, 52 and 122.**

City Works (Drainage):

The development proposal was referred to Council’s Drainage Engineer who provided the following comments:

“The proposed development is drained via the provision of a new inter allotment easement, between No. 47 and No.45 Samuel Street, which then connects to Council’s existing stormwater inlet pit on Samuel Street.

The site is not flood affected as per the definition in the Ryde DCP (2014).”

City Works (Traffic):

The development proposal was referred to Council’s Traffic Engineer who provided the following comments:

“Traffic generation for the proposed development (i.e. 37 residential units) is expected to be around 11 vehicle trips per peak hour. The existing residential dwellings could generate about 3 vehicle trips per peak hour. Therefore, the net increase in traffic is expected to about 8 additional vehicle trips per hour, which is considered negligible on the road network.

The applicant has demonstrated by the use of a swept path analysis that Councils 11m waste collection vehicles are able to utilise the proposed driveway to perform a three point turn manoeuvre. As such, the proposal to utilise the driveway as a turnaround area for Councils waste collection vehicles is accepted. This will require the crossover to be reinforced to accommodate the heavy vehicle movements.

Traffic has no objection to the approval of this application subject to conditions.”

See **Conditions 18, 19, 87, 104, 136, 137 and 138.**

City Works (Public Domain):

The development proposal was referred to Council’s Public Domain Engineer who provided the following comments:

ITEM 2 (continued)

- *Undergrounding of the existing overhead services/power lines would not be required as the proposed development is outside of the area covered by a plan for the required extent of undergrounding.*
- *The upgrading of existing street light to LED Luminaire shall be imposed.*
- *The existing street light, located between the existing driveway crossing and the kerb ramp, shall be relocated outside of the safe vehicular site distance/splay corners. The safe vehicular site distance shall be determined by peripheral vision clearance for vehicles in egress direction at the property boundary in accordance with AS/NZS 2890.1.*
- *The existing Telstra Phone Box and Australia Post Mail Box shall be temporarily relocated and reinstated at the completion of the public domain works as per requirements from the relevant authorities.*
- *The reconstruction of the existing layback serving properties at 174 & 176 Blaxland Road shall be reconstructed to one single driveway crossing fronting the property at 174 Blaxland Road and a separate double driveway for the proposed development at 176 Blaxland Road.*
- *The proponent will be required to upgrade the footpath and it is noted that the nominated levels at the property boundary are below the existing top of kerb in some sections. It will be required that boundary levels be reviewed and design with a minimum of 1%, maximum 3% cross fall towards the top of kerb.*

From a Public Domain perspective there are no objections to approval of this application subject to conditions.”

See Conditions 20, 21, 66 to 73, 124, 151 to 159.

City Works (Waste):

The development proposal was referred to Council's Waste Officer who provided the following comments:

“A separate bin storage area and bulky waste room is provided in Level 2 carpark. The bins will need to be taken up to Blaxland Rd for servicing by the building caretaker as will the bulky waste items for the pre-booked household cleanup collection. Residents will be required to take their waste and recyclables to the bins storage room for disposal.

Bin Configuration:

- *2 x 660L waste bins & 2 x 240L waste bins serviced 3 times per week.*
- *13 x 240L recycle bins serviced weekly.*
- *2 x 240L garden organics bin.*

From a Waste perspective there are no objections to approval of this application subject to conditions.”

ITEM 2 (continued)

 See **Conditions 33 to 35, 48, 74 to 77, 114, 115, 160, 174 to 179.**
Landscape Architect:

Council's Landscape Architect has reviewed the proposal and has made the following comments:

"An Arboricultural Impact Assessment has been submitted with the application prepared by TALC dated 20/09/2018.

*A summary of the existing trees identified by the Arborist are show in the table below. **Figure 25** demonstrates the location of the trees.*

Tree No.	Species "Common name"	Proposed recommendation by Arborist	Comment
1	<i>Corymbia citriodora</i> Lemon Scented Gum	Remove	Agree
2	<i>Angophora costata</i> Smooth Barked Apple	Retain	Agree
3	<i>Corymbia citriodora</i> Lemon Scented Gum	Retain	Agree
4	<i>Corymbia citriodora</i> Lemon Scented Gum	Retain	Agree
5	<i>Corymbia citriodora</i> Lemon Scented Gum	Retain	Agree
6	<i>Corymbia citriodora</i> Lemon Scented Gum	Retain	Agree
7	<i>Angophora costata</i> Smooth Barked Apple	Remove	Agree
8	<i>Corymbia citriodora</i> Lemon Scented Gum	Remove	Tree not present when site inspected
9	<i>Eucalyptus nicholii</i> Narrow Leafed Peppermint Gum	Remove	Agree
10	<i>Celtis sinensis</i> Hackberry	Remove	Agree
11	<i>Schinus areira</i> Peppercorn Tree	Remove	Agree
12	<i>Agonis flexuosa</i> Willow Myrtle	Remove	Agree
13	<i>Acer negundo</i> Box Elder	Remove	Agree
14	<i>Schefflera actinophylla</i> Umbrella Tree	Remove	Agree
15	Not identified by Arborist	Remove	Agree
16	<i>Jacaranda mimosifolia</i> Jacaranda	Remove	Agree
17	<i>Cupressus sempervirens</i> Cupressus	Remove	Agree
18	<i>Celtis sinensis</i> Hackberry	Remove	Agree
19	<i>Jacaranda mimosifolia</i>	Retain. Tree on adjoining	Agree

ITEM 2 (continued)

Tree No.	Species "Common name"	Proposed recommendation by Arborist	Comment
	Jacaranda	property	
20	Brachychiton acerifolium Illawarra Flame Tree	Retain. Tree on adjoining property	Agree



Figure 25: Location of trees



Photo 1 - Tree 7 to be removed for driveway and then trees 6 to 2 to be retained.

ITEM 2 (continued)Landscape Plan

The Landscape Plan is satisfactory as it satisfies the following requirements of DCP 2014 - Part 3.4 Multi dwelling housing:

- *Landscaping used to assist in preserving the privacy of the occupants of dwellings within the development and adjoining properties.*
- *Landscape strips included for privacy purposes must be not less than 1.2 metres wide.*
- *Shrubs planted in this strip must achieve a mature height of 3 to 4 metres.*
- *Where possible small trees with a mature height of 5 to 6 metres should be planted in combination with the shrubs.”*
- *Use native plant material, particularly material indigenous to the area*
- *A planting strip not less than 1.2 metres wide between driveway and adjoining property*
- *Shrubs planted the driveway strip must achieve a mature height of 2 to 2.5 metres. Where possible small trees with a mature height of 5 to 6 metres should be planted in combination with the screen planting.*
- *The edge between the driveway and paths and gardens and lawn areas should be edged or kerbed with concrete or similar materials. Timber edging is not acceptable.*

Stormwater Plan

Generally on-site detention tanks should not be located in the front setback, the tanks should be located under the driveway. This has been achieved with underground tanks under the common outdoor area.

The stormwater pipes are generally compatible with retention of the existing trees to be retained.

There are no objections to approval of this application subject to conditions.”

(See Conditions 44, 45, 93 to 97, 119, 120).

Senior Development Engineer:

Council’s Senior Development Engineer has reviewed the proposal and has made the following comments:

“The following matters are noted with respect to the internal engineering components;

Stormwater Management

- *The applicant has provided proof of the easement registered through the downstream lot (47 Samuel Street) has been provided and therefore will*

ITEM 2 (continued)

not warrant this matter to be dealt with as a condition of deferred commencement. (Refer to D19/41793). Conditions concerning works in the easement are advised.

- *The driveway area (exposed to weather) was originally directed to the basement pump/ sump. It is feasible to direct this to the OSD system and hence this is required by consent.*
- *The rear of the site should be graded to fall to the point where the easement emanates from the site which is addressed by condition.*

Vehicle Access and Parking

- *The development requires the allocation of 8 visitor spaces which, for ease of amenity and access, must be located wholly on Level 2.*
- *A concern was noted in the initial review regarding the location of an intercom for visitors accessing the site. Ideally it was sought that this be positioned on a median just inside the vehicle entry however this could not be accommodated due to the available driveway width, the need to setback the driveway from the southern boundary and (principally) the need to accommodate the turning movement for a heavy vehicle on the site (trucks may be permitted to turn into the driveway so as to reverse). An intercom at the base of the driveway is unacceptable as it may warrant some visitors to reverse out of the site if they cannot enter. The applicants proposed configuration (having the intercom on the northern side of the vehicle entry) is undesirable as this would require a visitor accessing the intercom to stand on the right side of the driveway (contraflow). This has typically been implemented for retrofitted situations, and whilst they are not preferred, there is nothing in the Australian Standard or Australian Road Rules which prohibits the arrangement for a two way driveway. In terms of traffic safety, the applicants Traffic consultant has recommended the installation of a traffic signal system (considered required due to the one way turning circle entering the basement) and so this may be configured to stop outgoing traffic whilst the intercom is in use, mitigating the risk of contraflow. This is addressed by condition.*
- *The basement configuration does not accommodate two way flow at the base of the ramp entering the garage. Accordingly the configuration will warrant an internal traffic signal system to be installed with waiting bays demarcated at either approach.*
- *The sides of ramps and the garage entry are to be open such to facilitate sight distance between drivers.*
- *The initial review requested swept paths by B99 vehicle. This has been undertaken and found that there is a slight encroachment into the required clearance (not the physical path) of the outer edge of spaces opposite the base of the ramp entering Level 1. The applicant has elected to nominate 4 of these effected spaces as small car spaces. There is no objection to this however each of the small spaces must be designated as a second space to units which are allocated as such (i.e. 3 bedroom units). This is*

ITEM 2 (continued)

due to the higher probability of such occupants owning a smaller vehicle suited to the space.

- *The level of clearance above car space “45” on Level 1 is of concern as the ramp will impose on this. To assure that a minimum of 2.2m is provided (which can be achieved by tweaking of ramp grades and structural elements) a ramp profile must be prepared to clarify this at construction certificate stage.*

Other Matters

- *A public ROW will be required to ensure the driveway functions as a turning bay.*
- *The internal driveway will need to be constructed to a standard suitable to accommodate heavy vehicles.*

Recommendation

There are no objections to the proposed development with respect to the engineering components, subject to appropriate conditions of consent being imposed.”

See Conditions 23 to 26, 79 to 86, 102, 103, 126 to 130, 164 to 168 and 173.

Council’s Consultant Structural Engineer:

Council’s Consultant Structural Engineer has reviewed the proposed and has made the following comments:

“In Revision 3 of Report No. G291, the risk to life post-development is assessed as “tolerable” and the risk to property as “low” provided that the recommendations in the report are implemented in the design and construction of the works.

We have assessed Revision 3 of the Benviron Group Report dated December 2018, which now complies with Council’s normal requirements for geotechnical reports submitted in relation to proposed development works on sites indicated on Council’s maps as being potentially at risk of slope instability.

Should approve this application be granted, it is recommended that the approval be conditioned to require that all design works and all construction works be undertaken in full compliance with all of the recommendations as contained in the Benviron Group Report G291 Revision 3 dated December 2018.”

See Conditions 55, 121.

ITEM 2 (continued)
Environmental Health Officer:

Council's Environmental Health Officer has reviewed the proposal and has made the following comments:

“Site Contamination

A Preliminary site investigation report has been submitted by Benviron Group dated: May 2016 for the above proposal.

The report concluded that based on the results the risks to human health and the environment associated with soil contamination at the site are low in the context of the proposed use of the site. The site is suitable for the proposed development, subject to the following recommendations:

- *Any soils proposed for removal from the site should initially be classified in accordance with the “Waste Classification Guidelines, Part 1: Classifying Waste” NSW DECC (2014).*

If during any potential site works any significant unexpected occurrence is identified, site works should cease in that area, at least temporarily, and the environmental consultant should be notified immediately to set up a response to this unexpected occurrence.

A condition will be included prior to the issue of the Construction Certificate that Council or the PCA (Principal Certifying Authority must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.

Noise Assessment

A Noise Assessment report has also been submitted by Acoustic, Vibration & Noise Pty Ltd–(Reference No.2018-400, dated: 9th October 2018) as part of this application.

The report assessed the potential noise intrusion from road traffic (Blaxland Road and Lane Cove Road) and the noise emissions from mechanical plant onto the future occupants of the development and acoustical treatments of the future residential apartments in accordance with Building Code of Australia, NSW Road Noise Policy, Australian Standard AS 3671 ‘Traffic Noise Intrusion Building Siting and Construction’, AS2107 ‘Acoustics –Recommended Design Sound Levels and Reverberation Times’, Clause 102 of the State Environmental Planning Policy –(Infrastructure) 2007 and City of Ryde requirements.

The report recommends acoustic assessment of all proposed Mechanical Plant & Equipment once the development has been approved, Mechanical Services

ITEM 2 (continued)

Plans has been prepared and acoustics treatment of windows/sliders, walls, doors and roof as part of this proposed development.

The acoustic consultant also recommend that all new external air-conditioning units are to be acoustically enclosed or set away by more than 3.0m from any boundary and proper silencers and duct lagging be installed.

A condition will be included recommending that all acoustic treatment work be carried out in accordance with the submitted Noise Assessment Report.

RECOMMENDATION:

That the Manager Environmental Assessment be advised the proposal will be satisfactory subject to conditions.”

See Conditions 12 to 15, 32, 46, 47, 50, 62 to 64, 163, 180, 181 and 182.

External Referrals

NSW Roads and Maritime Services:

The development application was referred to the NSW Roads and Maritime Services (RMS) for comments. The RMS has reviewed the proposal and has made the following comments:

“Roads and Maritime has reviewed the development application and raise no objection to the proposed development subject to Council’s approval and the following requirements being included in any consent issued by Council:

- 1. Roads and Maritime has previously resumed a dedicated a strip of land as road along the Blaxland Road frontage of the subject property, as shown by grey colour on the attached Aerial – “X” [see extract under **Figure 26** below]. Therefore, all buildings and structures together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Blaxland Road boundary.*

ITEM 2 (continued)



Figure 26: Road widening along Blaxland Road (the site is outlined in orange)

2. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system in Blaxland Road are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Documents should be submitted to Development.Sydney@rms.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.

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

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Documents should be submitted to Development.Sydney@rms.nsw.gov.au.

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

ITEM 2 (continued)

4. *A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Blaxland Road during construction activities.*

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

See **Conditions 16, 78, 105 and 106.**

NSW Police:

NSW Police have reviewed the proposal and have raised no objections to the development subject to appropriate conditions of consent.

See **conditions 139 to 146.**

11. Conclusion

After consideration of the proposed development against the relevant section of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest.

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

1. The variation to the height control requested under Clause 4.6 of the RLEP 2014 is justified for the following reasons:
 - a) Despite the non-compliance, the development will result in a built form that is compatible with the current and future desired character of the surrounding area.
 - b) The development will not result in overshadowing that would adversely impact the adjoining properties.
 - c) The non-compliance in height does not result in an exceedance in the floor space ratio.
 - d) The breach in height is due to the slope of the site, with the site having a fall from the north-eastern corner to the north-west corner of approximately 8m.
2. The proposal is consistent with the desired future character of the area.
3. The proposal is not considered to create likely impacts on the residential amenity of adjoining properties.

The proposal will provide a variety of housing options for the existing and future residents of the City of Ryde, consistent with aim 1.2(2)(a) of the RLEP 2014.

ITEM 2 (continued)**12. Recommendation**

1. That Development Application LDA2018/427 for the construction of a new residential flat building comprising of 37 units and parking for 52 vehicles at No. 176 to 186 Blaxland Road, Ryde, be approved subject to the draft conditions contained in **Attachment 1**.

2. That those residents who made a submission be notified of the decision.

ATTACHMENTS

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

Report Prepared By:

Tony Collier
Senior Coordinator - Major Development

Report Approved By:

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

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:

Document Description	Date	Plan No/Reference
Architectural Plans		
Site Plan	18.04.2019	DA100, Revision 02
Demolition Plan	18.04.2019	DA101, Revision 02
Site setback plan	18.04.2019	DA102, Revision 02
Level 1	18.04.2019	DA105, Revision 03
Level 2	18.04.2019	DA106, Revision 03
Level 3 (ground)	18.04.2019	DA107, Revision 03
Level 4	18.04.2019	DA108, Revision 02
Level 5	18.04.2019	DA109, Revision 02
Roof Plan	18.04.2019	DA110, Revision 02
South-east elevation	18.04.2019	DA200, Revision 02
North-west elevation	18.04.2019	DA201, Revision 02
North-east elevation	18.04.2019	DA202, Revision 02
South-west elevation	18.04.2019	DA203, Revision 02
COS elevations	18.04.2019	DA204, Revision 02
Section AA	18.04.2019	DA300, Revision 02
Section BB	18.04.2019	DA301, Revision 02
Section CC	18.04.2019	DA302, Revision 03
Access Driveway Sections	18.04.2019	DA303, Revision 02
Pedestrian Access Sections	18.04.2019	DA304, Revision 02
Landscape Sections	18.04.2019	DA305, Revision 02
Materials and Finishes	08.10.2018	DA400, Revision 01
Landscape Plans		
Level 3 (Ground)	15.10.2018	LP01, Issue A
Level 1	15.10.2018	LP02, Issue A
Detail Plan and Schedule	15.10.2018	LP03, Issue A
Section A	15.10.2018	LP04, Issue A
Reports		
Access Report	11.10.2018	18097
Acoustic Report	09.10.2018	2018-400
Arboricultural Assessment Report	20.09.2018	4459
Geotechnical Investigation Report	19.12.2018	G291, Revision 3
Preliminary Site Investigation	07.05.2018	E875, Revision 0
Waste Management Plan	26.09.2018	Not provided
Root Mapping Report	18.02.2019	4718

ITEM 2 (continued)

ATTACHMENT 1

- (a) To ensure vehicles entering the property do not queue over the footpath whilst using the visitor card reader/intercom, the device must be located no less than 4m. inside the site boundary.
 - (b) A total of 8 visitor spaces must be provided in Level 2 of the basement parking area. Refer to the condition "*Parking Allocation*".
2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 967775M, dated 12 October 2018.
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:
 - Protect and support the adjoining premises from possible damage from the excavation, and
 - Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
 - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
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. **Balconies.** No clothes drying on balconies in the public view are permitted. Any future Strata Management Plan is to include the requirement that clothes drying on balconies visible from any public domain is not permitted.

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10. **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.
11. **Public Utilities.** Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
12. **Connection by gravity flow** - All sanitary fixtures must be connected to the sewerage system by gravity flow.
13. **Road traffic noise criteria for sensitive developments** - The building(s) must be designed and constructed so that the road traffic noise levels inside the building(s) comply with the noise criteria specified in *Development Near Rail Corridors and Busy Roads – Interim Guideline* (Department of Planning, 2008).
14. **Mechanical ventilation of rooms** - If the airborne noise level with windows and doors open exceeds the above noise criteria by more than 10dBA, an approved system of mechanical ventilation must be provided so that the building occupants can leave the windows and doors closed.
15. **Construction requirements** - All acoustical treatments nominated in the acoustical assessment report (Acoustic, Vibration & Noise Pty Ltd –Reference No.2018-400, dated: 9th October 2018) and any related project documentation must be implemented during construction.
16. **RMS condition.** NSW Roads and Maritime has previously resumed a dedicated a strip of land as road along the Blaxland Road frontage of the subject property, Therefore, all buildings and structures together with any improvements integral to the future use of the site are to be wholly within the freehold property (unlimited in height or depth), along the Blaxland Road boundary.
17. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 2009 and City of Ryde, Development Control Plan 2014: - Part 8.1; Construction Activities.
18. **Resident Parking Permits.** Any residents and/or tenants of the subject development are not eligible resident parking permits as part of any current, or future Resident Parking Schemes.
19. **Implementation of Demolition and Construction Traffic Management Plan.** All works including demolition and construction activities are to be undertaken in accordance with the approved Demolition and Construction Traffic Management Plan (DCTMP). All controls in the DCTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS

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accreditation. A copy of the approved DCTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

20. **Construction Staging** – For any staging of the public domain works, the applicant shall provide a detailed construction management and staging plan.
21. **Public areas and restoration works** - Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP 2014 Part 8.5 *Public Civil Works*, to the satisfaction of Council.
22. **Stormwater disposal.** Stormwater runoff from all impervious areas of the site is to be collected and piped to the existing or new underground stormwater drainage system in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
23. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's 2014 DCP Part 8.5 (Public Domain Works), except otherwise as amended by conditions of this consent.
24. **Service Alterations.** All mains, services, poles, etc., which require alteration shall be altered at the applicant's expense.
25. **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.
26. **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.
27. **Soil Depth Over Structures.** Where planting is proposed over a structure, the development is to achieve the minimum standards for soil provision suitable to the proposed planting, as contained within the Residential Flat Design Code. Information

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

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.

28. 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 within 100 metres of the site advising of the date the work is due to commence.

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

30. 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.

31. 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.

32. 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.

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

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34. **Tip Dockets.** Tip docket identifying the type and quantity of waste disposed/recycled during demolition are to be kept in accordance with the Site Waste Minimisation & Management Plan for spot inspections.
35. **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.
36. **Site Sign**
- (a) A sign must be erected in a prominent position on site, prior to the commencement of demolition:
 - (i) 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
 - (ii) stating that unauthorised entry to the work site is prohibited.
 - (b) Any such sign must be maintained while the demolition work is being carried out, but must be removed when the work has been completed.
37. **Safety fencing.** The site must be fenced prior to the commencement of demolition, must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.
38. **Noise and vibration.** The demolition 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.
39. **Noise from demolition work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from demolition work.
40. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during demolition work.
41. **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.
42. **Site maintenance.** The applicant must ensure that:
- (a) approved sediment and erosion control measures are installed and maintained during and after demolition work has been completed;
 - (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 work;
 - (d) the site shall be maintained in a safe and tidy manner at all times.

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43. **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".
44. **Tree Protection.** All tree protection works including installation of any fencing is to be undertaken prior to any demolition or site clearing works on site. **Existing Trees** on the site along Blaxland Road are to be retained and protected with the footpath upgrade as described in the Arborist Addendum Report section 3 "Footpath Upgrade" by TALC dated 18 February 2019.
45. **Tree Protection Fencing.** All protective fencing and signage around TPZs must be located in accordance with AS4970: Protection of trees on development sites. In this regard, any fencing required to be constructed around the TPZ is to be in accordance with AS4687 Temporary fencing and hoardings.
46. **Discovery of Additional Information** - Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.
47. **Contaminated soil** - All potentially contaminated soil excavated during demolition or construction work must be stockpiled in a secure area and be assessed and classified in accordance with the *Waste Classification Guidelines* (DECCW, 2009) before being transported from the site.
48. **Transportation of wastes** - All wastes must be transported in an environmentally safe manner to a facility or place that can lawfully be used as a waste facility for those wastes. Copies of the disposal dockets must be kept by the applicant for at least 3 years and be submitted to Council on request.
49. **Surplus excavated material** - All surplus excavated material must be disposed of at a licensed landfill facility, unless Council approves an alternative disposal site.
50. **Imported fill** - All imported fill must be validated in accordance with the *Contaminated Sites Sampling Design Guidelines* (EPA, 1995) by an experienced environmental consultant, and a copy of the validation report must be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) before the fill is used.
51. **Salvage of materials and building elements.** Traditional building materials and architectural elements (such as windows, doors, internal and external joinery, stone, masonry, tiles etc) are to be dismantled, salvaged and sold to an established dealer in second-hand heritage building materials.

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Documentation of the salvage methodology must be submitted for the approval of Council prior to the issue of any Construction Certificate or any works commencing on the site.

52. Photographic Archival Recording. Prior to the commencement of any works, including the dismantling of fabric or demolition, a Photographic Archival Recording shall be undertaken for No.182 Blaxland Road and submitted to Council.

Written confirmation must also be obtained from Council's Heritage Advisor, confirming that the Photographic Archival Recording is of an acceptable quality that satisfies the requirements of this condition.

The Photographic Archival Recording shall be prepared in accordance with the guidelines "Archival Recording of Heritage Items Using Film or Digital Capture" published by the Heritage Division of the Office of Environment and Heritage.

One complete copy of the Photographic Archival Recording shall be submitted to Council and shall contain (for digital projects):

- A brief report or introduction which explains the purposes of the Photographic Archival Recording and gives a brief description of the subject site, as well as details of the sequence in which images were taken. The report may also address the limitations of the photographic record and may make recommendations for future work;
- Measured plans of the building at 1: 100 scale;
- A site plan of the building at min 1: 200 scale;
- Plans of the building marked up to indicate where the photographs were taken and the direction of the photograph;
- The report should include all technical details including camera and lenses, image file size and format, technical metadata associated with the images, and colour information;
- Catalogue sheets, photographic plan, supplementary maps;
- Colour thumbnail image sheets (e.g. A4 page with six images by six images) showing images and reference numbers. The thumbnail sheets should be processed with archivally stable inks on archivally acceptable photographic paper and cross referenced to catalogue sheets;
- One full set of 10.5x14.8cm (A6) colour prints OR, if a large project, a representative set of selected images processed with archivally stable inks on archivally acceptable photographic paper.
Photographic images are to include:
 - View to and from the site (possible from four compass points)
 - Views showing relationships to other relevant structures, landscape features and moveable items
 - All external elevations of the dwelling and ancillary structures
 - Views of all external and internal spaces (e.g. courtyards, rooms, roof spaces, etc)

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- External and internal detail (e.g. joinery, construction joints, decorative features, paving types, etc)
- A CD or DVD containing electronic image files saved as TIFF and RAW files with associated metadata, and cross-referenced to catalogue sheets.

The report should be presented on archival quality paper in a suitable archival binder and slipcase, and all storage of individual components must be in archival quality packaging suitable for long term storage.

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.

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

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$97,615.34
Open Space & Recreation Facilities	\$252,648.66
Civic & Urban Improvements	\$77,962.61
Roads & Traffic Management Facilities	\$10,598.33
Cycleways	\$6,642.71
Stormwater Management Facilities	\$21,720.71
Plan Administration	\$1,790.37
The total contribution is	\$468,978.73

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

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

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

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

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

54. **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**.
55. **Structural Certification.** The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements and the Geotechnical Report by Benviron Group Report G291 Revision 3 dated December 2018 prior to the release of the **Construction Certificate**.
56. **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: other buildings with delivery of bricks or concrete or machine excavation)
57. **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
58. **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**.
59. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to www.sydneywater.com.au/tapin to apply.

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

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

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

61. Mechanical Ventilation Details - 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;
- (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.

62. Fresh air intake vents - All fresh air intake vents must be located in a position that is free from contamination and at least 6 metres from any exhaust air discharge vent.

63. Exhaust air discharge vents - All exhaust air discharge vents must be designed and located so that no nuisance or danger to health will be created.

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

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

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

The approval will be subject to:

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

66. Public domain improvements - The public domain is to be upgraded in Blaxland Road frontage of the development site in accordance with the City of Ryde standards and specification and DCP 2014 Part 8.5 *Public Civil Works*. The works shall include but are not limited to road and footpath paving, construction of new driveway crossing, removal of redundant access crossings, and improvement to street lights. The works shall be completed to Council's satisfaction at no cost to Council.

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

- (a) Footpath, driveway crossing, kerb & gutter and road paving as specified in the condition of consent for public infrastructure works.
- (b) The existing street lights along the frontage of the development site in Blaxland Road shall be replaced with Ausgrid standard LED luminaires. The street lighting will remain on the Ausgrid street lighting network.

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

Engineering drawings prepared by a Chartered Civil Engineer (registered on the NER of Engineers Australia) are to be submitted to, and approved by Council's City Works Directorate prior to the issue of the Construction Certificate. The works shall be in accordance with City of Ryde DCP 2014 Part 6.6 *176-186 Blaxland Road*, DCP 2014 Part 8.5 - *Public Civil Works*, and DCP 2014 Part 8.2 - *Stormwater Management*, where applicable.

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The drawings shall include plan view, sections, existing and proposed surface levels, drainage pit configurations, kerb returns (if applicable), existing and proposed signage and line marking, and other relevant details for the new works. The drawings shall also demonstrate the smooth connection of various public domain infrastructure into the remaining street scape.

The Applicant must submit, for approval by Council as the Road Authority, full design for civil engineering plans and applicable specifications for the following infrastructure works:

- (a) The removal of all redundant vehicular crossings and replacement with new footpath, kerb and gutter, and the adjacent road pavement reconstruction.
- (b) Construction of new driveway crossing for access to the underground parking. The maximum length of layback shall be determined by a swept path for the required size of Council Garbage Truck.
- (c) The construction of a single layback and vehicular crossing for the adjoining property at 174 Blaxland Road, including the reconstruction of the adjacent footpath, grass, kerb and gutter.
- (d) The reconstruction of the existing road pavement for the full width of Blaxland Road and adjacent to all new kerb & gutter and vehicular crossings. The reconstruction of the road pavement shall be based on recommendation of a Geotechnical Report that must address use of the road for Heavy Rigid Vehicles.
- (e) Reconstruction of kerb & gutter along the entire frontage of the development site in Blaxland Road, including reinstatement of the existing grass verge within the area of required works.
- (f) Construction of a turning head on the existing dead end section of the Blaxland Road, to accommodate at the minimum requirement for the swept path of Council 11m waste collection vehicle. No parking area along the frontage of the development site would be permitted.
- (g) The public domain area adjacent to the new kerb along the western alignment of the left slip lane off Blaxland Road shall be constructed as per Council landscape requirements for public domain works.
- (h) The new kerb ramp shall be located for a minimum of 1.0 m from the wing of the new layback fronting the site and shall direct pedestrians toward the existing kerb ramp and footpath across the road.
- (i) Reconstruction of full width footpath with the implementation of the shared bicycle path for the entire frontage of the development site. The footpath shall be constructed with a single cross fall (minimum 1% to maximum of 3%) from the property boundary to the top of kerb.
- (j) Stormwater drainage installations in the public domain in accordance with the DA approved plans.
- (k) Signage and line marking details.
- (l) Staging of the public civil works, if any, and transitions between the stages.
- (m) The relocation/adjustment of all public utility services affected by the proposed works including relocation of the existing street light pole located adjacent to the

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existing driveway crossing fronting the properties at 174 and 176 Blaxland Road. The new street light pole shall be located for a minimum of 1.0 m away from the wing of the proposed layback. Written approval from the applicable Public Authority shall be submitted to Council along with the public domain design plans submission. All the requirements of the relevant Public Authority shall be complied with.

Notes:

1. The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths, prior to setting the floor levels for the proposed building.
2. Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
3. Prior to submission to Council, the Applicant is advised to ensure that the drawings are prepared in accordance with the standards listed in the City of Ryde DCP 2014 Part 8.5 - *Public Civil Works*, Section 5 "*Standards Enforcement*". A checklist has also been prepared to provide guidance, and is available upon request to Council's City Works Directorate.
4. City of Ryde standard drawings for public domain infrastructure assets are available on the Council website. Details that are relevant may be replicated in the public domain design submissions; however Council's title block shall not be replicated.
5. Roads and Maritime requires the Developer to close subject section of Blaxland Road with kerb & gutter as per Roads and Maritimes Standards and at no cost to the RMS.
6. **Existing Trees** on the site along Blaxland Road are to be retained and protected with the footpath upgrade as described in the Arborist Addendum Report section 3 "Footpath Upgrade" by TALC dated 18 February 2019.

- 68. Public Infrastructure Works – Roads & Maritime Services (RMS) requirements -** Roads and Maritime Services (RMS) requires the Developer to close subject section of Blaxland Road with kerb & gutter as per RMS Standards and at no cost to the RMS prior to the issue of any Occupation Certificate. The required works shall be designed and constructed as outlined in this condition of consent. The approved works must be completed to RMS satisfaction.

The Applicant must submit, for approval by RMS and Council as the Road Authority, full design for civil engineering plans and applicable specifications for the following infrastructure works:

- (a) The construction of a permanent closure of the current dead end section of Blaxland Road fronting the property 186 Blaxland Road, by providing a continuous vertical kerb along the western alignment of the left slip lane off Blaxland Road.

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- (b) The continuous vertical kerb and gutter shall be designed and constructed in accordance with RMS specification.
- (c) The public domain area adjacent to the new kerb along the western alignment of the left slip lane off Blaxland Road shall be constructed as per Council requirements for public domain works.
- (d) The drawings shall demonstrate the smooth connection of new infrastructures into the remaining street scape.

69. Reinstatement of Telstra Street Phone and Post Box – The existing Telstra Street Phone and Post Box in front of the proposed development site shall be relocated to a temporary location approved from the relevant authorities prior to the issue of any Construction Certificate. The Telstra Street Phone and Post Box shall be reinstated in its final location in accordance with the requirements of the relevant Authorities and Council approval of Public Domain Works.

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

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

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

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

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

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the form of a cash deposit or Bank Guarantee of \$35,000 shall be lodged with the City of Ryde prior to the issue of a Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the twelve (12) months defects liability period.

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

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

74. Waste Management Plan. Any changes to the Waste Management Plan dated 20 December 2018 or DA 106 plans which were utilised to evaluate the waste collection by Council, have to be approved by the Waste Department at the City of Ryde Council before the issue of a Construction Certificate to ensure the waste collection is not affected.

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

- 660L Bins – width 1.3m, depth 0.8m, height 1.3m
- 240L Bins – width 0.6m, depth 0.8m, height 1.1m

76. Receptacles. Two separate receptacles must be provided inside each dwelling to store up to two days' worth of waste and recyclables awaiting transfer to the communal bin disposal areas to ensure source separation of recyclables.

77. Garbage and recycling rooms. All 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;
- (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;

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- (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

78. RMS condition. A Road Occupancy Licence (ROL) should be obtained from Transport Management Centre for any works that may impact on traffic flows on Blaxland Road during construction activities.

79. 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 (Off-street Parking standards).

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

- (a) The visitor intercom, located on the driveway entry to the property must be clearly signed so as to be readily identifiable by drivers unfamiliar with the site.
- (b) All internal driveways and vehicle access ramps must have ramp grades, transitions and height clearances complying with AS 2890.1. To demonstrate compliance with this Standard, the development's structural details must include a driveway profile, showing ramp lengths, grades, surface RL's and overhead clearances taken along the vehicle path of travel from the crest of all ramps associated with the parking area. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle. The driveway ramp profile for the ramp descending to Level 1 must also demonstrate there is sufficient height clearance (min 2.2m) for the parking spaces under the ramp.
- (c) The sides of the ramp, particular adjoining the main entry, are to be open or visually permeable such to maximise sight distance between drivers approaching/ emerging from the ramp.
- (d) The provision of a public turning bay on the driveway just inside the property must have a surface treatment which is structurally adequate to accommodate the vehicle loads and manoeuvring required for heavy vehicles to manoeuvre out of the cul-de-sac. The designated area must be designed and certified by a civil / structural / pavement engineer as to be structurally adequate for the anticipated Heavy Vehicle loads and frequency of movements commiserate with the serviceable life of the development.

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These amendments, details and specifications must be clearly marked on the plans submitted to the Accredited Certifier prior to the issue of a Construction Certificate.

80. Traffic Signal System. The basement garage lacks an ability for vehicles to overtake another at the base of the driveway ramp/ garage entry. To prevent a vehicle having to reverse so as to allow an opposing vehicle to pass, an internal traffic signal system must be installed to warn a driver approaching the necking point (garage entry) of a vehicle entering from the opposite direction.

The signal system must;

- Be clearly visible from either approach to the garage entry and is to indicate to an approaching driver, by way of red light or wording, that a vehicle is approaching in the opposite direction and is to stop in the waiting bay.
- Provide demarcated waiting bays (linemarked) must be provided for vehicles having to stop. These are to be located clear of the swept turning path of the opposing vehicle, allowing the vehicle to freely enter and exit, without either vehicle having to reverse to manoeuvre around.
- Designed to trigger and stop vehicles exiting the basement when the visitor intercom is in use so as to prevent the occurrence of contraflow traffic on the ramp (eg a vehicle exiting the site from the southern side of the driveway).

Details of the system including the system operation, components and placement within the development must be documented by a practising Traffic Engineer and the updated architectural plans must be submitted to the PCA with the application for a Construction Certificate.

81. Stormwater Management. Stormwater runoff from the development shall be collected and piped by gravity flow to the existing kerb inlet pit in Samuel Street, generally in accordance with the plans by Alpha Engineering & Development (Refer to Proj. No. A8143 Dwgs SW01-SW07 Rev F dated 9 October 2018) subject to any variations marked in red on the approved plans and noted following:

- Stormwater runoff from the driveway ramp descending from the front boundary must be directed to the onsite detention system.
- Levels in the southwestern corner (rear) of the site are to be graded such to direct runoff to the easement.
- The rising main from the pump system must incorporate a riser loop, elevated above the surcharge point of the onsite detention system, to prevent the chance of backflow should the OSD system block.
- Connection to the public drainage infrastructure in Samuel Street will require the consent from Council. Plans detailing these works are to be provided with the permit application and Council's City Works & Infrastructure is to inspect the connection prior to backfill. This is to be noted on the detailed plans.

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

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- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council’s DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- Onsite detention must be incorporated in the stormwater management system having a minimum SSR of 63.47m³ and a maximum PSD of 65.96L/s. Any variations to these values attributed to changes required by conditions of this consent, must be in accordance with Council’s DCP requirements for onsite detention and must be validated in the certification of the design required by this condition.
- The subsurface drainage system must be designed to preserve the pre-developed groundwater table so as to prevent constant, ongoing discharge of groundwater to the public drainage network, as well as avoid long term impacts related to the support of structures on neighbouring properties.

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

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

This engineer is to prepare the following documentation;

- a) Certification that the civil and structural details of all subsurface structures are designed to:
 - provide appropriate support and retention to neighbouring property,
 - ensure there will be no ground settlement or movement during excavation or after construction (whether by the act of excavation or

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dewatering of the excavation) sufficient to cause an adverse impact to adjoining property or public infrastructure, and,

- ensure that the treatment and drainage of groundwater will be undertaken in a manner which maintains the pre-developed groundwater regime, so as to avoid constant or ongoing seepage to the public drainage network and structural impacts that may arise from alteration of the pre-developed groundwater table.

b) A Geotechnical Monitoring Program (GMP) to be implemented during construction that:

- is based on a geotechnical investigation of the site and subsurface conditions, including groundwater,
- details the location and type of monitoring systems to be utilised, including those that will detect the deflection of all shoring structures, settlement and excavation induced ground vibrations to the relevant Australian Standard;
- details recommended hold points and trigger levels of any monitoring systems, to allow for the inspection and certification of geotechnical and 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.
- Is in accordance with the recommendations of any Geotechnical Report approved under this consent.

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

84. Dilapidation Survey. A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction work, namely 174 and 188 – 192 Blaxland Road. A copy of the dilapidation survey is to be submitted to the Accredited Certifier and Council prior to the release of the Construction Certificate.

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

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

- All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded so as to prevent the emission of offensive noise as a result of their operation.

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- Pumps used for dewatering operations are not to be fuel based so as to minimise noise disturbance and are to be electrically operated.
- Discharge lines are to be recessed across footways so as to not present as a trip hazard and are to directly connect to the public inground drainage infrastructure where ever possible.
- The maximum rate of discharge is to be limited to the sites determined PSD rate or 30L/s if discharging to the kerb.
- Certification must state that the submitted design is in accordance with the requirements of this condition and any relevant sections of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
- Be in accordance with the recommendations of approved documents which concern the treatment and monitoring of groundwater.
- Any details, approval or conditions concerning dewatering (eg Dewatering License) as required by the Water Act 1912 and any other relevant NSW legislation.
- Approval and conditions as required for connection of the dewatering system to the public drainage infrastructure as per Section 138 of the Roads Act.

86. **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.

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87. Demolition and Construction Traffic Management Plan. For all works including demolition and construction activities, a Demolition and Construction Traffic Management Plan (DCTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by Council prior to issue of any Construction Certificate. This plan is to detail construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control.

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

88. Site Sign

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

89. Excavation adjacent to adjoining land

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

90. Pre-commencement dilapidation report. The submission of a pre-commencement dilapidation report providing an accurate record of the existing condition of adjoining

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public and private properties namely 174 Blaxland Road and 190-192 Blaxland Road, and public infrastructure (including roads, gutters, footpaths, etc). A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining private properties, prior to the commencement of construction.

- 91. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.
- 92. **Work Zones and Permits.** Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. A Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.
- 93. **Tree retention.** As identified in the Arborist Assessment prepared by TALC dated 20/09/2018. The following trees on site are to be retained and protected:

Tree No.	Species "Common name"
2	Angophora costata Smooth Barked Apple
3	Corymbia citriodora Lemon Scented Gum
4	Corymbia citriodora Lemon Scented Gum
5	Corymbia citriodora Lemon Scented Gum
6	Corymbia citriodora Lemon Scented Gum
19	Jacaranda mimosifolia Jacaranda
20	Brachychiton acerifolium Illawarra Flame Tree

The existing trees on the site along Blaxland Road are to be retained and protected with the footpath upgrade as described in the Arborist Addendum Report Section 3 "Footpath Upgrade" by TALC dated 16 February 2019.

- 94. Tree protective fencing is to be installed before demolition and construction commences as indicated in the Arborist Addendum Report "Attachment A" by TALC dated 18/02/2019.
- 95. The soil around the existing trees 2, 3, 4, 5 and 6, is to retained and protected as described in the Arborist Addendum Report section 4 "Demolition of Existing Basement Walls and Soil Protection" by TALC dated 18/02/2019

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96. A Level 5 Project Arborist be appointed to inspect and document with Certificates of Compliance to the certifying authority as stipulated in SECTION 5 MONITORING AND CERTIFICATION of AS4970-2009.

Project Phase	Activities	Project Arborist To
Initial Site Preparation	Establish/delineate TPZ Install protective measures and undertake soil rehabilitation for all trees to be retained.	Project Arborist to mark Tree Protection Zones and install fences, mulch, irrigation and signage Issue a Certification of Compliance of tree protection measures being in place and soil rehabilitation undertaken
Construction work	Liaison with site manager, compliance and any deviation from approved plan	Maintain or amend protective measures Supervision and monitoring formal notification of any deviation from approved tree protection plan
Stormwater connection installation through TPZ, Implement hard and soft landscape works	Supervise Installation of pipes within tree TPZ	Excavate trench through TPZ under Arborist supervision, install pipework, remove selected protective measures as necessary and perform remedial tree works Issue a Certificate of Compliance
Practical Completion	Tree vigour and structure Assessment and undertake soil rehabilitation for all retained trees	Remove all remaining tree Protection measures Certification of tree protection and soil rehabilitation for Protected Trees
Defects liability / maintenance period	Tree vigour and structure	Undertake any required remedial tree works Certification of tree protection if necessary

Council is to be advised in writing of the name, contact details and qualifications of the Consultant Arborist appointed to the site. Should these details change during the course of the works, Council is to be notified in writing within seven days.

97. **Tree Removal.** As identified in the Arborist Assessment prepared by TALC dated 20/09/2018. The following trees on site are to be removed:

Tree No.	Species "Common name"
1	Corymbia citriodora Lemon Scented Gum
7	Angophora costata Smooth Barked Apple
8	Corymbia citriodora Lemon Scented Gum
9	Eucalyptus nicholii

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Tree No.	Species "Common name"
	Narrow Leafed Peppermint Gum
10	Celtis sinensis Hackberry
11	Schinus areira Peppercom Tree
12	Agonis flexuosa Willow Myrtle
13	Acer negundo Box Elder
14	Schefflera actinophylla Umbrella Tree
15	Not identified by Arborist
16	Jacaranda mimosifolia Jacaranda
17	Cupressus sempervirens Cupressus
18	Celtis sinensis Hackberry

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

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

99. **Notification of adjoining owners & occupiers – public domain works** - The Applicant shall provide the adjoining owners and occupiers written notice of the proposed public domain works a minimum two weeks prior to commencement of construction. The notice is to include a contact name and number should they have any enquiries in relation to the construction works. The duration of any interference to neighbouring driveways shall be minimised; and driveways shall be returned to the operational condition as they were prior to the commencement of works, at no cost to the owners.

100. **Pre-construction inspection** - A joint inspection shall be undertaken with Council’s Engineer from City Works Directorate prior to commencement of any public domain works. A minimum 48 hours’ notice will be required when booking for the joint inspection.

101. **Pre-Construction Dilapidation Report** - To ensure Council’s infrastructures are adequately protected a pre-construction dilapidation report on the existing public

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infrastructure in the vicinity of the proposed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record of any observable defects to the following infrastructure where applicable.

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

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

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

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

- a) Road Use Permit - The applicant shall obtain a Road Use Permit where any area of the public road or footpath is to be occupied as construction workspace, other than activities covered by a Road Opening Permit or if a Work Zone Permit is not obtained. The permit does not grant exemption from parking regulations.
- b) Work Zone Permit - The applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. **A Roads and Maritime Services Road Occupancy Licence shall be obtained for State Roads.**
- c) Road Opening Permit - The applicant shall apply for a road-opening permit and pay the required fee where a new pipeline is to be constructed within or across the road pavement or footpath. Additional road opening permits and fees are required where there are connections to public utility services (e.g. telephone, telecommunications, electricity, sewer, water or gas) within the road reserve. No opening of the road or footpath surface shall be carried out without this permit being obtained and a copy kept on the site.

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- d) Elevated Tower, Crane or Concrete Pump Permit - The applicant shall obtain an Elevated Tower, Crane or Concrete Pump Permit where any of these items of plant are placed on Council's roads or footpaths. This permit is in addition to either a Road Use Permit or a Work Zone Permit.
- e) Crane Airspace Permit - The applicant shall obtain a Crane Over Airspace Permit where a crane on private land is operating in the air space of a Council road or footpath. Approval from the Roads and Maritime Services for works on or near State Roads is required prior to lodgement of an application with Council. A separate application for a Work Zone Permit is required for any construction vehicles or plant on the adjoining road or footpath associated with use of the crane.
- f) Hoarding Permit - The applicant shall obtain a Hoarding Permit and pay the required fee where erection of protective hoarding along the street frontage of the property is required. The fee payable is for a minimum period of 6 months and should the period is extended an adjustment of the fee will be made on completion of the works. The site must be fenced to a minimum height of 1.8 metres prior to the commencement of construction and throughout demolition and/or excavation and must comply with WorkCover (New South Wales) requirements.
- g) Skip Bin on Nature Strip - The applicant shall obtain approval and pay the required fee to place a Skip Bin on the nature strip where it is not practical to locate the bin on private property. No permit will be issued to place skips.

103. Temporary Footpath Crossing - A temporary footpath crossing, if required, must be provided at the vehicular access points. It is to be 4 metres wide, made out of sections of hardwood with chamfered ends and strapped with hoop iron, and a temporary gutter crossing must be provided.

104. Ryde Traffic Committee Approval - A plan showing details of the proposed signage and line marking, and/or traffic devices including pedestrian refuge, pedestrian crossing or LATM measures, shall be submitted to the Council and approved by the Ryde Traffic Committee prior to the installation of any traffic devices, signage and line marking.

105. RMS condition. Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system in Blaxland Road are to be submitted to Roads and Maritime for approval, prior to the commencement of any works. Documents should be submitted to Development.Sydney@rms.nsw.gov.au.

A plan checking fee will be payable and a performance bond may be required before Roads and Maritime approval is issued.

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

The developer is to submit all documentation at least six (6) weeks prior to commencement of construction and is to meet the full cost of the assessment by Roads and Maritime. Documents should be submitted to Development.Sydney@rms.nsw.gov.au.

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

107. **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 Civil Infrastructure & Integration 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 Schedule of Fees and Charges.

DURING CONSTRUCTION

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

108. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal 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*.

109. **Noise from construction and demolition work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from demolition and construction work.

110. **Noise management plan** - Where demolition or construction activities are likely to cause significant noise or vibration (eg. jackhammering ,rock breaking or impact piling) a noise management plan must be prepared by a suitably qualified acoustical consultant and be submitted to the Principal Certifying Authority before the work commences. The plan must be prepared in accordance with the Interim Construction Noise Guideline (DECC, 2009) and include:

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- (a) Identification of nearby affected residences or other sensitive receivers.
- (b) An assessment of the expected noise impacts.
- (c) Details of the work practices required to minimise noise impacts.
- (d) Noise monitoring procedures.
- (e) Procedures for notifying nearby affected residents.
- (f) Complaints management procedures.

111. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

112. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:

- (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.

113. **Construction materials.** All materials associated with construction must be retained within the site.

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

115. **Illegal dumping and litter management.** The area surrounding the construction site must be maintained to reduce the incidence of illegal dumping and management of litter from the site and workers associated with the site must be undertaken.

116. Site Facilities

The following facilities must be provided on the site:

- (a) toilet facilities in accordance with Safework NSW requirements, at a ratio of one toilet per every 20 employees, and
- (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

117. 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.

118. **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

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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".

119. **Tree protection – during construction.** Trees that are shown on the approved plans as being retained must be protected against damage during construction.

120. **Tree works – Australian Standards.** Any works approved by this consent to trees must be carried out in accordance with all relevant Australian Standards.

121. **Geotechnical report.** All design works and all construction works be undertaken in full compliance with all of the recommendations as contained in the Benviron Group Report G291 Revision 3 dated December 2018.

122. **Archaeology.** As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage Division of the Office of Environment and Heritage (OEH) must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the Heritage Act 1977 to obtain the necessary approvals/permits from the Heritage Division of the OEH.

Note: The *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

123. **Hold Points during construction – Drainage Works -** Council requires inspections to be undertaken by a suitably qualified Chartered Civil Engineer (registered on the NER of Engineers Australia), or equivalent, for all Council stormwater drainage works at the hold points shown below.

The Applicant shall submit to the Principal Certifying Authority, certification from the Engineer, at each stage of the inspection listed below, within 24 hours following completion of the relevant stage/s, stating all civil and structural construction works have been executed as detailed in the stamped approved plans, and in accordance with the relevant Australian Standards, City of Ryde standards and specifications.

Note that any stormwater pits with a depth greater than 1.8 metres shall be certified by a suitably qualified Structural Engineer.

The certificates shall contain photographs of the works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken.

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- (a) Upon installation of the pit.
- (b) Upon connecting the 300 mm diameter private line to the new kerb inlet pit.
- (c) Upon backfilling of excavated areas and prior to the construction of the final surface.
- (d) Final inspection - upon the practical completion of all drainage and associated works with all disturbed areas satisfactorily restored.

124. Hold Points during construction - Public Domain – Council requires inspections to be undertaken by a Chartered Civil Engineer (registered on the NER of Engineers Australia), for the public domain, at the hold points shown below.

The Applicant shall submit to Council's City Works Directorate, certification from the Engineer, at each stage of the inspection listed below, within 24 hours following completion of the relevant stage/s. The certificates shall contain photographs of the works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken.

- a) Prior to the commencement of construction and following the set-out on site of the position of the civil works to the levels shown on the approved civil drawings.
- b) Upon excavation, trimming and compaction to the subgrade level - to the line, grade, widths and depths, shown on the approved civil engineering drawings.
- c) Upon compaction of the applicable sub-base course.
- d) Upon compaction or construction of any base layers of pavement, prior to the construction of the final pavement surface (e.g. prior to laying any pavers or asphalt wearing course).
- e) Upon installation of any formwork and reinforcement for footpath concrete works.
- f) Final inspection - upon the practical completion of all civil works with all disturbed areas satisfactorily restored.

125. 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.

126. 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 Alpha Engineering & Development (Refer to Proj. No. A8143 Dwgs SW01-SW07 Rev F dated 9 October 2018) submitted in compliance to the condition labelled "Stormwater Management." and the requirements of Council in relation to the connection to the public drainage system.

127. Stormwater Management – Works in the New Drainage Easement. To ensure there is minimal imposition and loss of amenity to the owner/ occupants of the property

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burdened by the new drainage easement in construction of these drainage services, the builder/ developer must;

- (i) provide a minimum 3 weeks notification to the burdened property owner and occupants prior to the commencement of works in the neighbouring property.
- (ii) ensure the works are completed in a timely manner.
- (iii) ensure any structures adjacent the works are adequately supported at all times.
- (iv) make provision to restore the work area so as to maintain the amenity of the land / minimise the imposition of works on the burdened land, should the works be delayed due to unforeseen events such as weather, service adjustments, etc.
- (v) restore all areas on the burdened property disturbed by the construction works to a condition equivalent to the pre-developed state or otherwise as agreed by the owner of the burdened property.
- (vi) comply with any terms agreed upon by both parties in regards to the construction of the drainage services and restoration of the land, in the granting of the easement.

128. 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.

129. Geotechnical Monitoring Program - Implementation. The construction and excavation works are to be undertaken in accordance with the Geotechnical Report and Monitoring Program (GMP) submitted with the Construction Certificate. All recommendations of the Geotechnical Engineer and GMP are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

130. Site Dewatering Plan – Implementation. The Site Dewatering Plan (SDP) on the site must be constructed in accordance with the Construction Certificate version of the SDP submitted in compliance to the condition labelled “Site Dewatering Plan.”, the requirements of Council in regards to disposal of water to the public drainage infrastructure and the requirements of any Dewatering License issued under NSW Water Act 1912 in association with the works. A copy of the SDP is to be kept on site at all times whilst dewatering operations are carried out.

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.

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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.

131. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 967775M, dated 12 October 2018.

132. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of any **Occupation Certificate**.

133. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the Fire and Rescue NSW.

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

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

134. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

135. **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

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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, prior to the issue of any **Occupation Certificate**.

136. **Signage and Linemarking – External.** “NO PARKING WASTE VEHICLE EXCEPTED” signs shall be installed on Blaxland Road along the site’s frontage to enable unimpeded access for Council’s 11m waste vehicle for kerbside collection on waste collection day(s) only. A plan demonstrating the proposed signage and line marking within Council’s Public Domain shall be prepared by a suitably qualified person and submitted to and approved by the Ryde Traffic Committee prior to the issue of any Occupation Certificate.

Note: The applicant is advised that the plan will require approval by the Ryde Traffic Committee and adequate time should be allowed for this process.

137. **Signage and Linemarking – Implementation.** The applicant is to install all signage and linemarking, as per the plan approved by the Ryde Traffic Committee. These works are to be undertaken prior to the issue of any Occupation Certificate.
138. **Signage and Linemarking –Internal.** A plan demonstrating the proposed signage and line marking within the basement car park levels shall be prepared by a suitably qualified person and submitted to and approved by the Council prior to the issue of any Occupation Certification. “CAUTION TRUCK REVERSING” sign shall be installed to alert drivers exiting the property, shall be included in the submitted signage and linemarking plan.
139. **CCTV Cameras.** CCTV cameras will be required to be installed throughout the site. The cameras should include the foyer area to the buildings including the area around the mail boxes. The cameras should also monitor the 50 metre vicinity outside the building including, but not limited to, the footpath area in front of the premises. CCTV cameras should also cover any communal areas, lifts, public spaces, pedestrian link and the basement car parks, including the entry and exit points to the car park. Recordings should be made twenty four (24) hours a day seven (7) days a week.

As a minimum, CCTV cameras at entry and exit points to the premises **MUST** record footage of a nature and quality in which it can be used to identify a person recorded by the camera. All other cameras **MUST** record footage of a nature and quality in which it can be used to recognise a person recorded by the camera. The time and date must automatically be recorded on all recordings made whilst it is recording. All recordings are to be kept for a minimum period of thirty (30) days before they can be reused or destroyed.

If requested by police, the applicant is to archive any recording until such time as they are no longer required. Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any windows computer.

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The CCTV control system should be located within a secured area of the premise and only accessible by authorised personnel. If the CCTV system is not operational, immediate steps are to be taken by the applicant to ensure that it is returned to a fully operational condition as soon as possible.

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

140. **Signage.** A street sign should be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No.8. Signage also needs to be provided at entry/exit points and throughout the development to assist users. Clear signage should indicate residential and restricted areas.

Signage also needs to be provided on any fire exit doors warning users that the doors are to be used for emergency purposes only. Signage is to be used to indicate entries and exits. Signs should be clear, legible and useful. The front of the building should have clear signage in regards to street numbers so that emergency services are able to clearly read the numbers. To assist with way finding for emergency services, numbering of street numbers, building numbers, levels of the building and unit numbers should be clearly displayed. Signs should be erected 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.

141. **Car parking security.** Vehicular entry to residential parking and visitor's parking areas is to be through a secured roller shutter with an intercom system for visitor's access. The doors are to be controlled by locksets such as remote or card operating electronic lock sets. The phasing of the roller door needs to minimise the opportunity for unauthorised pedestrian access after a vehicle enters/exits the car park. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

142. **Graffiti.** All surfaces on the street level that are not glass should use graffiti resistant paints and/or other surfaces that discourage graffiti. A maintenance policy should be established for graffiti to be painted over within two a week of the graffiti. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

143. **Security.** To enhance the physical security of doors, all glass doors are to be laminated and the main entry/exit doors to individual units on the ground floor, including balcony doors and fire exit doors to the development are to be fitted with a single cylinder lockset (Australian and New Zealand Standard - Lock Sets), which comply with the Building Code of Australia. Windows to individual units on the ground floor should also be fitted with key operated locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.

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

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144. **Intercom System.** Intercom facilities should be incorporated into these entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development. An auxiliary lock set should also be incorporated into the design of each of the entry/exit points to enable emergency services to access the development particularly in emergency situations.

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

145. **Balcony doors to units.** Balcony doors to units are to be fitted with single cylinder locksets (Australian and New Zealand Standard – Lock Sets) to restrict unauthorised access to units. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

146. **Lift access and security.** Electronic access controls are to be installed on the lift. The equipment should include card readers to restrict access to the level a resident resides on, to the car parking levels and to the Ground Floor. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

147. **Stormwater pit and kerb lintel.** Council's existing stormwater pit and the kerb lintel in Samuel Street which the proposed site outlet connection is being made to shall be reconstructed. The new Kerb inlet pit shall be cast in-situ and conforming to Council's standard drainage pit details and City of Ryde Stormwater and Floodplain Technical Manual. A certificate from a suitably qualified engineer stating compliance with this condition shall be submitted to the Principal Certifying Authority prior to the issue of the Occupation Certificate.

148. **Drainage Works – Post construction certifications** - Following completion of the final stage of the drainage and associated works and prior to the issue of the Occupation Certificate, the applicant shall submit all certifications from the Supervising Engineer for each hold point inspection required for the drainage works, as outlined in the condition for "Hold Points during construction – Drainage Works", to Council's City Works Directorate for acceptance and written approval. The certificates shall contain photographs of the completed works and commentary of the inspected works, including any deficiencies and rectifications that were undertaken.

149. **Works-As-Executed Drawings – Stormwater Drainage** - Prior to the issue of an Occupation Certificate, Works-As-Executed Drawings for the new Council pit and stormwater connection works shall be submitted to and approved by Council's Stormwater Engineer. The Works-As-Executed Drawings shall be accompanied by a certificate from a suitably qualified engineer (registered on the NER of Engineers Australia), certifying the drawings are a true and accurate representation of the constructed works.

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150. **Post-Construction CCTV and Dilapidation Report** - To ensure Council's stormwater infrastructure is adequately protected and there are no damages due to proposed construction activities and property drainage connection, a post-construction CCTV and dilapidation report on the Council's stormwater pipeline in Samuel Street adjacent to the proposed connection point and the reconstructed pit. An electronic closed circuit television report (track mounted CCTV camera footage) prepared by an accredited operator that assesses the condition of the existing drainage line adjacent to the site is required. The report is to be dated and submitted to, and accepted by Council's City Works Directorate, prior to the issue of the Occupation Certificate. The report shall be used by Council to assess whether any rectification works will be required. The applicant shall obtain written approval from Council Engineers prior to the issue of the Occupation Certificate.
151. **Public Domain Improvements and Infrastructure Works – Completion** – All public domain improvements and infrastructure works shall be completed to Council's satisfaction, in accordance with the approved public domain plans and at no cost to the Council, prior to the issue of any Occupation Certificate.
152. **Restoration – Supervising Engineer's Certificate** - Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council a certificate from the Supervising Engineer confirming that the final restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure and replacement of any redundant vehicular crossings as a result of the construction works associated with this development site, have been completed in accordance with the Council's standards and specifications, and DCP2014 Part 8.5 *Public Civil Works*, or the Roads and Maritime Services' standards and specifications, where applicable.
153. **Public Domain Works-as-Executed Plans** – To ensure the public infrastructure works are completed in accordance with the approved plans and specifications and that the assets to be handed over to Council are accounted for inclusion in Council's Assets Register, Works-as-Executed Plans shall be submitted to Council for review and approval. The Works-as-Executed Plans are to be prepared on a copy of the approved plans and certified by a Registered Surveyor, and shall contain notations in red, all departures from the Council approved details. Any rectifications required by Council shall be completed by the Developer prior to the issue of any Occupation Certificate.
154. **Supervising Engineer Final Certificate** – Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.
155. **Post-Construction Dilapidation Report** – To ensure Council's infrastructures are adequately protected a post-construction dilapidation report on the existing public

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infrastructure in the vicinity of the completed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record of any observable defects to the following infrastructure where applicable.

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

The report shall include summary statement/s comparing the pre and post construction conditions of the public infrastructure. The report is to be dated and submitted to, and accepted by Council's City Works Directorate, prior to issue of the Occupation Certificate. The report shall be used by Council to compare with the pre-construction dilapidation report, and to assess whether restoration works will be required prior to the issue of the Occupation Certificate.

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

156. Decommissioning of Ground Anchors – Prior to the issue of any Occupation Certificate, the Applicant shall provide Council a certificate from a suitably qualified Structural or Geotechnical Engineer confirming that all temporary soil/ground anchors installed into the public road reserve, have been decommissioned and are not transferring any structural loads into the road reserve stratum.

157. Final Inspection – Assets Handover - For the purpose of the handover of the public infrastructure assets to Council, a final inspection shall be conducted in conjunction with Council's Engineer from City Works Directorate following the completion of the external works. Defects found at such inspection shall be rectified by the Applicant prior to Council issuing the Compliance Certificate for the External Works. Additional inspections, if required, shall be subject to fees payable in accordance with Council's Schedule of Fees & Charges at the time.

A minimum 48 hours' notice will be required when booking for the final inspection.

158. Compliance Certificate – External Works and Public Infrastructure Restoration – Prior to the issue of any Occupation Certificate, a compliance certificate shall be obtained from Council's City Works Directorate confirming that all works in the road reserve including all public domain improvement works and restoration of infrastructure assets that have been dilapidated as a result of the development works, have been completed to Council's satisfaction and in accordance with the Council approved

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drawings. The applicant shall be liable for the payment of the fee associated with the issuing of this certificate.

159. **Engineering Condition – Public Domain Works** - All outstanding civil works associated with relocation of services and all other road works, kerb and gutter, footpath, vehicular crossings and stormwater drainage works for this development site shall be completed in accordance with Council’s specifications and to the satisfaction of Council prior to the issue of the strata plans/subdivision certificate.
160. **Waste Management.** An authorised Council waste officer is to inspect and approve all waste management facilities to ensure they comply with the development approval Waste management Plan. The following matters must be met:
- Suitable arrangements must be made with the City of Ryde Council for the provision of garbage services to the premises prior to the issue of any Occupation Certificate.
 - Safe easy access for the waste truck to access the waste containers for servicing must be provided. Traffic will require relevant signage to be installed to ensure this.
 - A traffic management plan is to be submitted to ensure that the truck is not impacted by cars entering and exiting the driveway while the truck is turning around.
 - Where there is a lockable door to access a bin room or hardwaste storage room, the universal Council key should be installed so the contractor can access the room for servicing bins or collect the household cleanup items.
 - The paving from the waste storage area or garbage and recycling room must be moderately graded with no steps or uneven surfaces so that the waste containers can be safely and easily maneuvered to the collection point.
161. **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.
162. **Disabled access.** Access for disabled persons shall be provided in the building or portion of the building in accordance with the applicable legislation and the requirements set out in AS 1428.1. Documentary evidence and certification is to be obtained from a suitable qualified person confirming that the development meets these requirements in accordance with this consent, is to be provided to the PCA prior to the issue of any Occupation Certificate.
163. **Mechanical Ventilation.** Where any mechanical ventilation systems have been installed, a certificate from a professional mechanical services engineer certifying that the systems comply with the approved plans and specifications must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.
164. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with

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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.

165. Stormwater Management – Positive Covenant(s). A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention and pump/ 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 instrument are to be in accordance with the Council's standard terms for such systems, as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7 and to the satisfaction of Council. The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.

166. Engineering Compliance Certificates. To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.

- a) Confirming that all components of the parking areas contained inside the site and the operation of the internal traffic signal system, comply with the relevant components of AS 2890, Council's DCP 2014 Part 9.3 (Parking Controls) and the conditions "*Vehicle Access & Parking*" and "*Traffic Signal System*".
- b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
- c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- d) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).
- e) 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.

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- f) 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.
- g) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

167. On-Site Stormwater Detention System - Marker Plate. To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).

168. Right of Way. To facilitate the manoeuvring of heavy vehicles at the end of Blaxland Road, a new Right of Way must be created on the subject site in the region of the driveway ramp in the site, must be no less than 8m depth from the front boundary alignment and span the width of the driveway. The submission of plans the accompanying instrument as per Section 88B of the Conveyancing Act 1919 must be accompanied with a works-as-executed plan of the driveway showing finished surface levels. The terms of the instrument must be in accordance with Councils standard and is to be to the satisfaction (potentially requiring further amendment) pending detailed review. The ROW must be registered on the property title prior to the release of any Occupation Certificate.

169. 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 a Design Verification from a qualified designer. The statement must include verification from a qualified designer that the residential flat development achieves the design quality of the development shown on plans and specifications in respect to any Construction Certificate issued, having regard to the design quality principles set out in Part 2 of the State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development as were in effect at the time of the lodgement of the development application. This condition is imposed in accordance with Clause 154A of the *Environmental Planning and Assessment Regulations 2000*.

170. Design Verification. Prior to the release of the first Occupation Certificate, the project architect is to certify that the materials and finishes detailed on drawings numbered DA200, DA201, DA202, DA203, DA204 and DA400 have been used in the construction of the project.

OPERATIONAL CONDITIONS

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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.

171. **Fencing.** Any fencing that is required to be replaced is to be done so at the developer's expense. All fencing is to be provided in accordance with Council's Development Control Plan 2014 requirements.

172. **Drainage System Maintenance Plan Implementation.** The stormwater management system components are to be maintained for the ongoing life of the development by the strata management/ owners corporation, as per the details in the approved Drainage System Maintenance Plan (DSMP).

173. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows;

- 44 residential spaces,
- Each of the small resident parking spaces must be allocated as a second parking space to any occupant allocated two parking spaces. This is to ensure that all unit owners which are allocated a parking space, have access to a full size space.
- 8 visitor spaces, and
- A minimum 4 bicycle parking spaces.

To comply with this, an additional visitor space must be allocated in Level 2 parking so as to ensure a minimum of 8 visitor spaces are provided. This is to ensure the allocation of parking on the site is in accordance with Council's parking requirements.

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

175. **Waste.** Garbage and recycling bins must always be stored on site in the designated area between collections.

Signs will be required to be placed within the bin area to encourage correct recycling and reduce contamination. City of Ryde will provide the required signage

176. All waste storage areas must be maintained in a clean and tidy condition at all times

177. All unwanted household items are to be managed by the building caretaker in liaison with the residents and taken to the bulky waste storage room. The material is to be placed neatly and all loose items are to be containerised to ensure access for the contractor.

178. **Waste Collection/Transfer.** 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. The transferring of the waste containers to the emptying point are to be conducted in a safe

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and hygienic manner. The material is to be placed in such a manner so that it will not impede the access to any bins from a side arm waste collection vehicle or pedestrian access”.

179. **Bulky waste storage.** All material in the bulky items/hard waste storage rooms is to be taken to the collection area stipulated by Council, by the staff or contractors. The material is to be placed in such a manner so that it will not impede the access to any bins from a side arm waste collection vehicle or pedestrian access”. Unwanted household items must be stored onsite until the night prior to a Pre-booked household cleanup collection.

180. **Council may require acoustical consultant’s report** - Council may require the submission of a report from an appropriately qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria.

181. **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*.

182. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:

- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000).
- (b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.
- (c) The transmission of vibration to any place of different occupancy.

End of Consent

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ATTACHMENT 2

Statement of Environmental Effects
176 – 186 Blaxland Road, Ryde
Demolition and Construction of a Residential Flat Building containing 37 apartments (amended April 2019)



APPENDIX A

Clause 4.6 Objection to

Clause 4.3 – Height of Buildings

Ryde Local Environmental Plan 2014

**176 – 186 Blaxland Road,
Ryde**

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ATTACHMENT 2

Statement of Environmental Effects
176 – 186 Blaxland Road, Ryde
Demolition and Construction of a Residential Flat Building containing 37 apartments (amended April 2019)



1.0 INTRODUCTION

- 1.1 This is an objection under Clause 4.6 of Ryde Local Environmental Plan 2014 (RLEP 2014) to Clause 4.3 (Height of Building) of RLEP 2014. The relevant height development standard is 11.5m. The Height of Building control is a *development standard* for the purposes of the *EP & A Act 1979*. An applicant is able to submit a written request as part of a development application demonstrating why strict application of the standard is unreasonable and unnecessary in the circumstances of the case. The case law sets a benchmark confirming height variations are discretionary.
- 1.2 This objection has considered the Land and Environment Court case law, (including *Four 2 Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90). Two more recent cases *Moskovich v Waverley Council* and *Randwick City Council v Micaul Holdings Pty Ltd* confirm that there is no specific limitation on the consent authority's discretion under clause 4.6(4) and the threshold may vary from case to case, depending on the views of the consent authority.
- 1.3 In *Moskovich* it was submitted that compliance with the FSR standard was unreasonable and unnecessary because the design achieved the objectives of the standard and the R3 zone, in a way that addressed the particular circumstances of the site, and resulted in a better streetscape and internal and external amenity outcome than a complying development. *Moskovich* further submitted that there were "sufficient environmental planning grounds" to justify the contravention because the proposal would replace two aging poorly designed residential flat buildings with a high quality RFB with exceptional internal and external amenity outcomes. Ultimately the decision was made to uphold the Appeal and hence a more merit based clause 4.6 application was now identified in the Court.
- 1.4 A recent decision in the Court in *Randwick City Council v Micaul Holdings Pty Ltd* [2016] NSWLEC 7 confirmed once again that flexibility can be applied to allow variations of numerical development standards and the consent authority (Council in the case of the subject application) has the power and discretion to allow a variation of one or all standards if it so wishes. *Micaul* is a decision of the Chief Judge of the Land and Environment Court in an appeal against a decision of Commissioner Morris to uphold a request under clause 4.6 of the Randwick LEP 2012 (RLEP 2012) to vary development standards relating to the height and FSR of a building. Council contended that the Commissioner failed to be satisfied about the requirements in clause 4.6(4), or alternatively failed to give adequate reasons. The Council also claimed that the Commissioner failed to consider a requirement of a Development Control Plan. Council's position was that the bar had been set too low for the clause 4.6 variation request. The Court dismissed the Appeal as it held that the Commissioner had set out an appropriate test under clause 4.6. The Commissioner stated that she was satisfied that the proposal satisfied those tests.
- 1.5 What is clear from the decisions is that the degree of satisfaction required under clause 4.6(4) is a matter for the Commissioner (and in this case Ryde Council) and on this basis it is open to the consent authority to satisfy itself. It is our submission that Council is able to be satisfied that the development is in the public interest because it achieves the zone and height objectives and there are sufficient environmental planning grounds to justify this particular application.
- 1.6 The intent of clause 4.6 is to provide flexibility in the application of development standards and better outcomes in the circumstances by allowing variations to numerical standards. We demonstrate below that the variation of the Height of Building control allows for a sound planning outcome in terms of the following:

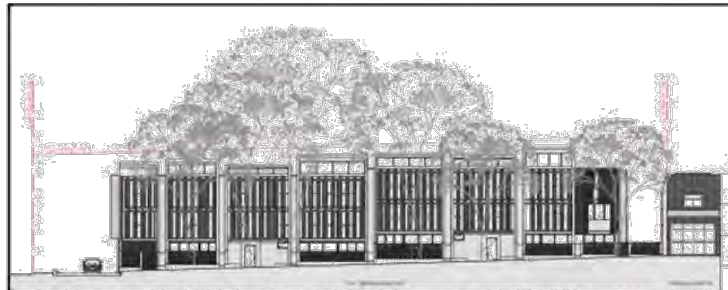
ITEM 2 (continued)

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- Improved visual fit and balance in the streetscape due to the locational context of the site and R4 zoning. This is demonstrated in the figures below which confirm the built form and scale is appropriate in this context (i.e. is compatible with the shop type development as well as surrounding residential dwellings);
- Ability to lower the rear built form closest to the neighbours in Samuel Street (i.e. being below the anticipated max 11.5m height and the elevations depicted in the draft DCP that evolved during the planning proposal).
- Provides street connection to Blaxland Road.
- Ability to provide a façade that is informed by the adjoining shops and residential dwellings;
- Provide sufficient car parking onsite but limit its visibility;
- Create a building envelope that sets a desirable benchmark for future development within the Top Ryde area having regard to the location, size of land and slope of the site.



South-east Elevation (view from Blaxland Road) (Source: Fender Katsalidis, 2018)



South-west Elevation (Source: Fender Katsalidis, 2018)

ITEM 2 (continued)

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Perspective looking along main Blaxland Road frontage towards the north



Perspective of Blaxland Road frontage

The design adopts the visual cues found in the locality and is informed by its context which includes the shops fronting Blaxland Road. The scale of the building is tempered by the contemporary design elements, external materials and colours proposed to provide visual interest and depth to the building. The departing scheme is one which achieves the overarching objectives of the *EP&A Act 1979* and allows for the orderly and economic use of the land and is in the public interest. The additional height is not discernible from Blaxland Road level nor does it add any additional overshadowing to neighbouring properties.

- 1.7 It is the applicant's submission that the aspects of the development are particular to the proposed development on the site. The site topography in particular creates design and layout challenges specific to this site. The non-compliance does not significantly add to the bulk or scale of the development. The proposal complies with the maximum FSR control being a measure of the building's bulk and scale. Reduced bulk to the rear of the development prevails where it will be welcomed by neighbours in Samuel Street.

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- 1.8 This application, unlike others, creates an opportunity which is in the public interest to create a new residential building and contribution to the housing stock in this accessible area. The subject proposal will provide a better relationship to the adjoining development which includes lands having varied zoning or deferred matters.
- 1.9 This 4.6 objection demonstrates that despite the breach of the relevant development standard the proposal is in the public interest within the meaning of c14.6(4)(a)(ii) as it is consistent with the objectives of the particular standard and the objectives for development within the zone.
- 1.10 More detailed discussion is contained within Section 3 of this report providing justification that sufficient environmental planning grounds exist to support the application. The proposal is therefore in the public interest.

2.0 RELEVANT CLAUSE TO BE VARIED

The relevant clause of RLEP 2014 to be varied is Clause 4.3 – Height of Building. Clause 4.3 relevantly provides:

4.3 Height of buildings

(1) *The objectives of this clause are as follows:*

The subject site is shown on LEP Map (HOB_004) as 11.5m ("L").



ITEM 2 (continued)

ATTACHMENT 2

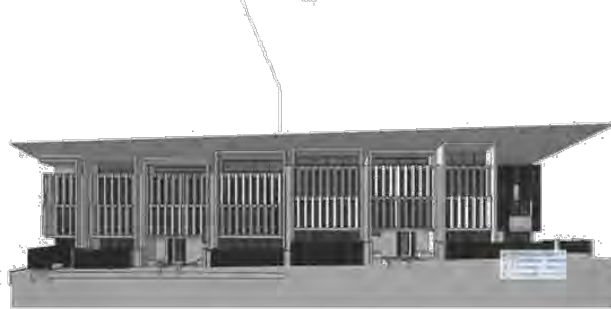
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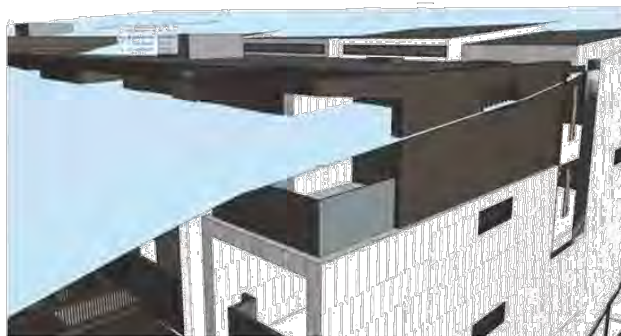
3.0 EXTENT OF THE VARIATION

The extent of the variation is shown in the images below prepared by FKM Architecture. At a maximum the variation is 1.4m. The extent of the variation at various part of the site is shown in the images below. At the rear of the site the building is 4m below the control.

1. Height compliant along all of Blaxland Rd street frontage



2. Southern apartment 503 - +1.4m at corner of roof



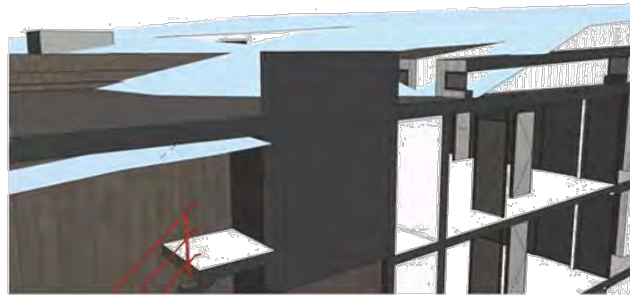
ITEM 2 (continued)

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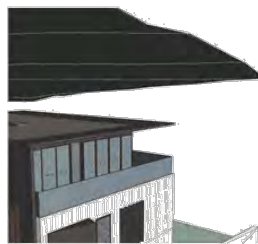
3. Lift Over Run South (not seen from other apartments, ground level) - +1.4m



4. Lift Over Run North (not seen from other apartments, ground level) - +0.89m



Rear of the site is 4m under the height plane as depicted below:



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4.0 CLAUSE 4.6 OF RLEP 2014

Clause 4.6 of RLEP 2014 is the relevant clause which allows a variation to the development standard. Clause 4.6 relevantly provides:

4.6 Exceptions to development standards

(1) *The objectives of this clause are as follows:*

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

(2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

(3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) *Development consent must not be granted for development that contravenes a development standard unless:*

(a) *the consent authority is satisfied that:*

- (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *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, and*
- (b) *the concurrence of the Secretary has been obtained.*

(5) *In deciding whether to grant concurrence, the Secretary must consider:*

- (a) *whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
- (b) *the public benefit of maintaining the development standard, and*
- (c) *any other matters required to be taken into consideration by the Secretary before granting concurrence.*

(6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*

- (a) *the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*
- (b) *the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.*

Note.

When this Plan was made it did not include all of these zones.

(7) *After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).*

(8) *This clause does not allow development consent to be granted for development that would contravene any of the following:*

- (a) *a development standard for complying development,*
- (b) *a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,*
- (c) *clause 5.4,*

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- (ca) clause 4.3, to the extent that it applies to the land identified as "Town Core" on the Ryde Town Centre Precincts Map,
- (cb) clause 4.1A, to the extent that it applies to the Torrens title subdivision of a dual occupancy (attached),
- (cc) clause 6.9.

Comment:

The applicant requests a variation under Clause 4.6 to the 11.5m maximum height of building standard under Clause 4.3 of RLEP 2014. Any variation request must justify the need to vary the particular development standard by considering the requirements of clause 4.6(4)(a)(i) and 4.6(4)(a)(ii). Our analysis in relation to each of these heads of consideration is provided below:

Clause 4.6(4)(a)(i)

The applicant's clause 4.6 request is to adequately address the following matters required to be demonstrated by sub-clause 4.6(3):

- that compliance with the development standard is unreasonable or unnecessary, in the circumstances of the case, and
- that there are sufficient environmental planning grounds to justify contravening the development standard.

Unreasonable or unnecessary (clause 4.6(3)(a))

Strict application of the 11.5m maximum height limit development standard (shown blue height plane on the perspective below) is considered to be unreasonable and unnecessary in the circumstances of the case.



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HOB height planes across the subject site

The analysis below demonstrates that the development achieves the objectives of the development standard and the zone objectives.

In addition to achieving those objectives, the development standard is considered to be unreasonable and unnecessary having regard to the individual circumstances of the case as it relates to the site. From an urban design perspective, the site is capable of supporting the development and warrants a relatively minor variation. Due to the slope of the site and the location of the non-compliance the additional height will not be discernible from any vantage point or private lands. The departing roof element is not located on an edge interface with a neighbour. The design and layout of the proposal is a desirable planning outcome which fits a site having a large cross fall (between 8 – 10m) and as such satisfies the sufficient environmental planning grounds test.

The site does not result in any isolation of adjoining smaller residential land parcels and does not unduly impact upon the adjoining low density residential properties.

The additional height is limited to the upper level, towards the middle of the site, located as the site falls from the street level. The areas of non-compliance are set well back from each street boundary. When viewing the building from Blaxland Road the development appears as two storeys. The development provides a natural step down the site. There are no edge effects of additional height along the boundaries. The side and rear boundaries are generous to provide more privacy and opportunity for larger trees and landscaping to grow and provide boundary delineation in the long term. Deep soil areas are achieved to the rear to support offset plantings.

Overall, the development provides a better planning outcome for the particular site and also the surrounding area in terms of streetscape, rhythm of development and visual fit based on the particular urban collective in which it is located.

The benefits described above also demonstrate that compliance with the development standard is unreasonable and unnecessary when considered in the context of the development surrounding the site.

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5.0 RELEVANT ENVIRONMENTAL PLANNING GROUNDS

Clause 4.6 requires there to be sufficient environmental planning grounds to justify contravening the development standard. The following justification is provided in support of the applicant's submission that environmental planning grounds exist for this particular development:

- Good visual fit and balance within the streetscape having regard to the desired future character of this area and particularly the Macquarie Park Corridor precinct adjoining the site. It is the ability to enhance the streetscape that provides an opportunity to justify a variation of the HOB control.
- Ability to provide a well mannered contextually appropriate building with no site isolation.
- Variation of the controls does not unreasonably add to the bulk and/or scale of the proposal. The HOB variation does not itself create any significant adverse impact in terms of bulk or scale.
- Acceptable amenity is provided to all adjoining sites and separation distances are appropriate.
- The submitted plans demonstrate how this development and likely future development will work together to create the new high-density neighbourhood that is envisaged for this area. The variation to HOB in this case works well within the parameters of creating that neighbourhood.
- The surrounding vegetated tree canopy provides a green edge/backdrop to the site
- The variation does not impose a burden on adjoining properties as a result of the variation.

4.1 Clause 4.6(4)(a)(ii)

Clause 4.6(4)(a)(ii) requires the applicant to demonstrate that the development is in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone.

In order to demonstrate that this is indeed the case we provide a review below of the relevant objectives of the standard and the objectives of the zone.

The relevant objectives are as follows and a comment is provided in relation to each objective demonstrating the adequacy of the proposal and the requested variation:

Unreasonable or unnecessary (clause 4.6(3)(a))

In dealing with the unreasonable and unnecessary test it has been established in planning principles to deal with the previous tests established under Whebe and Pittwater Council (test under superseded SEPP 1 provisions) as part of the assessment of the clause 4.6 variation. The relevant matters are identified and a comment is provided to those matters as they relate to the subject application:

Relevant Objective established in Whebe v Pittwater	Comment
(i) The objectives of the standard are achieved notwithstanding non-compliance with the standard	<p>The subject proposal with the requested cl. 4.6(2) objection to HOB satisfies the objectives of the standard (see further discussion within this Statement).</p> <p>On this basis the Council has the power to</p>



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	exercise its discretion and allow for the height variation.
<i>(ii) the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary</i>	<p>The objectives of the standard remain relevant notwithstanding that the proposed development is non-compliant.</p> <p>Following a review of the specific HOB objectives the proposal satisfies those objectives.</p> <p>The non-compliance in this case is the direct result of the slope of the site ie 8-10m drop from front to rear boundary. The non-compliance is relatively minor as the architect has stepped the development, thereby enabling the majority of the development to be compliant and limiting the variation towards the centre of the site – where the step in the development occurs. The bulk and scale at the rear is reduced to below the maximum to minimise perceived impacts of the additional built form 8 or more metres from the rear boundary.</p> <p>Having regard to the above Council has the power to exercise its discretion and allow for the variation.</p>
<i>(iii) the underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable</i>	The zoning of the land is R4 High Density Residential, allowing the proposed density of units proposed (noting that the FSR for the development is compliant). Strict compliance with the 11.5m HOB standard would require a major redesign of the development, loss of yield and under utilisation of the site.
<i>(iv) the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; and</i>	Whilst we have not reviewed Council register of variations this clause is not relied upon at this time to justify the variation.
<i>(v) the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.</i>	The zoning is appropriate and this objective is not relied upon to justify the variation.

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4.2 Clause 4.3 height of Buildings

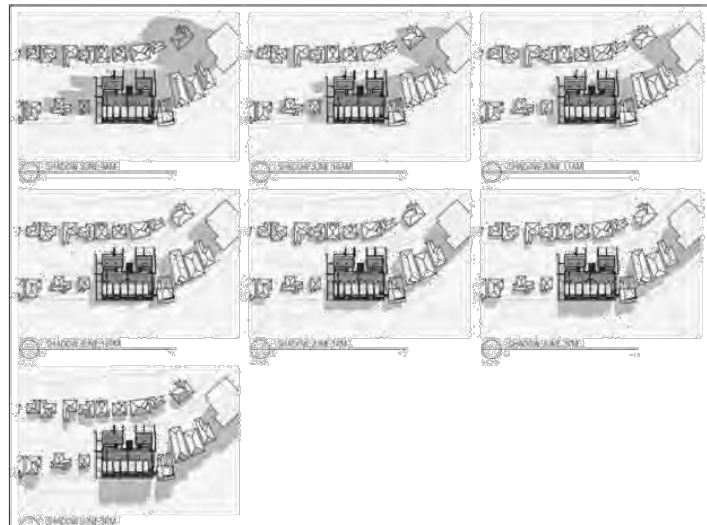
The objectives of clause 4.3 are as follows:

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

Planning principles have established that in order for a development to be compatible it does not necessarily need to be the same (Project Ventures v Pittwater Council). There is no potential for this development to have a jarring effect in the streetscape. Instead the built form emulates the established residential and shop themes. The streetscape character is enhanced due to the redevelopment of this site. The design, layout and form of the new development breaks down the scale of the facades as does the use of the proposed external building materials, colours and finishes together with the retention of the mature trees that soften and screen the development.

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

The shadow diagrams submitted as part of the DA plan set demonstrate that the development is well oriented in terms of overshadowing of the adjoining residential properties. The immediate neighbour to the south is the most impacted, however shade in mid-winter only affects the site between 9am and 12 noon and then only one side of the house at noon. By afternoon the house and its surrounds receive direct sunlight. No other sites are impacted to any significant degree. The following is an extract of the shadow diagrams. Due to the small scale refer to the DA plan set.



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



ITEM 2 (continued)

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The site is well located in terms of access to bus stops along Blaxland Road and Delvin Street – in both directions. It is also walkable distance to Top Ryde Shopping Centre and Town Centre.

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

The subject proposal does not impact on adjoining development. The site is located so that its relationship to the adjoining sites is exceptional in terms of zoning, development standards, existing and likely future development. The site adjoins the following:

- North-east: R4 High Density Residential
- West and south-west: R2 Low Density Residential
- East: B4 Mixed Use – Ryde Town Centre
- South-east: Deferred matter

As noted above, the R4 residential development is located to the north of site and is not affected by overshadowing. Shadow impacts to the southern neighbour (No. 174) are shown to be acceptable.

(e) to emphasise road frontages along road corridors

The maximum height of development permissible in the immediate area is 11.5m for the R4 High Density Residential Development along Blaxland Road.

The proposed built form is reflective of the high-density zoning of the land and appropriate for the site's location. The built form proposed for this site mediates between the residential areas adjoining the arterial road and the shopping and commercial centre opposite. The proposal development has better alignment with current strategic planning policies designed to locate housing along transport links policies than the existing youth hall and dwelling. The site is ideally sited in proximity to a major shopping centre as well as bus links.

4.3 Enquiry into Zone Objectives

An enquiry is now made in relation to the ability of the proposal, as one departing from the HOB standard, to reasonably satisfy the stated objectives of the zone.

Objectives of zone

- *To provide for the housing needs of the community within a high-density residential environment.*
- *To provide a variety of housing types within a high-density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The following provides a review of the zone objectives:

- *To provide for the housing needs of the community within a high-density residential environment.*

The proposal achieves the stated objectives by providing additional housing on land which permits this type and scale of residential development. The existing development on the site comprises only one single dwelling house – a significant underdevelopment of the development site.

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The proposal offers genuine housing, in an accessible area. The site is an easy walk to the local services and facilities, including public transport along both Blaxland Road and Devlin Street. The objective is achieved.

- *To provide a variety of housing types within a high-density residential environment.*

The proposal is designed to provide one, two and three bedroom units in an area where a variety of households dominate the population profile of the area. The proposal changes the onsite accommodation from one dwelling to thirty-seven (37) apartments providing increased choice in a high-density residential environment. The objective is achieved.

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

N/A. The proposal comprises the redevelopment of the site as residential.

6.0 SUMMARY

The following provides a summary of the key benefits of this particular proposal so as to ensure the development satisfies the sufficient environmental planning grounds test and is therefore in the public interest because:

- The development satisfies the zone objectives;
- The development satisfies the HOB objectives;
- The variation to the HOB development standard of 1.4m maximum does not unreasonably add to the bulk and/or scale of the building when viewed from Blaxland Road, or further afield.
- Enables less bulk to be cited to the rear of the site thus reducing perceived impacts on neighbours in Samuel Street;
- The variation is a function of the specific characteristics of this site and does not apply to all sites within the R4 High Density Residential zone or the 11.5m height control area.
- At the rear of the site the built form is 4m below the control.
- It provides a built form which complements the future desired character and the locational context of the area. In order to be compatible, the built form does not necessarily need to be the same.
- The scale of development proposed is anticipated for this area. There is a sound urban design rationale for the additional height on this particular site.
- The building design includes good quality design elements, layout and provision of facilities for residents while not compromising the amenity and future character of the area.
- The proposal does not adversely impact on existing or likely future development in the immediate area.
- The variation does not burden or unnecessarily restrict development on adjoining sites.
- The site has a cross fall which contributes to the likelihood of the site breaching the height control
- The proposal complies with the other RLEP and SEPP 65 requirements and/or guidelines.
- The development uses the unique opportunity available on the site to provide a desirable urban form that enhances the established residential themes for the area.
- The HOB departure does not itself create any significant adverse impact by way of privacy or bulk and scale protruding into adjoining properties.
- The impacts on adjoining sites is minimal due to the locational context of the site –.

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- The variation does not impose on any adjoining property or result in reduced development potential or amenity loss.
- The variation sought is relatively minor and as detailed above fits the “sufficient environmental planning grounds” test. There is no limit to the extent of variation Council can apply in the circumstances as the court has established the power to grant variations is discretionary.

3 20 MAY STREET, EASTWOOD - CONSTRUCTION OF A THREE STOREY RESIDENTIAL APARTMENT BUILDING CONTAINING SIX APARTMENTS WITH ASSOCIATED BASEMENT PARKING FOR EIGHT VEHICLES - LDA2018/0244

Report prepared by: Acting Senior Coordinator - Major Development

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

Report dated: 31/05/2019 **File Number:** GRP/09/6/12/1/2 - BP19/631

**City of Ryde
Local Planning Panel Report**

DA Number	LDA 2018/0244
Street Address & Ward	20 May Street, Eastwood West Ward
Zoning	R4 High Density Residential under RLEP 2014
Proposed Development	Construction of 3 storey residential apartment building containing 6 apartments with associated basement parking for 8 vehicles.
Owner	Zhou S Mei & Yu S Mei
Applicant	Just Property & Planning
Report Author	Sandra McCarry - Senior Town Planner
Lodgement Date	15 June 2018
Number of Submissions	1 st round of notification: 4 submissions received. 2 nd round of notification: 1 submission received.
Cost of Works	\$1,936,605.00
Reason for Referral to Local Planning Panel	Sensitive Development - SEPP 65 applies
Recommendation	Approval
Attachments	Attachment 1: Draft conditions of consent Attachment 2: Clause 4.6 Variation Attachment 3: Amended Plans

ITEM 3 (continued)

1. Executive Summary

The following report is an assessment of a development application for the construction of a three (3) storey residential apartment building at No. 20 May Street Eastwood.

The development application (as amended) proposes the demolition of an existing building and the construction of a residential apartment building containing six (6) residential units (comprising 4 x 2 bedroom and 2 x 3 bedroom) with basement car parking for eight (8) vehicles. The application also includes associate landscape works.

During the 1st notification period (22 June to 18 July 2018) Council received four (4) submissions raising concerns about the proposed development. Issues raised in the submissions included concerns of insufficient parking, traffic impact and potential damage to neighbouring property during construction and noise impact.

Amended plans were received on 21 February 2019 and surrounding properties were re-notified accordingly. During the 2nd notification period (21 February to 11 March 2019) Council received one (1) submission which raised concerns regarding noise impact, dust generated by the construction works and community safety.

The proposal amended the side setbacks, reduced the extent of protrusion of the basement carpark, deleted bedroom windows along the western elevation, provided angled ('ear' windows) with 1.6m window sill height and relocated the communal open space to the roof.

The above amendments are in accordance with some of the recommendations made by the Ryde Urban Design Review Panel (UDRP).

The proposal has been found to generally comply with State and Council controls with exception to a maximum variation of 9.3% to the permitted building height, building separation and setbacks.

These non-compliances are considered to be acceptable given the context of the development as discussed in the body of this report. The development fully complies with the floor space ratio and provides adequate amenity to future residents whilst maintaining the residential amenity of surrounding properties.

Assessment of the amended application against the relevant planning framework, and consideration of various design matters by Council's technical departments have not identified any fundamental issues of concern such that the application should be refused.

Consequently, this report concludes the application to be sound in terms of its design, function, and relationship with its neighbours and is recommended for approval.

ITEM 3 (continued)

Council's Senior Development Engineer has advised that the stormwater plans nominated an easement to drain water through 1 Ball Street, Eastwood. Documentations have been submitted with the application to show that negotiations between the properties have been conducted and the consent is configured as a deferred commencement warranting the registration of the easement before the consent is activated as well as detailed plans for Council review.

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

2. The Site and Locality

The development site is legally described as Lot 1 in DP 9665774 and has a site area of 674.4m².

It is a regular shaped allotment with a 13.4m frontage to May Street, depth of 50.29m with an approximate 3m fall towards the back of the site.

The site accommodates a single storey dwelling house with a side carport which is accessed from May Street. It is worth noting that this is the only remaining detached dwelling house within the street block.

The adjoining properties, to the west, east and north of the site comprise of older style, strata, three storey walk-up residential apartment buildings.

Figure 1 below shows the site in context to its surroundings.



ITEM 3 (continued)

Figure 1 - Aerial photo of subject site.

Figure 2 below shows the site as viewed from the street.

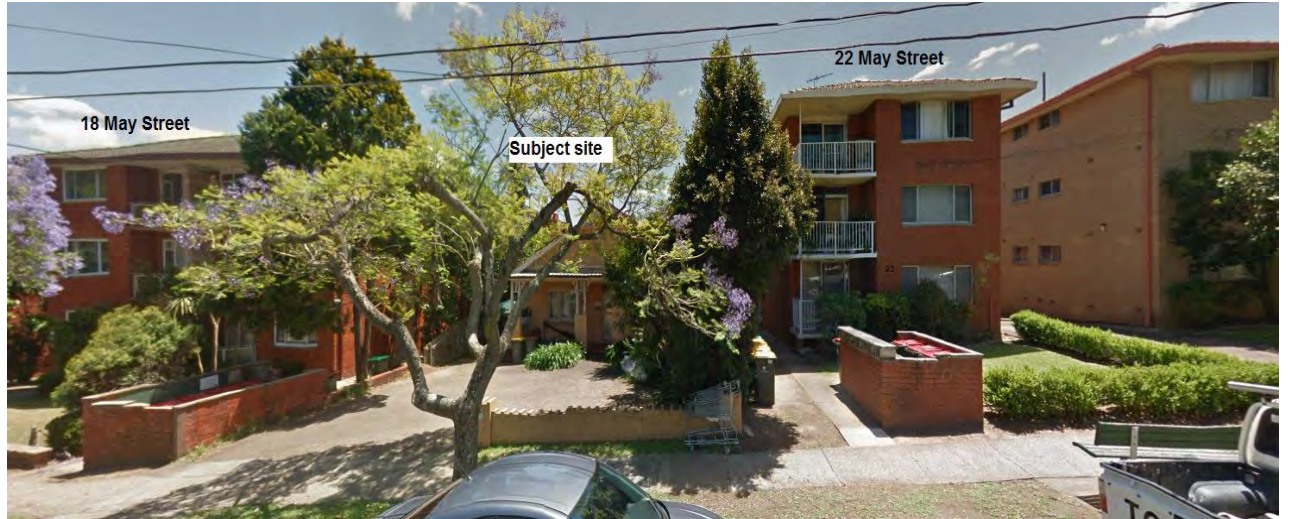


Figure 2 - Streetscape along May Street.

3. The Proposal

It is proposed to demolish the existing building and construct a residential apartment building comprising of six (6) residential apartments consisting of 4 x 2 bedroom units (66.7%) and 2 x 3 bedroom units (33.3%).

The proposed building is 3 storeys with a single storey basement carpark. Pedestrian access to the development is from May Street on the south western side of the site along a side pathway. Vehicular access is located from the south eastern side of the site from May Street.

Figure 3 below provides a photomontage of the development.

ITEM 3 (continued)



Figure 3 - Photomontage of proposed development, as viewed from May Street.

Figure 4 below shows detail from the Landscape Plan.

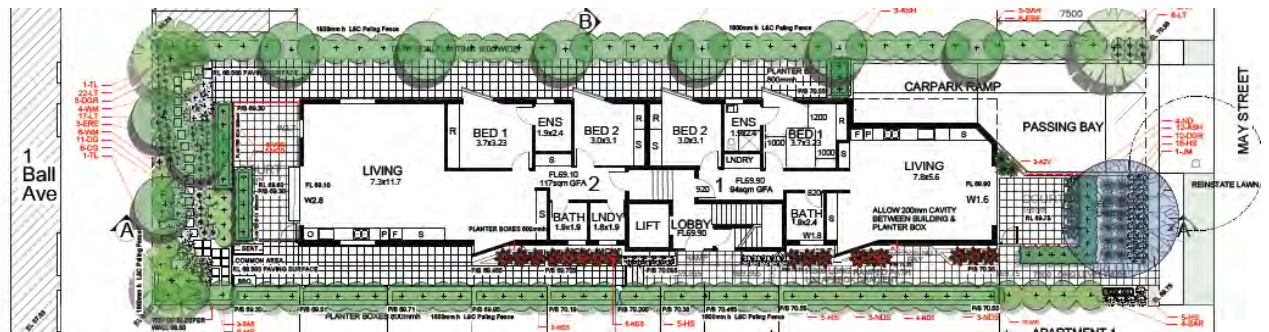


Figure 4 – Landscape scheme.

4. Background

The application was lodged with Council on 15 June 2018.

A letter was sent to the applicant on 25 June 2018 which identified various issues with the application. These issues included:

- Building separation and setbacks. Not compliant with the Clause 3F of the *Apartment Design Guideline* (ADG) and advised that due to the narrow geometry of the site, a minimum setback of 3m is required.
- Car parking. Not compliant with Part 9.3 of the *Ryde Development Control Plan 2014* with a shortfall of two parking spaces.

ITEM 3 (continued)

- Request for architectural plans to include front and rear boundaries on the plans, provide cross sections of the building and submit GFA and solar and cross ventilation diagrams to demonstrate compliance.

On 24 July 2018 the proposal was reviewed by Ryde Urban Design Review Panel (UDRP). The UDRP advised that the proposal was to be amended to address the following issues:

- Insufficient separation and setback to achieve privacy and amenity. Length of building too long with the rear portion of the basement extending too far out of the ground.
- The communal open space should not be provided at the rear but rather on the front portion of the building at roof level.
- No separation provided to the vehicle ramp and side boundary.
- No access provided from the central core from Unit 1. This unit should have access both from the core and from the street.
- The side entrance is not supported.
- The panel recommends breaking the building into two so that a central courtyard can supplement outlook opportunities to the street and rear courtyard.
- Unit 1 living room windows overlook the driveway ramp and should be deleted.

Amended plans were submitted on 10 February 2019 which addressed the following:

- Increased the side and rear setbacks.
- The rear portion of the basement reduced in height from 1m to 400mm.
- Communal open space provided on the roof top (this has resulted in a non-compliance with the height due to the lift over run. A Clause 4.6 variation has been submitted with respect to a maximum variation of 9.3%).
- Amended landscaping plans with side landscaping.
- Unit 1 is provided with pedestrian access from the central core as well as from the street.
- Deletion of side bedroom windows along the western elevation. Provision of protruding “ear windows” with sill heights of 1.6m along the eastern elevation.
- Amendment to the car parking layout.
- Reduction in number of bedrooms, the unit mix changed to 4 x 2 bedroom and 2 x 3 bedroom units resulting in compliance with the car parking requirements.

A desktop review of the amended plans was undertaken by the UDRP on 12 March 2019 and the UDRP comments are discussed in detail later in this report.

The amended plans submitted to Council on 10 February 2019 were renotified and one (1) submission was received.

ITEM 3 (continued)**5. Planning Assessment**

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

- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy (Building Sustainability Index: BASIX);
- Deemed SEPP – Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Ryde Local Environmental Plan 2014;
- Ryde Development Control Plan 2014:
 - Part 7.2 Waste Minimisation and Management;
 - Part 9.2 Access People with Disabilities; and
 - Part 9.3 Car Parking.
- Section 7.11 Contribution Plan.

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

The requirements of the SEPP apply to the subject site.

In accordance with Clause 7 of the SEPP, Council must consider if the land is contaminated, if it is contaminated whether it is suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed development.

Currently the site contains a single storey residential dwelling house. The applicant has advised:

“The site is not identified in Council’s records as being contaminated or is declared to be an investigation area under Division 2, Part 3 of the Contaminated Land Management Act 1997 in the Section 149 Planning Certificate.

Also, the site is not known to have a history of previous land uses that may have caused contamination under Table 1 ‘Some Activities that may cause Contamination’ of Contaminated Land Planning Guidelines.

As such, the site is highly unlikely to be contaminated and consequently a preliminary contamination assessment is not warranted. The proposal is satisfactory having regard to the relevant matters for consideration under SEPP 55 and the site is suitable for higher density residential use without the need for remediation works.”

ITEM 3 (continued)

A search of Council's records and mapping confirms that the site has continuously been used as a dwelling house with no history of suspected contamination.

Council's Environmental Health Officer has also advised that, given that the site has been continuously used for residential with no history of unauthorised fill, further investigation is not required.

Standard conditions have been imposed, with regard to discovery of additional information (see **Conditions 34 & 35**).

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

The SEPP aims to improve the design quality of residential flat development.

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

- Urban Design Review Panel;
- The SEPP 65 Design Quality Principles; and
- The Apartment Design Guide.

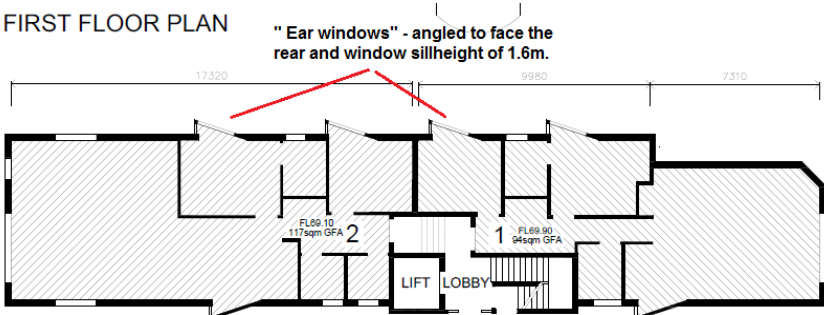
Ryde Urban Design Review Panel (UDRP)

The proposal was reviewed by the UDRP on 17 May 2017 prior to lodgement. After lodgement of the application, the UDRP again reviewed the proposal on 24 July 2018 and again on 12 March 2019 due to amended plans being submitted.

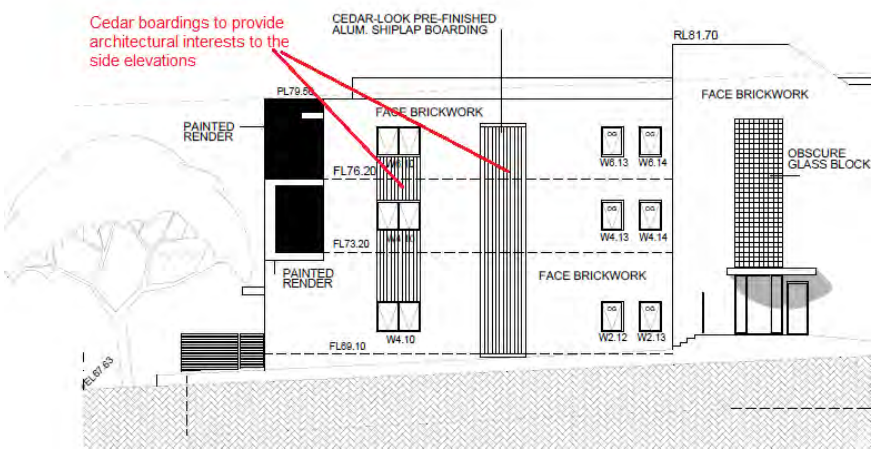
Below details the UDRP's comments of 12 March 2019 and how the proposal has responded to their comments.

Design Quality Principle	UDRP and Assessing Officer Comments
<p>1. Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the</p>	<p><u>UDRP Comments</u></p> <p><i>This is the third time that the Panel has reviewed drawings for this site. The site is located in an established medium density neighbourhood adjacent to the Eastwood Town Centre and is the last remaining dwelling house lot. This results in a constrained lot due to the narrow site width and small site area.</i></p> <p><i>The developments to either side of this lot are 3 storey walk-up apartments with setbacks of 3.475m to the west and 3.04m for the units to the eastern boundary. Both developments on adjacent lots have habitable rooms facing towards the side boundary.</i></p> <p><i>The site is zoned R4 High Density with an FSR of 1:1 and a height limit of 11.5m.</i></p> <p><i>As mentioned in both the previous Panel meetings and minutes the</i></p>


ITEM 3 (continued)

Design Quality Principle	UDRP and Assessing Officer Comments
<p>desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p><i>constraints of the site size and the proximity of the adjacent units will limit the development options available for the site and its consequent density. The Panel reiterates that the site is unlikely to be able to sustain the permissible FSR and achieve an acceptable response to the context and amenity.</i></p> <p><u>Assessing Officer Comments</u> The proposal is for a 3 storey residential apartment building and has been amended to provide a 3m side setback and generally complies with the relevant controls, albeit a variation to the height for the lift over run. The number of bedroom in the units have been reduced from 2 x 2 bedroom and 4 x 3 bedroom units to 4 x 2 bedroom and 2 x 3 bedroom units with the proposal now complying with the parking requirement.</p> <p>The proposal has been amended to provide a better interface with the adjoining sites with the proposal responding to the streetscape. The development is not considered to be out of context with the adjoining properties on either side which comprises of 3 storey walk up residential apartment buildings with similar side setbacks.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>
<p>2. Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</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><u>UDRP Comments</u> <i>The amended plans have addressed the following concerns:</i></p> <ul style="list-style-type: none"> • <i>3m setbacks have been provided with 'ear windows' to side boundaries [See Figure 5 below]</i> <p>FIRST FLOOR PLAN</p> <p>"Ear windows" - angled to face the rear and window sillheight of 1.6m.</p>  <p>Figure 5 – Detail of proposed ear windows.</p> <ul style="list-style-type: none"> • <i>2 units per floor are provided which does not address the 2 building option but assists with the privacy impacts of the previous scheme</i> • <i>The rear portion of the basement is still above ground but the extent of protrusion is reduced, however the extent to which the basement extends beyond the building is not acceptable.</i> • <i>A separation of 7.36m is now provided to the rear boundary – in combination with the setback to the building to the rear of the site 12m is achieved and is considered acceptable.</i> • <i>The communal open space has been removed from the rear of the site but now appears to be shown in a very narrow space along the side boundary. This space is unusable and is not supported.</i> • <i>However open space is now shown on the roof of the building. This results in a height non-compliance which would require a Clause 4.6</i>

ITEM 3 (continued)

Design Quality Principle	UDRP and Assessing Officer Comments
	<p><i>application.</i></p> <ul style="list-style-type: none"> • Some separation is now provided to the vehicle ramp to allow for some landscape along the ramp however the entire length of the ramp is exposed which will create vehicle noise and an adverse impact to the streetscape. • Access is now provided from the central core (which connects to the garage) from Unit 1. <p><i>The following issues have not been addressed:</i></p> <ul style="list-style-type: none"> • The building envelope still extends beyond the predominant rear setback lines of adjacent development without providing any visual relief. • The side entry is still provided which is not supported by the panel and still creates safety issues with a poor address. <p><u>Assessing Officer Comments</u></p> <p>The proposal has been amended with the rear basement and courtyard lowered. The rear courtyard has also been reduced in size and is now setback 4m from the rear boundary. The proposal has also amended the basement to allow for more deep soil planting at the rear and side which is considered satisfactory.</p> <p>Whilst the building envelope still extends beyond the adjacent buildings, the proposal complies with the rear setback requirement, providing a setback of 7.3m for the building. The section that extends beyond the adjacent buildings, the applicant has provided architectural interests by providing 'cedar looking boarding panels' to the side elevations, as illustrated in Figure 6 below.</p>  <p>Figure 6 - Side elevation detailing architectural features.</p> <p>In addition, the surrounding area consists of predominantly 3 storey walk up residential flat buildings of various lengths with the building at 14 – 14A May Street extending beyond the adjacent buildings, as shown in Figure 7 below.</p>

ITEM 3 (continued)

Design Quality Principle	UDRP and Assessing Officer Comments
	 <p>Figure 7 - Aerial view showing other buildings extending past the building zone (14-14A May Street).</p> <p>With respect to the side entry, Council has supported similar 3 to 4 storey residential flat buildings on narrow lots with a side entrance. The issue of safety can be address with conditions requiring automatic lighting along the side pathway and deletion of any concealment area. In this respect, a pedestrian passing bay is proposed along the side pathway however given that the distance from the front to the side entry is approximately 21m with a 1m wide pathway, the passing bay is not essential and to prevent concealment opportunities the passing bay is to be deleted. See Condition 1(f).</p> <p>The concern about poor street address can be addressed by imposition of a condition requiring the entry to the front unit courtyard (unit 1) being relocated to face the street. Currently, it is proposed to have a side entry to Unit 1’s courtyard area via a side gate. To provide a sense of address for the development, Condition 1(e) has been imposed requiring the side entry to Unit 1 courtyard being relocated to the front with the courtyard front fence being amended to a picket type fencing to allow for passive surveillance to May Street. To ensure that privacy is provided to the courtyard, the setback to the courtyard from the front boundary should be increased from 3.2m to 4m. This is similar to what have recently been approved around the corner at 598 Blaxland Road Eastwood (via LDA 2018/90). See Condition 1(e).</p> <p>It is noted that the amended proposal has resulted in a height non-compliance. This is a result of locating the common open space to the roof area however the extent of non-compliant is only for the lift over run and stairwell located in the centre of the building. The variation is supported by Council (see full discussion further in this report).</p> <p>The development (as amended) is considered to satisfy this Principle.</p>
<p>3. Density</p> <p>Good design achieves a high</p>	<p><u>UDRP Comments</u></p> <p><i>The side and rear setbacks have been improved. However the issue with the exposed ramp and side entry suggest that the proposal is still too</i></p>


ITEM 3 (continued)

Design Quality Principle	UDRP and Assessing Officer Comments
<p>level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p><i>dense. Unit 1 should be amended to a studio unit to enable a direct entry to the development from the lobby to the street and visual connection between the two whilst also allowing the car ramp to sit underneath the building.</i></p> <p><i>The basement also extends beyond the building towards the rear which impacts the ability to achieve quality landscape outcomes (exacerbated by the building length) and further indicates the proposal is still too dense as a reduction in car parking spaces would shift the basement back towards the building.</i></p> <p><i>The lack of any side deep soil to the west also suggests an issue. This could be addressed by a reduced aisle width down to 5.8m clear which would enable at least some deep soil for hedging.</i></p> <p><i>It is also noted that the apartments are well in excess of the ADG minimums which is positive but this should not occur at the expense of providing increased setbacks, particularly to the rear of the site and opposite balconies of other adjacent developments.</i></p> <p><u>Assessing Officer Comments</u> The proposal complies with the floor space ratio (FSR) and parking controls with the rear of the building complying with the rear setback requirement. The proposal is not dissimilar to another development located on the street (i.e. at 14 May Street).</p> <p>Council's Consultant Landscape Architect has reviewed the amended plans and, subject to conditions to relocate the BBQ and seating area, the landscaping scheme is considered to be acceptable. The proposal has provided perimeter landscaping around the site and complies with communal open space and deep soil zone requirements.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>
<p>4. Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and</p>	<p><u>UDRP Comments</u> <i>Sustainability measures have still not been addressed. Compliance with the sustainability measures in the ADG and Basix will ensure a reasonable outcome.</i></p> <p><i>Views from the sun should be provided to demonstrate compliance with the ADG in terms of both solar access and overshadowing impacts.</i></p> <p><u>Assessing Officer Comments</u> The applicant has provided a BASIX Certificate which indicates that the building will meet the energy and water use targets set by the BASIX SEPP.</p> <p>Shadow diagrams have been submitted which shows that the adjacent properties are able to receive the required solar access.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>

ITEM 3 (continued)

Design Quality Principle	UDRP and Assessing Officer Comments
vegetation.	
<p>5. Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p><u>UDRP Comments</u></p> <p><i>No landscape concept was provided with the submission.</i></p> <p><i>The Panel notes that there is now deep soil to one side boundary but not the other. A reduction in the basement extent to the rear and the aisle width of the basement could assist with more deep soil along the side and rear to ameliorate the building length.</i></p> <p><i>The communal open space on the roof is positive but is resulting in a Cl 4.6 issue. There is also a potential privacy impact from the proximity of the open space to the edges of the building. Landscape should be provided to the building edges adjacent to the side boundaries with a minimum width of 2m to move viewers back from the building edge.</i></p> <p><i>The front setback should be heavily landscaped and fencing to the ground floor unit to the street should be a maximum of 1m high to allow passive surveillance.</i></p> <p><i>Removal of the side entry to provide a lobby to the frontage will enable the side boundary to be fully landscaped improving the interface to the adjacent development.</i></p> <p><u>Assessing Officer Comments</u></p> <p>The development complies with the required deep soil area. The proposal has amended the basement and rear courtyard area to allow for more deep soil planting at the rear.</p> <p>The development has provided two communal areas, one on the ground floor and the other on the rooftop. However it is proposed to provide a BBQ and seating area directly adjacent to the Unit 2 POS area. This will result in impacts to acoustic privacy for the residents of Unit 2. Conditions 1(b) & 1(c) have been imposed to relocate the seating and BBQ to the roof top area.</p> <p>Amended landscape plan has been submitted and Council's Landscape Consultant has reviewed the amended landscaping plans and subject to Conditions 1(b), 1(c) and 1(d) the plans are considered satisfactory. The amended plans have also set the rooftop terrace 1.2m off the building edge with a 1.2m wide strip of landscaping around the perimeter of the rooftop terrace.</p> <p>Condition 1(e) has also been imposed requiring the courtyard fence of Unit 1 to be a picket type fence to allow for passive surveillance to May Street.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>
<p>6. Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving</p>	<p><u>UDRP Comments</u></p> <p><i>The location of the side entry along the boundary still creates adverse acoustic and privacy impacts to the adjacent development. A central entry point should be provided.</i></p> <p><u>Assessing Officer Comments</u></p>

ITEM 3 (continued)

Design Quality Principle	UDRP and Assessing Officer Comments
<p>good amenity contributes to positive living environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The side entrance to the development is located along the western elevation. Along the western elevation is an existing 1.8m high lapped and capped fence which is to remain. In addition the adjacent property has a row of large established trees along it common boundary with the subject site, see Figure 8 below.</p>  <p>Figure 8 – No. 18 May Street side (common) boundary with the subject site. Existing established landscaped area and 1.8m high lapped and capped fence will screen the proposed side entrance.</p> <p>The established landscaping, the existing boundary fence and proposed landscaping on site will minimise any private and acoustic impacts from the proposed side entrance. It should be noted that the adjacent property also has a side entry to the building.</p> <p>Adequate privacy measures are proposed to ensure that there will be minimal opportunities for overlooking between units, the communal open space and neighbouring development. This issue has been discussed in greater detail in the Apartment Design Guide.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>
<p>7. Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that</p>	<p><u>UDRP Comments</u> <i>The side entry creates potential safety issues as there are no view lines from the lobby to the street and the distance to the street is considerable.</i></p> <p><u>Assessing Officer Comments</u> The development has clearly defined the public and private spaces within the development. Passive surveillance over the public domain areas will</p>

ITEM 3 (continued)

Design Quality Principle	UDRP and Assessing Officer Comments
<p>are clearly defined and fit for the intended purpose.</p> <p>Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>be possible from the front unit overlooking May Street, See Condition 1(e). The development also provides secure access points to the site and car park entry.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>
<p>8. Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p><u>UDRP Comments</u> <i>Unit 1 should be amended to a studio to enable the ramp to move under the building and a front entry to be provided which will assist with diversity as well.</i></p> <p><u>Assessing Officer Comments</u> The proposal is for 6 apartments of 4 x 2 bedroom and 2 x 3 bedroom units. Whilst no 1 bedroom or studio apartments are proposed, the development is in response to current housing demand and responds to the need for economic housing choice within an area with good public transport access, social and commercial facilities.</p> <p>In addition, the submitted Access Report prepared by Assistive Technology Australia Access states that 2 units have been designated as being designed to meet the Liveable Housing Design Guidelines (LHDG) silver level. This will provide flexible, versatile and cost effective designs to meet the changing needs of occupants over their lifetimes.</p> <p>The driveway ramp has not been not changed however Council have no objection to the ramp in this location as it is setback from the boundary and as advised above under "Amenity" the location of the entry is considered appropriate. In addition, Condition 1(e) has been imposed requiring the side entry to Unit 1 courtyard to be relocated to the front of the courtyard. This will help provide a sense of address and a front entry.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>
<p>9. Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p>	<p><u>UDRP Comments</u> <i>White grout should not be used but a coloured grout provided closer to the colour of the bricks.</i></p> <p><i>Window frames should be amended to colour: Dulux Monument to make them more recessive in the architecture and brown rendered elements would be better in charcoal colour as well. Care must be taken with detailing these elements and where box forms are proposed they should be real cubic elements and complete with a projection beyond the face of the brickwork.</i></p>

ITEM 3 (continued)

Design Quality Principle	UDRP and Assessing Officer Comments
The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	<p><i>No side montages are provided and are necessary to assess the visual interest and articulation.</i></p> <p><u>Assessing Officer Comments</u> The above have been imposed as conditions. See Condition 1(g). Overall, the aesthetic is contemporary and refined.</p> <p>The development (as amended) is considered to satisfy this Principle.</p>

Apartment Design Guide (ADG)

The SEPP also requires the Consent Authority to take into consideration the requirements of the ADG with regard to the proposed residential apartment building.

The following table addresses the relevant matters.

Clause	Proposal	Compliance
<p>Part 2 - Development Controls Note: This part explains the application of building envelopes and primary controls including building height, floor space ratio, building depth, separation and setbacks. It provides tools to support the strategic planning process when preparing planning controls. It is used here only to ascertain degrees of compliance with the most applied controls under Parts 3 and 4 later in this table.</p>		
<p>2E - Building Depth</p> <p>Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.</p>	<p>The development is a narrow infill development on a deep and narrow block.</p> <p>As a response to the dimensions of the site, the depth of the apartment is 7.5m.</p>	<p>Yes</p>
<p>2F - Building Separation</p> <p>Minimum separation distances for buildings up to 4 storeys should be:</p> <ul style="list-style-type: none"> • 12m between habitable rooms / balconies • 9m between habitable / balconies and non-habitable rooms • 6m between non-habitable rooms. 	<p>The adjoining sites on the western, eastern and southern boundaries contain 3 storey RFBs.</p> <p>Based on a 3 storey building the development should provide a 12m separation distance. Applying half the minimum separation distance required by the ADG results in a required setback to the boundary of 6m.</p> <p>The development has provided a predominant setback of 3m along the side eastern and western boundaries with minor encroachment down to 2.7m for the “ear” windows and the side stair well.</p> <p>The subject site is 13.4m wide and 50.2m long surrounded by 3 storey walk up residential flat buildings. Adhering to a minimal 6m setback on a site with such a narrow width would render the site undevelopable for medium density purposes, particularly given that future amalgamation is highly unlikely given the predominance of established strata developments surrounding the site.</p>	<p>No Variation acceptable.</p>

ITEM 3 (continued)

Clause	Proposal	Compliance
	<p>Accordingly, consideration has been given to reducing the setbacks along the side boundaries to 3m, provided there are no overlooking impacts and architectural relief is provided.</p> <p>The building separation between this development and the 4 storey building at No. 18 May Street is 6m.</p> <p>At No. 22 May Street, the separation is approximately 6m and the rear property at No. 1 Ball Avenue, the building separation is approximately 11.5m.</p> <p><u>Western Boundary (18 May Street)</u> The adjoining building at 18 May Street is setback 3m from the common boundary.</p> <p>Along the western elevation, a 3m setback is proposed with a slight encroachment to 2.7m for the side lobby area and the “ear” windows. This is considered acceptable as the “ear” windows prevent overlooking from the apartments living area to the adjoining property and provide some architectural relief.</p> <p>The development proposes similar setbacks as the adjoining property and has minimised overlooking with the main living area orientated to the front and rear.</p> <p><u>Eastern Boundary (22 May Street).</u> Along the eastern elevation, the building is setback 3m with “ear” windows encroaching to 2.7m.</p> <p>The adjoining building at 22 May Street is setback 3m from the common boundary.</p> <p>Bedroom and ensuite windows and one ground floor living room windows are proposed along this elevation. The bedroom windows have angle window screens to alleviate any overlooking. The UDRP has raised no objections to these “ear” windows</p> <p>The ground floor living window is not considered to pose any overlooking issue as currently there is an existing 1.8m high colour bond fence and landscaping with mature height of 1.5m and 2.5m. Furthermore the window faces the adjacent property rear car parking area.</p>	

ITEM 3 (continued)

Clause	Proposal	Compliance
	<p>Accordingly, the proposed variation of a 3m setback is not considered to adversely impact on the adjoining property in terms of overlooking.</p> <p><u>Northern boundary (1 Ball Avenue).</u> Along the northern (rear) elevation, a 7.3m setback for the building is proposed. However on the ground floor a raised courtyard (0-400mm off the ground) is proposed within the setback. The courtyard is setback 3.8m from the rear boundary and enclosed with a privacy screen.</p> <p>No. 1 Ball Avenue has a setback of approximately 4.7m from the common boundary therefore the building separation is 12m.</p> <p>The proposed development will have rear balconies facing No. 1 Ball Avenue which have living and bedroom windows facing the subject site.</p> <p>To ensure that privacy is maintained to the windows at No. 1 Ball Avenue, a condition of consent has been imposed to require a privacy screen on the rear balconies of Units 4 & 6. See Condition 1(a).</p> <p>Given the site constraints, any new infill development proposed for this site will present overlooking opportunity. As such, privacy impacts to the adjoining properties have been carefully considered and all apartments have been orientated to the front and back of the site. Side (west and east) facing windows have been carefully treated with angled outlook to face the rear with appropriate sill heights to maintain the privacy for the existing neighbouring apartments.</p>	
<p>2G – Street Setbacks</p> <p>See discussion under the relevant Development Control Plan.</p> <p>Determine street setback controls relative to the desired streetscape and building forms, for example:</p> <ul style="list-style-type: none"> • define a future streetscape with the front building line • match existing development • step back from special buildings • retain significant trees • in centres the street setback may need to be consistent to reinforce 	<p>There is no DCP applicable to this site so the requirements of the ADG apply.</p> <p>The proposed building will be setback 7.5m from the front boundary, in line with the adjacent developments on either side.</p> <p>The setback allows for deep soil planting which provides screening to the development. The proposed setback is considered consistent with the streetscape.</p>	<p>Yes</p>

ITEM 3 (continued)

Clause	Proposal	Compliance
the street edge <ul style="list-style-type: none"> • consider articulation zones accommodating balconies, landscaping etc. within the street setback • use a setback range where the desired character is for variation within overall consistency, or where subdivision is at an angle to the street • manage corner sites and secondary road frontages 		
Part 3 - Siting the Development This part provides guidance on the design and configuration of apartment development at a site scale. Objectives, design criteria and design guidance outline how to relate to the immediate context, consider the interface to neighbours and the public domain, achieve quality open spaces and maximise residential amenity. It is to be used during the design process and in the preparation and assessment of development applications		
3B Orientation Building types and layouts respond to the streetscape and site while optimising solar access and minimising overshadowing of neighbouring properties in winter.	The building layout has been orientated to face May Street and is not out of character with the existing streetscape.	Yes
3C Public domain interface Transition between private & public domain is achieved without compromising safety and security and amenity of the public domain is retained and enhanced.	The proposal has been amended and Condition 1(e) has been imposed requiring amendments to the front courtyard which will improved the interface with private and public domain.	Yes
3D Communal & public open space Provide communal open space to enhance amenity and opportunities for landscaping & communal activities. <ol style="list-style-type: none"> 1. Provide communal open space with an area equal to 25% of site; 2. Minimum 50% of usable rea of communal open space to receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June. 	The ADG requires that the site provide 168.5m ² as communal open space. The development has proposed two areas that have a combined total of 168m ² . The roof top communal area is 104m ² and will receive the required solar access.	Yes
3E Deep Soil Zone Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve	7% (47m ²) of the site area is to be deep soil. The development has provided 58m ² of deep soil zones within the front and rear setback, this is 11.6% of the site area and is considered satisfactory.	Yes

ITEM 3 (continued)

Clause	Proposal	Compliance												
residential amenity and promote management of water and air quality. 1. Deep soil zones are to be provided equal to 7% of the site area and with min dimension of 3m – 6m.														
<p>3F Visual Privacy</p> <p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1" data-bbox="256 898 699 1256"> <thead> <tr> <th>Building Height</th> <th>Habitable rooms & balconies</th> <th>Non habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m(4 storeys)</td> <td>6m</td> <td>3m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12m</td> <td>6m</td> </tr> </tbody> </table>	Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m(4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	See discussion under Clause 2 - Building Separation.	<p>No</p> <p>Variation acceptable. (See full discussion under Building Separation) subject to condition (see Condition 1(a))</p>
Building Height	Habitable rooms & balconies	Non habitable rooms												
Up to 12m(4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<p>3G Pedestrian Access & entries</p> <p>Pedestrian access, entries and pathways are accessible and easy to identify.</p>	The development proposes a pedestrian entry to the building from May Street. Condition 1(i) has been imposed requiring a sign to direct visitors to the side entrance. The entry is accessible and easy to identify.	Yes												
<p>3H Vehicle Access.</p> <p>Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.</p>	<p>The development provides a 5m wide driveway with a passing bay which narrows to a 3.0m wide ramp into the basement car park.</p> <p>This access point will provide for adequate sight distances with a waiting bay at the front to allow for vehicles to pass.</p>	Yes												
<p>3J Parking Provisions.</p> <p><u>Car parking</u> For development on sites that are within 800m of a railway station, the minimum parking for residents and visitors to be as per RMS Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less.</p> <p><u>Bicycle Parking</u></p>	<p>The site is located within 800m of a railway station, (i.e. 300m from Eastwood Station).</p> <p>The NSW RMS Guide to Traffic Generating parking rates are the same as the RDCP 2014 car parking requirements.</p> <p>See discussion under Part 9.3 of the RDCP 2014 later in this report.</p>	Yes												

ITEM 3 (continued)

Clause	Proposal	Compliance
Provide adequate motorbike, scooter and bicycle parking space (undercover).		
Part 4 - Designing the Building This part addresses the design of apartment buildings in more detail. It focuses on building form, layout, functionality, landscape design, environmental performance and residential amenity. It is to be used during the design process and in the preparation and assessment of development applications		
4A Solar & daylight access Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter. No more than 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. Design should incorporate shading and glare control, particularly for warmer months	A total of 4 units (66.6%) will receive the required 2 hours of direct sunlight between 9am and 3pm midwinter. This non-compliance is a result of the combined orientation and narrowness of the site which limit the ability to design a building to achieve full compliance. Approximately 33.3% (2) of the apartments will receive no sunlight. The units which do not receive the required solar access are located on the ground floor and Level 1 southern side of the building (facing May Street). However, the use of "ear" windows will assist in enabling sunlight penetration into the bedrooms and thereby maximising amenity to the occupants of the development. In this regard, it is considered that, on merit, the development can be supported. The BASIX Certificate is included with the application demonstrating that the proposal achieves required thermal comfort levels. Materials and finishes which incorporate shading and glare control measures including awnings are proposed.	No Variation acceptable.
4B Natural Ventilation At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	All apartments will be cross ventilated.	Yes
4C Ceiling Heights Ceiling height achieves sufficient natural ventilation and daylight access. The development is required to provide 2.7m minimum ceiling heights.	The ground floor level for Unit 1 will have a floor to ceiling height of 3m (largely due to the slope of the site) with all the other levels having floor to ceiling height of 2.7m	Yes

ITEM 3 (continued)

Clause	Proposal	Compliance															
<p>4D Apartment size and layout</p> <p>Apartments are required to have the following minimum internal areas with one bathroom:</p> <ul style="list-style-type: none"> • Studio = 35m² • 1 bedroom = 50m² • 2 bedroom = 70m² • 3 bedroom = 90m² • 4 bedroom = 102m² <p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room.</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan where the living, dining and kitchen are combined, there is to be a maximum depth of 8m from a window.</p> <p>Master bedrooms – minimum area 10m² Excluding wardrobe spaces.</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments • 4m for 2 and 3 bedroom apartments 	<ul style="list-style-type: none"> • 2 bed units - range 84m² - 117m² • 3 bed units - 120m² <p>All of the apartments exceed the minimum requirements.</p> <p>All habitable rooms have a window compliant with the rates.</p> <p>The master bedrooms have a minimum area of 10m², excluding wardrobe space.</p> <p>Living rooms/combined living/dining area have a minimum 4m width for 2 and 3 bedrooms, respectively.</p>	<p>Yes</p>															
<p>4E Private Open Space and balconies</p> <p>All apartments are required to have primary balconies as follows:</p> <table border="1" data-bbox="261 1756 699 2022"> <thead> <tr> <th>Dwelling type</th> <th>Min area</th> <th>Min depth</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m²</td> <td>N/A</td> </tr> <tr> <td>1 bedroom</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table>	Dwelling type	Min area	Min depth	Studio apartments	4m ²	N/A	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	<p>Balconies meet minimum size requirements. Ground level courtyards meet required 15m² and minimum dimensions.</p>	<p>Yes</p>
Dwelling type	Min area	Min depth															
Studio apartments	4m ²	N/A															
1 bedroom	8m ²	2m															
2 bedroom	10m ²	2m															
3+ bedroom	12m ²	2.4m															

ITEM 3 (continued)

Clause			Proposal	Compliance															
Ground or podium	15m ²	3m																	
4F Common circulation and spaces. The maximum number of apartments off a circulation core on a single level is 8. Daylight and natural ventilation should be provided to all common circulation space above ground. Windows should be provided at the end wall of the corridor.			The development proposes a maximum of 2 apartments to be accessed from the circulation space. Daylight is provided by block window.	Yes															
4G Storage In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:			<table border="1"> <thead> <tr> <th>Unit Type</th> <th>Required</th> <th>Provided</th> </tr> </thead> <tbody> <tr> <td>Studio (0)</td> <td>Nil</td> <td rowspan="4">52m³</td> </tr> <tr> <td>1 bedroom (0)</td> <td>Nil</td> </tr> <tr> <td>2 bedroom (4)</td> <td>32m³</td> </tr> <tr> <td>3 + bedroom (2)</td> <td>20m³</td> </tr> <tr> <td>Total</td> <td>52m³</td> <td>52m³</td> </tr> </tbody> </table>	Unit Type	Required	Provided	Studio (0)	Nil	52m ³	1 bedroom (0)	Nil	2 bedroom (4)	32m ³	3 + bedroom (2)	20m ³	Total	52m³	52m³	Yes
Unit Type	Required	Provided																	
Studio (0)	Nil	52m ³																	
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<table border="1"> <thead> <tr> <th>Dwelling type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m³</td> </tr> <tr> <td>1 bedroom apt</td> <td>6m³</td> </tr> <tr> <td>2 bedroom apt</td> <td>8m³</td> </tr> <tr> <td>3 + bedroom apt</td> <td>10m³</td> </tr> </tbody> </table>			Dwelling type	Storage size volume	Studio	4m ³	1 bedroom apt	6m ³	2 bedroom apt	8m ³	3 + bedroom apt	10m ³	The development includes an additional total of approximately 54m ³ (103%) storage within all apartments. At least 50% of the required storage is to be located within the apartment.						
Dwelling type	Storage size volume																		
Studio	4m ³																		
1 bedroom apt	6m ³																		
2 bedroom apt	8m ³																		
3 + bedroom apt	10m ³																		
4H Acoustic privacy Noise transfer is minimised through the siting of buildings, building layout, and acoustic treatments. Plant rooms, services and communal open space and the like to be located at least 3m away from the bedrooms.			Appropriate acoustic privacy will be provided for each apartment. Living rooms and balconies have generally been orientated away from adjoining apartment buildings. The site is not located on a main or busy road there no intrusive noise sources exist in the vicinity. Noisy areas within buildings (such as the entrance) are located next to non-habitable rooms (i.e.	Yes															

ITEM 3 (continued)

Clause	Proposal	Compliance
Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	laundries and bathrooms).	
4K Apartment mix A range of apartment types with different number of bedrooms (1bed, 2 bed, 3 bed etc) should be provided.	The development has incorporated 3 (33%) & 2 (67%) bedrooms apartments. Whilst there are no 1 bedroom apartments, this development is relatively small (6 apartments), the proposed development provides housing choice which meets the general market needs.	Yes
4M Facades Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents. Building facades are expressed by the façade.	The building facades are strongly articulated with the use of “ear” windows and balcony indentations. The façade also provides an acceptable contextual fit with the surrounding development.	Yes
4N Roof design Roof treatments are integrated into the building design and positively respond to the street. Opportunities to use the roof space for residential accommodation and open space are maximised. Roof design incorporates sustainability features.	The development has proposed a flat roof which is integrated with the overall development.	Yes
4O Landscape design Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable	Landscaping is proposed along the perimeter of the site, with deep soil zone within the front and rear setback. Council’s Consultant Landscape Architect has advised that the amended landscaping plan is satisfactory.	Yes
4P Planting on structures Appropriate soil profiles are provided.	The development will comply with the minimum soil depth as specified in the ADG. Condition 54 has also been imposed to ensure compliance.	Yes
4Q Universal design Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are to be provided.	Two (2) universal design “silver” units (Livable Housing Guidelines) ¹ are proposed, which provide flexible housing stock. The development complies with these requirements.	Yes
4U Energy efficiency Development incorporates passive	The development complies with these requirements complying with the solar and natural ventilation requirement.	Yes

ITEM 3 (continued)

Clause	Proposal	Compliance
environmental design measures – solar design, natural ventilation etc.	A BASIX certificate is submitted with the application which indicates that the building will meet the energy and water use targets set by the BASIX SEPP.	

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

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

State Environmental Planning Policy (Building Sustainability Index: BASIX)

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. As such, an amended BASIX Certificate has been submitted (No. 864064M_02, dated 21 December 2018) which provides the development with a satisfactory target rating.

Appropriate conditions have been imposed requiring compliance with the BASIX commitments detailed within the Certificate. See **Conditions 3 & 107**.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 is a deemed SEPP and applies to the subject site.

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of DCP 2014. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.

5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)

The following is an assessment of the proposed development against the applicable provisions from the RLEP 2014.

ITEM 3 (continued)

The site is zoned R4 High Density Residential under the provisions of the RLEP 2014. The development is permitted in this zoning.

Clause 2.3 – Zone Objectives

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

The objectives for the R4 High Density Residential zone are:

- *To provide for the housing needs of the community within a high density residential environment.*
- *To provide a variety of housing types within a high density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*

The development complies with the above objectives. It will be consistent with the desired future character for the precinct by providing residential accommodation close to Eastwood Shopping Centre, education, employment and public transport.

Clause 4.4 Floor Space Ratio

The FSR for the site is 1:1. The proposal will have a gross floor area of 619m² (FSR of 0.92:1) which complies with this control.

Clause 4.3 Height of buildings

The Height of Buildings Map specifies the maximum heights of any building on the site must not exceed 11.5m.

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

The proposal has been amended to provide a communal open space area on the roof with lift access. This has resulted in a height exceedance of between 800mm to 1m (lift overrun and stair enclosure), which is a variation of between 6.9% and 9.3%.

Figures 9 & 10 below illustrate the 11.5m height plane and the extent of non-compliance.

ITEM 3 (continued)

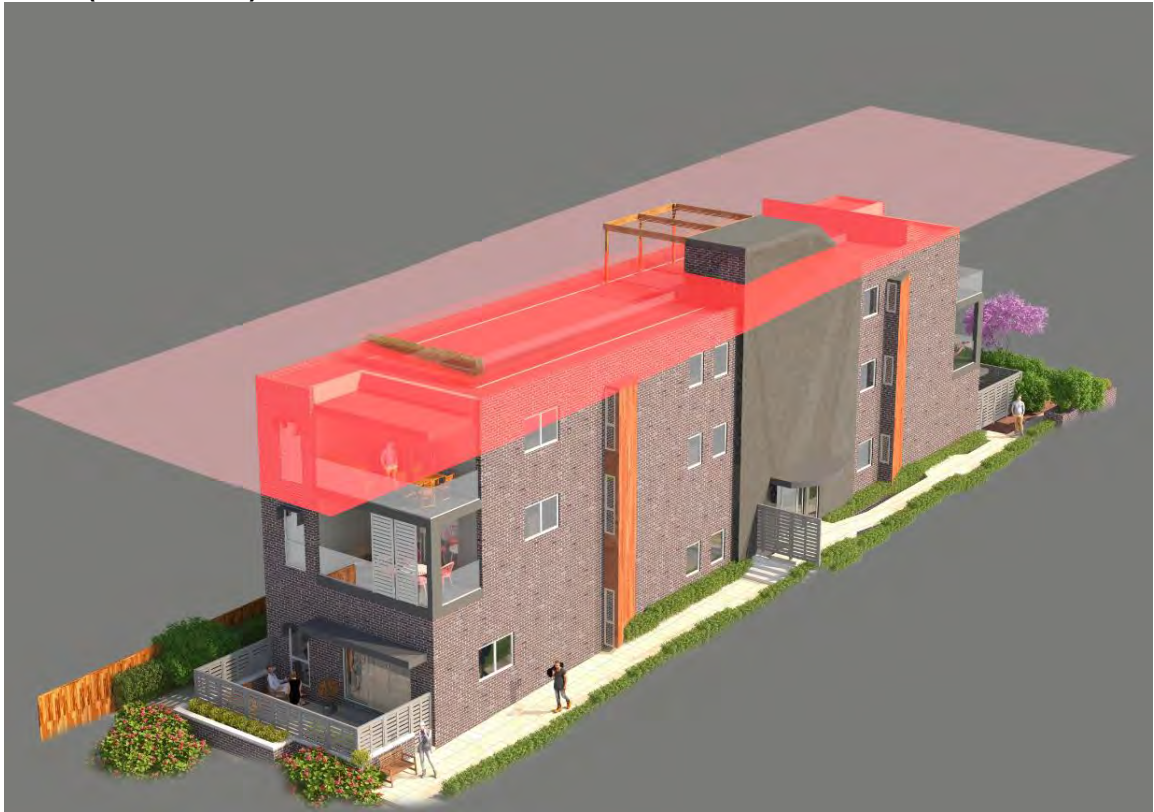


Figure 9 - Height Plane illustrating the areas of non-compliance.

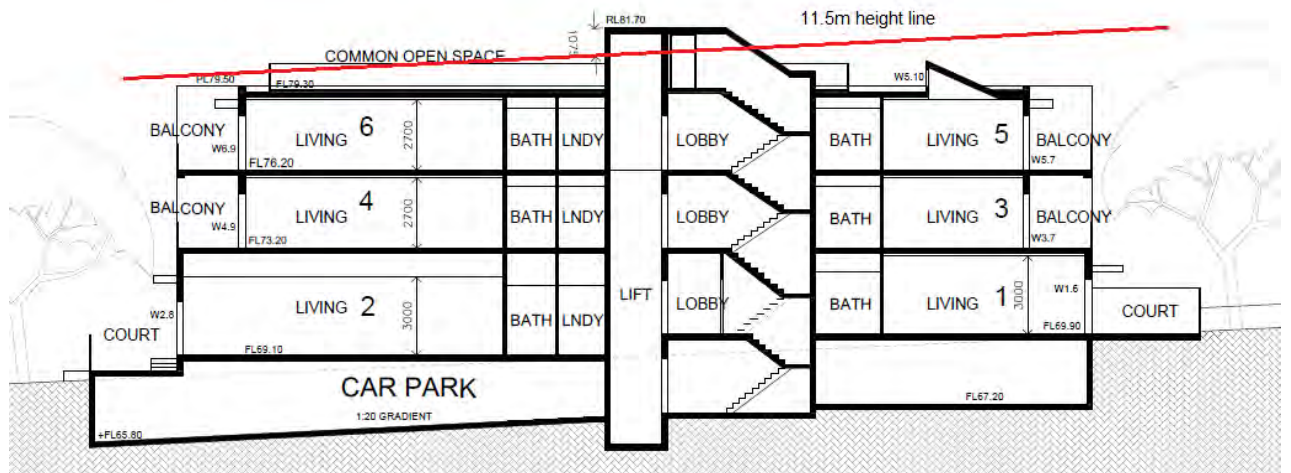


Figure 10 - Side section illustrating the area and extent of non-compliant in height.

Accordingly, the applicant has submitted a written request seeking to justify the variation to the development standard contained in Clause 4.3. A Clause 4.6 statement accompanied the amended plans received 10 on February 2019.

ITEM 3 (continued)**Clause 4.6 Exceptions to development standards**

Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard where it can be demonstrated that flexibility in the particular circumstances achieve a better outcome for and from development.

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters is outlined in the following discussion.

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated.

These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard?
- What is the underlying object or purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?; and
- Is the objection well founded?

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* expanded on the above and established the five part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary?
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?

ITEM 3 (continued)

- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable?
- Is the “*zoning of particular land*” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land? Consequently compliance with that development standard is unnecessary and unreasonable.

More recently in the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);
- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

The applicant has submitted a written request to vary the height control. The applicant has advised that the written request has been structured generally in accordance with Department of Planning & Infrastructure: “Varying Development Standards: A Guide”, as follows:

1. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

“Strict compliance is considered unreasonable and unnecessary in this particular case for the following reasons:

Firstly, the proposed variation is due to providing the lift and stairwell for pedestrian access to the communal open space on the roof top level which has been recommended by the Urban Design Review Panel. A light weight open pergola structure is also proposed to achieve the amenity in the COS.

Secondly, the proposed encroachments are limited to small sections of the building which are illustrated in the 3D perspective building height plane. The majority of the building is well below the maximum. As such, the variation will not result in detrimental impact on the residential amenity and the streetscape character. The proposed building (as amended) will have a better design whilst blending in with the surround development. The variation to the building height in such a case will not significantly undermine the natural and built environment in the locality.

ITEM 3 (continued)

Thirdly, the proposal, despite the numerical non-compliance, is consistent with the objectives of R4 (High Density Residential) and the objectives of the standard in question.”

2. How would strict compliance hinder the attainment of the objects specified in Section 1.3 of the Act.

“Section 1.3 Objects of Act

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

Strict compliance with the development standard is not necessarily consistent with the aim of Clause 4.6 of Ryde LEP 2014 and would hinder the attainment of the objects specified in Section 1.3 of the EP&A Act.

In that, insisting strict compliance and not permitting the proposed development with the minor variation to the building height:

- (a) Would unnecessarily prevent the opportunity of ensuring social and economic welfare and a better built environment for the community by providing affordable and modern housing that the existing house on the subject site cannot offer.*
- (b) Would unnecessarily prevent the opportunity of facilitating ecologically sustainable development. The Commonwealth Government suggested the following definition for ESD in Australia: 'using, conserving and enhancing the community's resources so that ecological processes, on which life depends,*

ITEM 3 (continued)

are maintained, and the total quality of life, now and in the future, can be increased'.

By allowing the proposed development, it will promote the last remaining and isolated suburban residential allotment to accommodate a RFB consisting 6 dwellings which in turn reduces the cumulative impact of urban sprawl for the metropolitan Sydney in the long run.

- (c) *Would prevent the orderly and economic use and development of land, although the minor variation sought would not result in detrimental impact in terms of privacy and overshadowing.*
- (d) *Would prevent the opportunity of promoting the housing diversity in more affordable dwelling types.*
- (e) *Would not necessarily protect the environment, including conservation of threatened and other species of native animals and plants, ecological communities and their habitats in the long run in this case.*
- (f) *Would not necessarily promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage) in this case.*
- (g) *Would prevent the opportunity of promoting better built environment than that of the existing substandard dwelling house on the subject site.*
- (h) *Would prevent the opportunity of promoting the proper construction and maintenance of buildings, including the protection of the health and safety of their future occupants.*

3. Is the development standard a performance based control? Give details.

“A ‘performance based control’ is considered to refer to ‘merit assessment’ recognising that more than one solution may be available to achieve the desired outcomes. The 11.5m maximum building height is not a performance based control. It is rather a quantitative and prescriptive arbitrary standard which does not allow for any flexibility in achieving the same or even better environmental outcome and which focuses on artificial definitions and numerical designation rather than the actual effects or impact of development.

The 11.5m maximum requirement under Clause 4.3 of Ryde LEP does not differentiate whether it is an ancillary building element such as a lift overrun or main building elements for habitable floor space. It is not uncommon that lift overruns project over the roof level in residential flat building development. In this case, the proposed lift and stairwell will need to be provided for the communal open space on the rooftop causing the said numerical non-compliance, despite the planning performance being considered to improve.”

4. Would strict compliance with the standard, in your particular case, would be unreasonable or unnecessary? Why?

*The proposed RFB development is not considered contrary to the objectives of the R4 (High Density Residential) Zone and Clause 4.3 in question, having regard to the judgement in *Wehbe v Pittwater Council* [2007] NSWLEC 827.*

ITEM 3 (continued)

At [42], it was noted that ‘the most common way to establish that compliance with a development standard is unreasonable or unnecessary is because the objectives of the development standard are achieved despite non-compliance with the control.’

Then, the Court added at [43]:

“Development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

The questions raised by this includes:

4.1 Would the proposal, despite a numerical non-compliance, be consistent with the relevant environmental or planning objectives?

The objectives of R4 (High Density Residential) include; (1) to provide for the housing needs of the community within a high density residential environment and (2) to provide a variety of housing types within a high density residential environment.

The subject site is an isolated and last remaining underdeveloped allotment in the locality. The proposal would be consistent with the said zoning objectives in providing housing variety and housing needs of the community within the existing high density residential environment, despite the numerical non-compliance regarding the lift and stairwell height.

The proposal will not compromise the integrity of LEP 2014, since the subject site is unique in the locality which will not set a precedence. The variation in the building height is fundamentally due to providing the recommended roof top communal open space for better residential amenity.

4.2 Establish that the underlying objective or purpose [of the development standard] is not relevant to the development, with the consequence that compliance is unnecessary.

Comment: Not applicable in this case.

4.3 Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required, with the consequence that compliance with the development standard is unreasonable.

ITEM 3 (continued)

Strict compliance is not necessarily consistent with the objective outlined in Clause 4.3 of Ryde LEP 2014 for the following reasons:

- (a) The streetscape is predominantly characterised by residential flat buildings of 3 storey in height throughout May Street and adjacent streets. Many of the existing RFB sites are similar to the subject site in terms of the road frontage width, including Nos.22 and 24 May Street next doors. The proposal would be in keeping with the character of the nearby development for certain.*
- (b) Although, the non-complying building element may generate slightly greater shadow impact on the western side neighbour. The north facing living rooms and POSs of this neighbouring property will not be affected by the proposal. Also, the proposed built form is compatible with and will contribute to the appearance of the area which is demonstrated in the 3D photo montages.*
- (c) The subject site is the last remaining residential allotment which could not have been consolidated to.*
- (d) The non-complying elements of the building are limited to small sections which will not significantly add to the bulk and scale impact on the surrounding properties.*
- (e) N/A*

4.4 Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the development standard, and hence compliance with the standard is unnecessary and unreasonable

Although the development standard in question has not been virtually abandoned or destroyed by Ryde Council's own actions in granting consents departing from the standard, Council has numerous cases of supporting minor variations to the maximum building height standard on merit from time to time.

By the same token, the proposed development has its merit despite the variation which has been discussed throughout this report. As such, insisting strict compliance and removal of the lift and stairwell access for the roof top communal open space against the UDRP's recommendation in this case would be unnecessary and unreasonable.

4.5 Establish that the zoning of particular land was unreasonable or inappropriate so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.

Comment: Not applicable in this case

ITEM 3 (continued)

5. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

*Section 3D-1 of the Apartment Design Guide stipulates a 'Design Guidance' which requires provision of a landscaped roof top open space where development is unable to achieve the minimum 25% communal open space due to a small lot size which is the case for the subject site. In this instance, provision of the landscaped roof top open space will enhance the visual amenity and microclimate for the prospective residents and adjacent neighbours in the context. Currently, none of the adjoining sites provides a landscaped open space behind the building line due to the extensive concrete driveways and car parking structures, as illustrated in the aerial photograph, **Figure 10** below*



Figure 11 - Aerial photo illustrating the surrounding context with paved car parking rear at the rear.

It is more appropriate to provide a communal open space on the roof level rather than in the rear setback area due to the site circumstance.

Contravention of the development standard in this case is mainly due to providing the lift and stairwell access to the recommended roof top communal open space for everyone including people with a disability. Light weight open pergolas have also been provided to facilitate the amenity and recreational use of the open space.

The non-compliant portion of the building is substantially set back from the front building line and would not result in unacceptable bulk and scale impact on the May Street streetscape. Rather, the proposed lift and stairwell is small in scale and is proportionate to the overall building size, scale and form which will contribute to the visual interest and achieve articulation and better composition of the roof design when seen from the adjacent neighbours.

Assessing Officer's Comments

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

ITEM 3 (continued)

The written request has demonstrated that compliance is unreasonable or unnecessary as the objectives of the development standard (the height objectives) and the objectives of the Act are achieved. See discussion under points 2 and 4.3 of the written request.

The design and layout of the proposal is a good planning outcome which fits in a very constrained site (13.4m wide). The additional height is limited to a section of the lift over run and the stairwell, towards the middle of the site, set well back from the street boundary.

The proposed variation will not have adverse impact in regard to the local character. The variation to the development standard is not inconsistent with the intended character of the locality. As illustrated in **Figure 12** below, the scale and proportion is similar to the adjoining residential flats buildings. In addition, the layout and form of the development break down the scale of the facades as does the use of the proposed external building materials, colours and finishes together with proposed trees planting that will soften and screen the development.

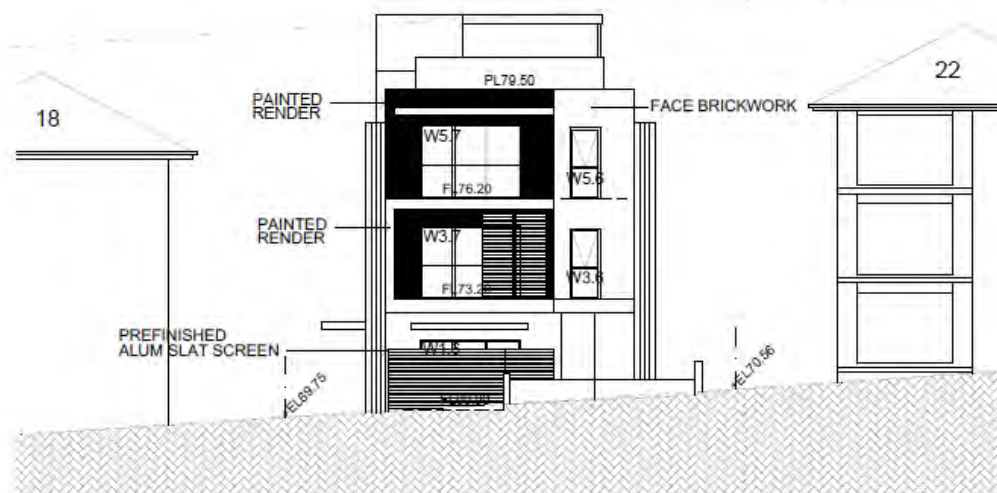


Figure 12 - Streetscape with the development similar in scale to the adjoining buildings.

Furthermore, overshadowing from the lift overrun is minimal and will not adversely impact on the adjoining south western property (18 May Street). 18 May street will be overshadowed by in the morning however by 12 noon, the shadow cast will be predominantly within the site's side and front setback area.

Overall, the development provides a better planning outcome for this particular site and also the surrounding area in terms of streetscape, rhythm of development and visual fit based on the particular urban collective in which it is located.

The benefits described above also demonstrate that compliance with the development standard is unreasonable and unnecessary when considered in the context of the development surrounding the site.

ITEM 3 (continued)

Therefore, the development despite the minor non-compliance with the development standard is consistent with the planning and environmental objectives of the control and in this instance, numerical compliance would not contribute to an improved outcome. As such it is considered that a complying development is neither, reasonable or necessary in circumstances of the case.

Furthermore, the proposal does not have unreasonable impacts on surrounding properties for the reasons stated above. Given the particular circumstances for this site (last remaining 13.4m wide allotment surrounded by residential flat buildings), the inclusion of the roof terrace provides for useful communal open space in a location that has high amenity and minimal impacts to the adjoining properties compared with communal open space located at rear ground level. Accordingly, there are sufficient environmental planning grounds to justify the contravening the standard.

Is the objection well founded?"

As detailed in above sections the proposed variation has been considered acceptable due to minimal environmental impacts on adjoining and adjacent properties and is considered to be well founded.

"Would non-compliance raise any matter of significance for State or Regional planning?"

Due to the modest scale of the development and having regard to the site constraints, the proposal provides a height departure which has minimal impact. This departure is not a matter for regional or state environmental planning. The proposal achieves a good urban design outcome and the proposal is not considered to raise any matters of significance for State or Regional planning. Importantly this does not establish any precedents as the non-compliance has been considered acceptable in the merits of the specific circumstances of the site.

"Is there a public benefit of maintaining the Development Standard?"

The non-compliance is considered to be minor and in locations which do not adversely impact upon surrounding development. There is no public benefit of strictly complying with the standard in this particular instance given the extent and location of the height departure.

The strict compliance of the development standard would not improve the function of the development, its appearance and or visual impact when viewed from private and public domains.

Maintaining the development standard would not provide any additional public benefit than what is proposed by the development (provision of housing close to public transport, education and shops).

Conclusion

ITEM 3 (continued)

The proposal is considered to generally be satisfactory with regards to the objectives of the building height controls and the R4 High Density Residential Zone and as such, the proposed variation is supported.

Other applicable RLEP 2014 provisions

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

Provision	Comment
Clause 5.1 Relevant acquisition authority	No part of the site is mapped as being reserved for acquisition for public purposes.
Clause 6.2 Earthworks	The proposed development includes excavation for one level of basement car park. Council's Senior Development Engineer has reviewed the submitted sediment and erosion control plan and it is considered satisfactory. Conditions 74 & 103 are imposed requiring compliance with the measures proposed in the submitted plan.
Clause 6.4 Stormwater management	Council's Senior Coordinator Development Engineer has raised no objections to the proposed stormwater management system for the site, subject to engineering conditions. Conditions 68 & 69.

5.3 Draft Environmental Planning Instruments

There are no draft planning instruments applicable to this site.

5.4 City of Ryde Development Control Plan 2014

The subject site is located outside the Eastwood Town Centre accordingly is not subject to site specific controls provided under Part 4.1 - Eastwood Town Centre.

The following sections of the RDCP 2014 are of relevance, being:

Part 9.3 - Car Parking

Car Parking

The NSW RMS Guide to Traffic Generating Development parking rates are the same as Council's minimum car parking requirements:

- 0.6 to 1 space per one bedroom dwelling;
- 0.9 to 1.2 spaces per two bedroom dwelling;
- 1.4 to 1.6 spaces per three bedroom dwelling; and
- 1 visitor space per 5 dwellings.

ITEM 3 (continued)

Figure 13 below shows the revised parking layout.

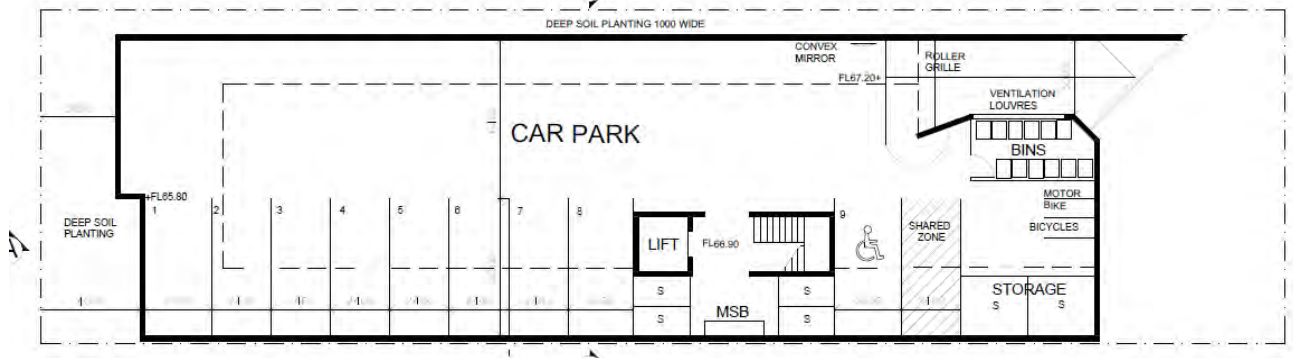


Figure 13 – Amended parking layout.

The development will require:

Apartment Type	Minimum	Max	Provided	Compliance
2 bedroom (4)	3.6	4.8	7 spaces	Yes
3 bedroom (2)	2.8	3.2		
Sub-total	6.4 (7)	8	7 spaces	Yes
Visitor	1.2 (2)	1.2 (2)	2 spaces	Yes
Total	8.4 (9) spaces	10 spaces	9 spaces	Yes

Bicycle Parking

The DCP states that: *in every new building, where the floor space exceeds 600m² GFA (except for dwelling houses and multi-unit housing) provide bicycle parking equivalent to 10% of the required car spaces or part thereof.*

The proposal will have a GFA of 674m² therefore, based on 7 residents car spaces, 1 x bicycle space is required to be provided.

The proposal provides for 1 x motorcycle parking spaces and 2 x bicycle spaces. This is consistent with Council’s requirements.

Part 7.2 Waste Minimisation and Management

The development involves the construction of a residential flat building, the applicant has submitted a Waste Management Plan (WMP). The WMP has been reviewed by Council’s Waste Management Co-ordinator and is considered satisfactory.

Council’s Officers have considered the collection of waste, with a garbage room in the basement.

Part 9.2 Access for People with Disabilities

ITEM 3 (continued)

The application includes an Access Report prepared by Assistive Technology Australia which states subject to compliance with the recommendations, the development can readily comply with the requirements of the BCA/DDA (Access for People with Disabilities).

The DCP 2014 requires provision of Adaptable Housing in developments with 10 or more units. This development proposes 6 dwellings. Therefore the provision of Adaptable Housing is not required.

However, *State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development* provides design criteria and guidance for the provision of 20% of the total apartments to meet the *Liveable Housing Design Guidelines (LHDG)* silver level. The report states that two units have been designated as being designed to LHDG silver level.

5.5 Planning Agreements OR Draft Planning Agreements

There is no planning agreement or draft planning agreement applicable to this application.

5.6 Section 7.11 - Development Contributions Plan – 2007 Interim Update (2014)

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

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$ 14,507.70
Open Space & Recreation Facilities	\$ 35,714.99
Civic & Urban Improvements	\$ 12,147.35
Roads & Traffic Management facilities	\$ 1,657.00
Cycleways	\$ 1,035.06
Stormwater Management Facilities	\$ 3,289.82
Plan Administration	\$ 279.04
The total contribution is	\$ 68,630.96

5.7 Any matters prescribed by the regulations

ITEM 3 (continued)

There are no matters prescribed by the Regulation that have not been satisfied.

6. The likely impacts of the development

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

Built Form

The development is consistent with the built form objectives envisaged for the area. It provides a suitable bulk and scale for a development of this size, and provides a considerable contribution to additional housing in the area in a high-quality architectural design.

Access and Traffic

The application was accompanied by a Traffic and Parking Report prepared by Motion Traffic Engineers. The report states:

- *The development is a low trip generator in the AM and PM peak hours.*
- *The additional development trips can be accommodated in the nearby intersection without significantly affecting the performance or creating any additional delays or queues.*
- *There are no traffic engineering reasons why a construction permit for the development at 20 May Street in Eastwood should be refused.*

Council's Traffic Engineer has advised that the traffic generation is expected to be about 3 vehicle trips. The existing dwelling house generate about 1 vehicle trip, therefore the net increase in traffic, (at most) is 2 additional vehicle trips during the AM & PM peak periods. This is considered negligible.

Accordingly, from a traffic perspective the development will not result in any unacceptable traffic implications to the road network.

Visual Privacy

Whilst the proposal does not comply with building separation in accordance with the ADG requirement, the proposal minimise overlooking by orientating main living room windows and balconies to the front and rear of the site.

The side bedroom windows which faces the adjoining side properties are provided with angled privacy screens which will prevent overlooking to the side properties.

ITEM 3 (continued)

Condition 1(a) has been imposed requiring a fixed privacy screen to be provided along the rear balconies of Units 4 & 6 to prevent overlooking to the windows located along the rear elevation of No. 1 Ball Street.

Construction Impacts

Construction impacts are controlled by Part 8.1 of the Ryde DCP 2014. Council's standard conditions of consent have been imposed to control the impact of the construction activities. See **Conditions 5, 6, 64, 74, 77, 79, 90, 103 & 106**.

7. Suitability of the site for the development

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

8. The Public Interest

The development is considered to be in the public interest as it is reasonably consistent with the relevant planning controls. Where variations to the planning controls occur in terms of height and setbacks, the proposal has been designed to minimise any potential impact to adjoining properties. The development complies with the objectives of the planning controls.

9. Public Notification & SubmissionsNotification No. 1

The application was advertised in the Northern District Times on 27 June 2018 and notified between the period of 22 June 2018 and 18 July 2018.

During this notification period Council received four (4) submissions objecting to the proposal and raised the following issues:

- Parking and traffic
- Basement parking (inappropriate)
- Acoustic impact
- Construction impact.

Comments:

- Parking and traffic

ITEM 3 (continued)

“There is never any street parking available. The close proximity to Eastwood station ensures that commuters park all day on May Street and it is therefore disingenuous to claim that ample on-street parking space exists near the development site. I request that the developer modifies their plans to increase total parking spaces.

Finally, I am concerned about the impact on traffic during the construction phase. Large trucks will enter and leave with significant loads of demolition waste as well as deliveries of construction material. These movements should not occur during unsociable hours and should not result in traffic being obstructed. Furthermore, any damage to council and public property infrastructure such as concrete kerbs and the surface of May Street itself should be remedied by the builder at their cost under the watch of council urgently (that is, not left to be fixed at the end of the construction job, but remedied at the time of the damage itself).”

Council’s Development Control Plan 2014 requires a minimum of 7 residents parking and 2 visitor parking spaces, total of 9 off street parking spaces to be provided. The development has provided a total of 9 spaces within the basement level, which is the minimum required. There is no requirement to provide more than the minimum and as Eastwood Station is in close proximity, public transport usage should be encouraged.

The car spaces are compliant with Council’s requirement and AS2890.6. **Condition 137** has been imposed requiring allocation of the spaces to minimum of 2 spaces being allocated as visitors parking.

Council’s standard conditions of consent have been imposed to control the impact of the construction activities. Similar to any major redevelopment work, some level of inconvenience/impact may result once the construction commences. However, to address the issue and to minimise traffic impact, **Condition 64** has been imposed requiring submission of a Demolition and Construction Pedestrian and Traffic Management Plan to minimise impact of construction activities on the surrounding community, in terms of vehicle traffic (including traffic flow and parking) and pedestrian amenity adjacent to the site. Also **Condition 5** has been imposed restricting the hours of building works, which is restricted to 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.

This issue does not warrant the refusal of the application.

- Basement parking (inappropriate).

“The site is too narrow to have a 8 vehicle basement car park. Its neighbours do not have a basement car park.”

ITEM 3 (continued)

Council's DCP requires car parking to be provided below ground level and not to be visible to from the street. The proposal has provided basement carparking, in accordance with the DCP. Council's Senior Development Engineer has reviewed the basement layout and subject to **Condition 1(h) and 67** to amend the driveway gradient, the proposed basement car parking area is considered satisfactory.

This issue does not warrant the refusal of the application.

- Acoustic impact.

"It's a lovely and quiet neighbourhood. But with the development plan, I am afraid the quiet and peace of this neighbourhood will be completely gone. Not to mention that we have several senior citizens living in our building, some of them even suffer severe illness. For sure the noises of the construction will do no good to their health."

The development is for a 3 storey residential apartment building comprising of 6 apartments which is relatively minor. Any potential noise sources which could impact on the amenity of nearby land users are noise generated by mechanical plants (such as air condition and car park fans) and **Condition 147** has been imposed to ensure that the use of the premises do not cause the emission of "offensive noise".

With regards to construction period, see comments below.

This issue does not warrant the refusal of the application.

- Construction Impact.

"We are neighbours living in the nearby units and our units are in extreme close proximity to the 20 May Street location (2 metre or so away from the site). There are a number of aged senior people living in our unit. The demolition of the site will cause severe inconvenience to neighbours like us, including noise, dust, community safety. Not to mention that it will also pose major health and safety threat to senior people who might already have chronic illness. (The council should be held legally liable!) It is really unfair to re-develop such private property at the full cost of local community."

The amended plans have provided a setback of 3m which is similar to the setback of the adjoining properties. The proposal has deleted the side bedroom windows along the western elevation (facing 18 May Street where there are side facing balconies). Along the eastern elevation, the bedroom windows are "ear windows" angles to the rear and high light windows facing the side. Accordingly the proposal is not considered to pose overlooking concerns.

Construction impacts are controlled by Part 8.1 of the RDCP 2014. Similar to any major redevelopment work, some level of inconvenience/impact such as increased noise level, may result once the construction commences. However, to address the

ITEM 3 (continued)

issue Council's standard conditions of consent have been imposed to control the impact of the construction activities. These will include hours of operation, safety, security, sediment controls and a requirement to submit a Dilapidation Report. See **Conditions 5, 6, 41, 64, 73, 74, 77, 79, 90, 103 & 106.**

This issue does not warrant the refusal of the application.

Notification No. 2

Amended plans were received on 10 February 2019 and notified between 21 February 2019 and 11 March 2019.

One (1) submission was received objecting to the proposal and which raises the same issues as raised (and addressed) in Notification No. 1.

10. ReferralsInternal Referrals:**Senior Development Engineer:**

Council's Senior Development Engineer has reviewed the proposal and has made the following comments:

The proposed stormwater management system for the development discharges to the existing kerb inlet pit fronting 1 Ball Avenue and incorporates an onsite detention system complying with Councils requirements.

A review of the plans, completed by Eclipse Consulting Engineers Pty Ltd, drawing number 9599 C01 to C07, revision B, dated 22nd January 2019, has noted the following;

- *In order to discharge to the kerb inlet pit along Ball Avenue, the plans depict a 1m wide stormwater drainage easement that will burden 1 Ball Avenue. The Applicant has demonstrated that they have begun negotiation with the burdened owners in order to obtain the drainage easement. However it appears it has not yet been registered, a deferred commencement condition will be imposed to ensure this is completed before the consent is activated.*
- *The plans depict a below-ground OSD system located at the rear of the site*
- *Drawing C06 depicts a minimum clearance to the basement of 2100mm. This must be increased to 2200mm to comply with AS2890.1 requirements.*
- *The discharge pipe connecting to the kerb inlet pit crosses the vehicular crossing. As a result, the entire vehicular crossing shall be replaced at the cost of the developer.*
- *The 150mm diameter pipe proposed within the drainage easement shall be increased to a minimum 225mm diameter pipe. Note – the 1000mm wide drainage easement is still supported as access to the pipe is in a clear and*

ITEM 3 (continued)

accessible location. It is envisioned any maintenance can be undertaken by hand.

These can be dealt within the standard condition of consent regarding stormwater management.

Vehicle Access and Parking

The proposed residential development falls under the high density, and thus the parking rates found in Section 2.2 of Part 9.3 from Council's DCP 2014 have been applied.

Space Type	Quantity	DCP REQ.	Proposed	Compliant
<i>Residential</i>				
<i>1 Bed</i>	<i>0</i>	<i>0</i>	<i>-</i>	<i>-</i>
<i>2 Bed</i>	<i>4</i>	<i>4 - 5</i>	<i>-</i>	<i>-</i>
<i>3 Bed</i>	<i>2</i>	<i>3 - 4</i>	<i>-</i>	<i>-</i>
<i>Total</i>	<i>6</i>	<i>7 - 9</i>	<i>7</i>	<i>Yes</i>
<i>Visitor</i>	<i>-</i>	<i>2</i>	<i>2</i>	<i>Yes</i>

Total car spaces provided within the site is 9, which meets Council's requirements. One (1) of the spaces provided is accessible, compliant with AS2890.6.

All parking dimensions are in accordance with AS2890.1 requirements.

The Applicant has submitted a carpark certification completed by Motion Traffic Engineers Pty Ltd, document N1715490A V2a, dated May 2018. The certification generally agrees that car parking area and driveway is compliant with the relevant Australian Standards and Council's DCP. It does highlight the plans fail to provide a gradient no more than 5% for the first 6m within the property boundary.

Based on the revised basement layout plan, if we impose the Applicant to incorporate the 5% gradient at the entry to the site, access to car space 9 will become impossible as the driveway length will be extended to achieve compliant grades. Further to this the building may need to be raised to achieve the appropriate headroom clearance of 2200mm.

*Considering the scale of development, adequate sight triangles are provided and the public pathway is within a low pedestrian traffic area, a variation may be supported. Please refer to marked up gradient diagram in red, which will require an 8% gradient for the first 4.25m then increased to 25% for the remaining 9.88m. A condition of consent will be imposed to ensure this requirement is implemented. See **Conditions 1(h) & 67.***

ITEM 3 (continued)

Note: The applicant has submitted documentations showing negotiations with 1 Ball Street, Eastwood for an easement.

The consent is configured as a deferred commencement warranting the registration of the easement before the consent is activated. See **Deferred Commencement Part 1, Condition 1**.

City Works (Public Domain, Drainage, Traffic & Waste)Public Domain

No objection subject to conditions. (See **Conditions 14, 59 to 62, 65, 66, 81,98, 127, 133 to 136**).

Drainage

No objections subject to conditions. (See **Conditions 58 & 97**).

Traffic

No objections subject to conditions. (See **Conditions 12, 80, 125 & 126**).

Waste

No objections subject to conditions. (See **Conditions 38 to 40, 75, 76, 104, 118, 140 to 146**).

Consultant Landscape Architect

Council's Consultant Landscape Architect has reviewed the amended landscaping and architectural plans and has made the following comments:

"Design changes were requested in order to address a range of outstanding concerns. Each of these concerns, along with detailed discussion as to the suitability of the proposed changes has been outlined below.

Communal Open Space

The communal open space area provided to the rear of the subject site was considered to be largely disconnected from the deep soil planting located adjacent to the rear boundary and failed to provide a high level of amenity for future residents of the development. With regard to the amenity of the space, it was considered that further resolution was required to activate the space through passive landscape elements such as BBQ areas and seating. Also raised as a concern was the fact the primary communal open space area was located directly

ITEM 3 (continued)

adjacent to the living room windows of Unit 2, affording a poor level of acoustic and visual privacy for future residents of this unit.

In response, the Architectural and Landscape plans have been updated to show a greater level of connection to and within the deep soil area located at the rear of the subject site. The previously proposed area of communal open space directly adjoining Unit 2 has been reallocated as a dedicated private open space (POS) area for the future residents of this unit which has partially alleviated privacy concerns. Also included within the amended documentation is the inclusion of a BBQ and seating area located to the western side of the new Unit 2 POS area as well as a new area of communal open space provided as a rooftop courtyard.

Whilst it is considered that the amendments made in this instance have resolved many of the previously highlighted concerns in relation to communal open space, they have also created some supplementary issues problems. These include; the location of the BBQ and seating area directly adjacent to the new Unit 2 POS area which is still likely to result in impacts to acoustic privacy for the future residents of Unit 2 and; the inclusion of stairs as part of the revised western side boundary access path that will inhibit equitable access for disabled residents. It is noted that each of these items result in non-compliances with the provisions outlined within NSW Apartment Design Guide 2015 (ADG).

*As such **Conditions 1(b) & 1(c)** are imposed to relocate the BBQ and seating area to the roof top terrace area.*

Eastern Side Setback – Access & Ownership

The landscape documentation provided to Council as part of the original submission failed to provide any clear definition as to the access and ownership of open space within the eastern side setback of the subject site. In this regard, it was requested that applicant provide further information in the form of a clear resolution of the design and access arrangements proposed.

Following this request, the amended Landscape Plan provided as part of this submission appears to have defined this area of the site as communal open space by definition of a long, rectangular area of paving that is adjoined by a linear screen planting bed that runs the full length of the eastern boundary. Whilst the applicant has duly responded to Council's request as detailed, it is considered that the proposed arrangement is a poor use of space given the lack of recreational opportunities and poor levels of passive surveillance.

It is acknowledged that the potential inclusion of these elements would likely result in a reduced level of privacy to the eastern facing windows of Units 1 and 2. As such, it is considered more appropriate if this setback was allocated as POS for Units 1 and 2. Calculations completed by CPS as part of this addendum have revealed that the proposed development exceeds the minimum amount of communal open space as required under the ADG and that the conversion of

ITEM 3 (continued)

these spaces into POS would still result in the proposal meeting this requirement. Condition 1(d) has been imposed requiring this."

Open Space

Council's Senior Coordinator Tree Management has made the following comments:

*"The proposal in its current format will require the removal of one (1) (Jacaranda mimosifolia) street tree due to the proximity of the driveway cross over and layback being a major encroachment of the Tree Protection Zone this will also adversely affect the Structural Root Zone. No objections subject to **Conditions 24, 60(b) & 109.**"*

11. Conclusion

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest.

The proposal provides an opportunity to redevelop a highly constrained site with a contemporary residential apartment building that is generally consistent with the Apartment Design Guide and strategic intentions of the associated planning controls adopted for the locality by the Council.

The proposed development was amended and provides a high degree of amenity for future occupants in terms of access to public transport, education and the shopping centre.

The site is zoned R4 High Density Residential under Ryde LEP 2014 and the development results in one variation to the development standards contained in RLEP 2014 in respect to the overall height of the building.

The height exceedance is not considered to have an unreasonable impact to adjoining properties in terms of overshadowing or overlooking nor is the development out of character with the immediate area. Accordingly, given the circumstance of the case, the applicant has provided a Clause 4.6 variation which is supported.

The development generally complies with the relevant planning controls except for the building separation and setbacks. However, given the site constraint (narrow site – 13.4m wide), the proposal provides for acceptable amenity. The proposal has provided setbacks, similar to adjoining properties and the variations are not considered to adversely impact adjoining properties or the streetscape character of the area.

The development is recommended for approval subject to appropriate conditions of consent provided in **Attachment 1** of this report.

ITEM 3 (continued)

The reasons for approval are as follows:

1. The variation to the height control requested under Clause 4.6 of the RLEP is justified for the following reasons:
 - The development is consistent with the desired future character of the locality.
 - The development will not result in overshadowing that would adversely impact the adjoining properties.
 - The non-compliance in height does not result in an exceedance in the floor space ratio.
 - The breach in height is relatively minor and is not inconsistent with adjoining properties.
2. The proposal is consistent with the objectives of the R4 High Density zone under RLEP 2014. The development is also consistent with the development standards in RLEP 2014 with the exception of height.
3. The proposal results in minor breaches to the Apartment Design Guide in respect to building separation and setbacks. Despite the non-compliances, the development will still provide adequate amenity to future residents whilst maintaining amenity to the adjoining residential properties.
4. The proposal is consistent with the desired future character of the area.
5. The proposal is not considered to create likely impacts on the residential amenity of adjoining properties.

12. Recommendation

Pursuant to Section 4.6 of the Environmental Planning and Assessment Act, 1979, the following is recommended:

- A. That the Local Planning Panel grant consent to development application LDA2018/244 for the construction of a residential apartment building development at No. 20 May Street, Eastwood subject to the conditions of consent in **Attachment 1** of this report; and
- B. That the person who made a submission in the second round of notification be advised of the decision.

ITEM 3 (continued)

ATTACHMENTS

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

Report Prepared By:

Sandra Mccarry
Acting Senior Coordinator - Major Development

Report Approved By:

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

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

1. **Drainage Easement.** An easement to drain stormwater must be established over the downstream property(ies) in order for the development to legally drain via gravity to the downstream public drainage infrastructure. The easement is to be located generally as shown on the concept plan completed by Eclipse Consulting Engineers Pty Ltd, drawing number 9599 C06, revision B, dated 22nd January 2019. Documentary evidence of registration of the drainage easement with the Land & Property Information Authority, including the terms of the drainage easement and its location on the burdened lot(s), must be submitted to Council to demonstrate the requirements of this condition have been satisfied, prior to the activation of this Development Consent.

PART 2 - 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.

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

Document Description	Date	Plan No/Reference
Site Plan	Received by Council on 21/2/2019	A1p
Basement Parking Plan	Received by Council on 5/4/2019	A2r
Ground Floor Plan	Received by Council on 5/4/2019	A3r
First Floor Plan	Received by Council on 5/4/2019	A4r
Second Floor	Received by Council on 5/4/2019	A5r
West & South Elevations	Received by Council on 5/4/2019	A8r
East & North Elevations	Received by Council on 5/4/2019	A9r
Roof	Received by Council on 21/2/2019	A6p
Landscaping	07/11/2018	002038/TM Issue B sheets 1 & 2

Prior to the issue of a **Construction Certificate**, the following amendments shall be made and submitted to Council for approval:

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- (a) **Privacy Screen.** So as to minimise overlooking to the bedroom windows directly opposite, a privacy screen is to be provided on the northern elevation of the rear balconies of Units 4 & 6.
- (b) **Communal Open Space – relocate BBQ.** The proposed BBQ and associated seating area located adjacent to the Private Open Space of Unit 2 is to be relocated to the rooftop terrace.
- (c) **Communal Open Space – Outdoor seating.** Outdoor seating is to be provided to the perimeter of the proposed stepper path within the deep soil area adjacent to the rear boundary. All seating proposed within this space must be suitably screened from Unit 2 Private Open Space area. Details of compliance are to be shown on the plans for Construction Certificate.
- (d) **Eastern Boundary – Side Setback.** The proposed area of paving and boundary planting within the eastern side setback is to be dedicated as Private Open Space to be allocated between Units 1 and 2. The division of space is to align with the shared internal wall adjoining the two Units. Each Unit is to be reconfigured so that suitable doors are provided along the eastern elevation of the building in order to access the space. Details of compliance are to be shown on the plans for Construction Certificate.
- (e) **Unit 1 Courtyard.** To provide a sense of address for the development, the side entry to Unit 1 courtyard is to be relocated to the front of the courtyard.

The front fence is to be amended to a picket type fencing to allow for passive surveillance to May Street. To ensure that privacy is provided to the courtyard, the setback to the courtyard from the front boundary should be increased from 3.2m to 4m. Details of compliance are to be shown on the plans for Construction Certificate.
- (f) **Pedestrian passing bay.** To ensure safety and prevent concealment opportunity, the pedestrian passing bay proposed along the side pathway is to be deleted and this area provided as landscaping.
- (g) **Finishes and Material.** To improve the aesthetic of the building, coloured grout closer to the colour of the bricks is to be used. The colour of the window frames is to be amended to colour: Dulux Monument so as to make them recessive in the architecture with brown rendered elements in charcoal colour.
- (h) **Car ramp gradient.** To ensure vehicles exiting the property have clear visibility of any pedestrians utilising the public footpath, the plans shall be amended to incorporate the gradients specified within Condition 67 labelled “*Vehicle Access & Parking.*”

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- (i) **Signage.** To ensure that that the side entrance is accessible and easy to identify, a small directional sign is to be provided to direct visitors to the site entrance.

Details of compliance are to be shown on the plans for Construction Certificate.

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

2. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
3. **BASIX.** Compliance with all commitments listed in BASIX Certificate(s) numbered 864064M-02 dated 21 December 2018.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.
6. **Hoardings.**
 - (a) A hoarding or fence must be erected between the work site and any adjoining public place.
 - (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.
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.

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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, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.
11. **Design and Construction Standards** – All engineering works shall be carried out in accordance with the requirements as outlined within Council’s DCP 2014 Part 8.5 *Public Civil Works* and relevant Development Control Plans except as amended by the conditions herein.
12. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the demolition and construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 1985 and City of Ryde, Development Control Plan 2006: - Part 8.1; Construction Activities.
13. **Service Alterations.** All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the applicant’s expense.
14. **Construction Staging.** For any staging of the public domain works, the applicant shall provide a detailed construction management and staging plan.
15. **Public areas and restoration works.** Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council’s standards and specifications, and DCP 2014 Part 8.5 *Public Civil Works*, to the satisfaction of Council.
16. **Mechanical ventilation of rooms.** If the airborne noise level with windows and doors open exceeds the above noise criteria by more than 10dBA, an approved system of mechanical ventilation must be provided so that the building occupants can leave the windows and doors closed.
17. **Fresh air intake vents.** All fresh air intake vents must be located in a position that is free from contamination and at least 6 metres from any exhaust air discharge vent or cooling tower discharge.

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18. **Exhaust air discharge vents.** All exhaust air discharge vents must be designed and located so that no nuisance or danger to health will be created.
19. **Carpark exhaust vent.** The carpark exhaust vent must be located at least 3 metres above ground level or any pedestrian thoroughfare and:
 - (a) at least 6 metres from any fresh air intake vent or natural ventilation opening; and
 - (b) at least 6 metres or, where the dimensions of the allotment make this impossible, the greatest possible distance from any neighbouring property boundary.
20. **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.
21. **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.
22. **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.
23. **Plumbing and drainage work.** All plumbing and drainage work must be carried out in accordance with the requirements of Sydney Water Corporation and the NSW Department of Fair Trading.
24. **Street tree removal.** Remove one (1) (*Jacaranda mimosifolia*) located on the nature strip adjacent to the subject property.
25. **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.
26. **Certification.** A Tree Protection Schedule, as indicated below, which provides a logical sequence of hold points for the various development stages including pre construction, construction and post construction and a checklist of various hold

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points that are to be signed and dated by the Project Arborist. This is to be completed progressively and included as part of the final certification. A copy of the final certification is to be made available to the City of Ryde Council prior to the issue of any Occupation Certificate.

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

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.

27. 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.

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

29. 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 Safework NSW in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.

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

31. **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.

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

33. **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.

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

35. **Identification and removal of hazardous materials.** Any hazardous materials, including asbestos, must be identified before demolition work commences and be removed in a safe manner.

36. **Storage and removal of wastes.** All demolition and construction wastes must be stored in an environmentally acceptable manner and be removed from the site at frequent intervals to prevent any nuisance or danger to health, safety or the environment.

37. **Contaminated soil.** All potentially contaminated soil excavated during demolition or construction work must be stockpiled in a secure area and be

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assessed and classified in accordance with the *Waste Classification Guidelines Part 1: Classifying Waste* (EPA, 2014) before being transported from the site.

- 38. **Tip Dockets.** Tip Dockets identifying the type and quantity of waste disposed/recycled during construction are to be kept in accordance with the Site Waste Minimisation & Management Plan for spot inspections.
- 39. **Transportation of wastes.** All wastes must be transported in an environmentally safe manner to a facility or place that can lawfully be used as a waste facility for those wastes. Copies of the disposal dockets must be kept by the applicant for at least 3 years and be submitted to Council on request.
- 40. **Recyclable wastes.** All wastes intended for recycling must be transported to a facility where the wastes will be recycled or re-used.
- 41. **Demolition and Construction Pedestrian and Traffic Management Plan.** Submission of a Demolition and Construction Pedestrian and Traffic Management Plan as per condition 64.

PRIOR TO CONSTRUCTION CERTIFICATE

A Construction Certificate must be obtained from a Principal Certifier to carry out the relevant building works approved under this consent. All conditions in this Section of the consent must be complied with before a Construction Certificate can be issued. Council Officers can provide these services and further information can be obtained from Council's Customer Service Centre on 9952 8222.

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

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

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

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$ 14,507.70
Open Space & Recreation Facilities	\$ 35,714.99
Civic & Urban Improvements	\$ 12,147.35
Roads & Traffic Management facilities	\$ 1,657.00
Cycleways	\$ 1,035.06
Stormwater Management Facilities	\$ 3,289.82
Plan Administration	\$ 279.04
The total contribution is	\$ 68,630.96

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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 Interim Update (2014), effective from 10 December 2014.

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

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

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

43. **Compliance with Australian Standards.** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifier prior to the issue of the **Construction Certificate**.
44. **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**.
45. **Security deposit.** The Council must be provided with security for the purposes of section 4.17(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the release of the **Construction Certificate**. (category: other buildings with delivery of bricks or concrete or machine excavation)
46. **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
47. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifier prior to the issuing of the **Construction Certificate**.

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48. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to www.sydneywater.com.au/tapin to apply.
49. **Compliance with Access Report.** The development is to comply with the requirements contained in the Accessibility Report prepared by Assistive Technology Australia dated 9 April 2018. The development is to comply with the Access to Premises Standard 2010, BCA 2014 and Australian Standard AS 1428.1 – 2009 Design for Access and Mobility – General Requirements For Access -New Building Work. Details demonstrating compliance are to be submitted on the Construction Certificate plans.
50. **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**.
51. **Fencing.** Any boundary fencing shall be erected in such a manner as not to interfere with the natural flow of ground and surface water to the detriment of any other party.
- Fencing is to be in accordance with Council's DCP 2014: Part 3.3 – Dwelling Houses and Dual Occupancy (attached) – Section 2.16 - Fences. Please note: the northern and southern front return fence is to be reduce in height to be not to than 900mm so as to allow for adequate sightline. Details of compliance are to be provided in the plans for the **Construction Certificate**.
52. **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**. Automatic lighting along the side entrance pathway is to be provided. The details to include certification from an appropriately qualified person that there will be no offensive glare onto adjoining residents.
53. **Fibre-ready facilities and telecommunications infrastructure.** Prior to the issue of any Construction Certificate satisfactory evidence is to be provided to the Certifier that arrangements have been made for:
- (i) The installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. Alternatively, demonstrate that the carrier has confirmed in writing that they are satisfied that the fibre ready facilities are fit for purpose.

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

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

- 54. **Soil Depth over Structures.** Where planting is proposed over a structure, the development is to achieve the minimum standards for soil provision suitable to the proposed planting, as contained within the Apartment Design Guide. Information verifying that the development complies with these requirements to be provided on the Construction Certificate plans.
- 55. **Irrigation.** An automatic watering system is to be supplied to all landscape areas including common areas, private open spaces to ensure adequate water is available to lawns and vegetation. Irrigation systems shall be fully automated and capable of seasonal adjustments. Details are to be submitted prior to the issue of Construction Certificate.
- 56. **Storage.** Each residential unit is to be provided with the minimum internal storage area as required by the Apartment Design Guide. Details of the location of the storage and dimensions of the storage areas are to be provided on the Construction Certificate plans. The architect is to verify in writing that the development complies prior to the issue of the Construction Certificate.
- 57. **Vehicular entry.** The vehicular entries are to have high quality finishes and detailing to the walls and ceiling. Service ducts or pipes are to be covered and not visible from any public domain. Details demonstrating compliance is to be submitted on the Construction Certificate plans.
- 58. **Basement Ramp.** The crest of the basement ramp must be set at least 150 mm above the Kerb Level and shall meet all the requirements set out within Council DCP 2014 Stormwater and Floodplain Management Part 8.2. This is to prevent ingress of stormwater runoff from the street into the basement carpark. A certificate from a qualified stormwater engineer must be submitted to and approved by the Principal Certifying Authority indicating that the basement ramp meets these requirements prior to the issue of a Construction Certificate.
- 59. **Ground Anchors** - The installation of permanent ground anchors into public roadway is not permitted. The installation of temporary ground anchors may be considered subject to an application to Council's City Works and Infrastructure Directorate, and approval obtained as per the provisions of Section 138 of the Roads Act, 1993. The application for consent must include detailed structural

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engineering plans prepared by a Chartered Structural Engineer (registered on the NER of Engineers Australia), clearly nominating the number of proposed anchors, minimum depth below existing ground level at the boundary alignment and the angle of installation. The approval will be subject to:

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

60. **Public domain improvements** - The public domain is to be upgraded in May Street frontage of the development site in accordance with the City of Ryde Public Domain Technical Manual Section 3 – Eastwood. The work is to include paving, street furniture and plantings, and must be completed to Council's satisfaction at no cost to Council.

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

- (a) **Footpath paving** as specified in the condition of consent for public infrastructure works.
- (b) **Tree planting – street tree.** Two (2) Himalayan pine (*Fraxinus griffithii*) tree with a minimum size of 45litres to be planted in the nature strip.

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

- (c) All telecommunication and utility services are to be placed underground along the May Street frontage. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of work.
- (d) New street lighting using LED luminaires is to be designed and installed to Australian Standard AS1158:2010 *Lighting for Roads and Public Spaces*, with vehicular luminance category V5 and pedestrian luminance category P2 Along May Street. The street lighting will remain on the Ausgrid street lighting network.

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

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

Engineering drawings prepared by a Chartered Civil Engineer (registered on the NER of Engineers Australia) are to be submitted to, and approved by Council's City Works and Infrastructure prior to the issue of the Construction Certificate. The works shall be in accordance with City of Ryde DCP 2014 Part 8.5 - *Public Civil Works*, and DCP 2014 Part 8.2 - *Stormwater Management*, where applicable.

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

The Applicant must submit, for approval by Council as a Road Authority, full design engineering plans and specifications for the following infrastructure works:

- a. The removal of all redundant vehicular crossings and replacement with new kerb and gutter, and the adjacent road pavement reconstruction.
- b. The construction of the conjoined driveway and layback for the development site at No. 20 May Street and adjacent property at No. 22 May Street, Eastwood, to ensure a safe forward in and forward out access for vehicles is maintained.
- c. The footpath along the May Street frontage is to be paved in accordance with the Public Domain Technical Manual Section 3 - *Eastwood*, with the revised technical standards as advised by Council's City Works and Infrastructure Directorate.
- d. Stormwater drainage installations in the public domain in accordance with the DA approved plans.
- e. Signage and linemarking details.
- f. Staging of the public civil works, if any, and transitions between the stages.
- g. The relocation/adjustment of all public utility services affected by the proposed works. Written approval from the applicable Public Authority shall be submitted to Council along with the public domain plans submission. All the requirements of the Public Authority shall be complied with.

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1. The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths, prior to setting the floor levels for the proposed building.
 2. Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
 3. Prior to submission to Council, the Applicant is advised to ensure that the drawings are prepared in accordance with the standards listed in the City of Ryde DCP 2014 Part 8.5 - *Public Civil Works*, Section 5 "*Standards Enforcement*". A checklist has also been prepared to provide guidance, and is available upon request to Council's City Works Directorate.
 4. City of Ryde standard drawings for public domain infrastructure assets are available on the Council website. Details that are relevant may be replicated in the public domain design submissions; however Council's title block shall not be replicated.
62. **Driveway Access and Boundary Alignment Levels** - The applicant shall apply to Council for site specific driveway access and boundary alignment levels prior to the issue of any Construction Certificate. The application shall be accompanied by preliminary engineering plans of civil works along the frontage of the development site. The Council issued levels shall be incorporated into the detail design plans for the public domain improvements and infrastructure works, and the design of the internal driveway, car parking areas, landscaping and stormwater drainage plans. Fees are payable in accordance with Council's Schedule of Fees & Charges at the time of the application.
63. **Vehicle Footpath Crossings.** To protect the footpath from damage resulting from the vehicular traffic, the footpath crossing/s shall be designed and constructed in accordance with the City of Ryde Development Control Plan 2014 Part 8.3 *Driveways* and Part 8.5 - *Public Civil Works*, and all relevant Australian Codes and Standards (AS2890.1). The crossings shall match the paving style along the frontages of the development site.
- In order to avoid the access driveway looking like a public road, kerbs shall not be returned to the boundary alignment line.
- The applicant shall provide Council with certification from a Chartered Civil Engineer (registered on the NER of Engineers Australia) confirming that the vehicle footpath crossing and driveway design meet Council requirements and the relevant standards, prior to the issue of the Construction Certificate.
64. **Demolition and Construction Pedestrian and Traffic Management Plan.** For all works including demolition and construction activities, a Demolition and Construction Pedestrian and Traffic Management Plan (DCPTMP) and report shall be prepared by an RMS accredited person and submitted to and approved by Council prior to issue of any Construction Certificate.

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

65. **Public Domain Works – Defects Security Bond.** To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works in the road reserve following completion of the development. The defects liability period shall commence from the date of issue by Council, of the Compliance Certificate for the External Works. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period. A bond in the form of a cash deposit or Bank Guarantee of \$20,000 shall be lodged with the City of Ryde prior to the issue of a Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the twelve (12) months defects liability period.

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

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

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

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

- a) The driveway ramp must design an 8% gradient for the first 4.25m within the property boundary then increased to 25% for the remaining 9.88m. Refer to marking in red on the architectural approved basement parking plan A2r.
- b) All internal driveways and vehicle access ramps must have ramp grades, transitions and height clearances complying with AS 2890.1. To demonstrate compliance with this Standard, the development's structural details must include a driveway profile, showing ramp lengths, grades, surface RL's and overhead clearances taken along the vehicle path of travel from the crest of the ramp to the basement. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.

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- c) To allow for adequate sight distance from a vehicle exiting the property to pedestrians in the footpath area, the driveway entry at the property boundary must have clear sight through a splayed region defined by Figure 3.3 of AS 2890.1 (2004) and Council's DCP. Ideally the region is to be free of all obstructions, otherwise any solid obstructions are to be no greater than 900mm above finished surfaces and horizontal fencing/ slats are to permit more than 50% visual permeability.

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

68. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to existing kerb inlet pit along Ball Avenue, generally in accordance with the plans by Eclipse Consulting Engineers Pty Ltd, drawing number 9599 C01 to C07, revision B, dated 22nd January 2019, subject to any variations marked in red on the approved plans and noted following;

- Drawing C06 depicts a minimum clearance to the basement of 2100mm. This must be increased to 2200mm to comply with AS2890.1 requirements.
- The discharge pipe connecting to the kerb inlet pit crosses the vehicular crossing. As a result, the entire vehicular crossing shall be replaced at the expense of the developer.
- The 150mm diameter pipe proposed within the drainage easement shall be increased to a minimum 225mm diameter pipe.
- Connection to the public drainage infrastructure will require a road opening permit. Plans detailing these works are to be provided with the permit application and Council's City Works & Infrastructure is to inspect the connection prior to backfill. This is to be noted on the detailed plans.

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

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.
- Onsite detention must be incorporated in the stormwater management system having a minimum SSR of 17.46m³ and a maximum PSD of 12.22L/s. Any variations to these values attributed to changes required by conditions of this consent, must be in accordance with Council's DCP requirements for onsite detention and must be validated in the certification of the design required by this condition.

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

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

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

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

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

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 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.

71. **Reconstruction of Footpath Crossing.** The existing footpath fronting 1 Ball Avenue is likely to dilapidate during construction of the drainage system. Accordingly the driveway crossover must be replaced with a crossing which conforms to Council's requirements in terms of design, materials and construction

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details. Finished levels shall conform to the existing alignment levels and all grades and gradient transitions must comply with AS 2890.1.

72. **Design verification in respect of SEPP 65.** Prior to a Construction Certificate being issued with respect to this development, the Principle Certifying Authority is to be provided with a written Design Verification from a qualified designer. This statement must include verification from the designer that the plans and specification achieve or improve the design quality of the development to which this consent relates, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 143 of the Environmental Planning and Assessment Regulation 2000.
73. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction work, namely 18 & 22 May 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.
74. **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.

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75. **Waste.** All waste storage areas which have a doorway must be wide enough to allow the bins allocated to the property or access for larger furniture items for bulky waste storage areas, to fit through opening including the door.
- 240L Bins – width 0.6m, depth 0.8m, height 1.1m
 - Safe easy access must be provided for waste collection vehicles to service the waste containers. Details demonstrating how safe access will be achieved must be approved by the City of Ryde Council prior to the issue of any Construction Certificate
76. **Garbage and recycling rooms.** All 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;
 - (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
 - (k) Garbage and recycling bins must always be stored on-site between collections.
 - (l) All waste storage areas must be maintained in a clean and tidy condition at all times

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- (m) All material in the bulky items/hard waste storage rooms is to be taken to the collection area stipulated by Council, by the staff or contractors. The material is to be placed in such a manner so that it will not impede the access to any bins from a side arm waste collection vehicle or pedestrian access”
- (n) 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.
- (o) The area surrounding the construction site must be maintained to reduce the incidence of illegal dumping and management of litter from the site and workers associated with the site must be undertaken.

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.

77. Site Sign

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

78. Excavation adjacent to adjoining land

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

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out on the allotment of land being excavated or on the adjoining allotment of land.

79. **Safety fencing.** The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with Safework NSW requirements and be a minimum of 1.8m in height.
80. **Work Zones and Permits.** Prior to commencement of the associated works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. A Roads and Maritime Services Work Zone Permit shall be obtained for State Roads.
81. **Notice of Intention to Commence Public Domain Works –** Prior to commencement of the public domain works, a *Notice of Intention to Commence Public Domain Works* shall be submitted to Council's City Works and Infrastructure Directorate. This Notice shall include the name of the Contractor who will be responsible for the construction works, and the name of the Supervising Engineer who will be responsible for providing the certifications required at the hold points during construction, and also obtain all Road Activity Permits required for the works.
- Note:** Copies of a number of documents are required to be lodged with the Notice; no fee is chargeable for the lodgement of the Notice.
82. **Notification of adjoining owners & occupiers – public domain works -** The Applicant shall provide the adjoining owners and occupiers written notice of the proposed public domain works a minimum two weeks prior to commencement of construction. The notice is to include a contact name and number should they have any enquiries in relation to the construction works. The duration of any interference to neighbouring driveways shall be minimised; and driveways shall be returned to the operational condition as they were prior to the commencement of works, at no cost to the owners.
83. **Pre-Construction Dilapidation Report -** To ensure Council's infrastructures are adequately protected a pre-construction dilapidation report on the existing public infrastructure in the vicinity of the proposed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record of any observable defects to the following infrastructure where applicable.
- a. Road pavement,
 - b. Kerb and gutter,
 - c. Footpath,
 - d. Drainage pits,
 - e. Traffic signs, and

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f. Any other relevant infrastructure.

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

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

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

- a) Road Use Permit - The applicant shall obtain a Road Use Permit where any area of the public road or footpath is to be occupied as construction workspace, other than activities covered by a Road Opening Permit or if a Work Zone Permit is not obtained. The permit does not grant exemption from parking regulations.
- b) Work Zone Permit - The applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. **A Roads and Maritime Services Road Occupancy Licence shall be obtained for State Roads.**
- c) Road Opening Permit - The applicant shall apply for a road-opening permit and pay the required fee where a new pipeline is to be constructed within or across the road pavement or footpath. Additional road opening permits and fees are required where there are connections to public utility services (e.g. telephone, telecommunications, electricity, sewer, water or gas) within the road reserve. No opening of the road or footpath surface shall be carried out without this permit being obtained and a copy kept on the site.
- d) Elevated Tower, Crane or Concrete Pump Permit - The applicant shall obtain an Elevated Tower, Crane or Concrete Pump Permit where any of these items of plant are placed on Council's roads or footpaths. This permit is in addition to either a Road Use Permit or a Work Zone Permit.
- e) Crane Airspace Permit - The applicant shall obtain a Crane Over Airspace Permit where a crane on private land is operating in the air space of a Council road or footpath. Approval from the Roads and Maritime Services for works on or near State Roads is required prior to lodgement of an

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application with Council. A separate application for a Work Zone Permit is required for any construction vehicles or plant on the adjoining road or footpath associated with use of the crane.

- f) Hoarding Permit - The applicant shall obtain a Hoarding Permit and pay the required fee where erection of protective hoarding along the street frontage of the property is required. The fee payable is for a minimum period of 6 months and should the period is extended an adjustment of the fee will be made on completion of the works. The site must be fenced to a minimum height of 1.8 metres prior to the commencement of construction and throughout demolition and/or excavation and must comply with WorkCover (New South Wales) requirements.
- g) Skip Bin on Nature Strip - The applicant shall obtain approval and pay the required fee to place a Skip Bin on the nature strip where it is not practical to locate the bin on private property. No permit will be issued to place skips.

85. **Temporary Footpath Crossing** - A temporary footpath crossing, if required, must be provided at the vehicular access points. It is to be 4 metres wide, made out of sections of hardwood with chamfered ends and strapped with hoop iron, and a temporary gutter crossing must be provided.

86. **Footpath Works.** The applicant shall, at no cost to Council, excavate and/or fill the footpath adjacent to the subject property so the levels of the footpath comply with the levels specified by Council's City Works & Infrastructure Department. All work which is necessary to join the new footpath levels with the levels in front of the adjoining properties in a satisfactory manner shall be carried out by the applicant. The cost of reconstructing footpath paving or adjusting any services that may be affected shall be borne by the applicant.

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.

87. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifier during construction to ensure that the critical stage inspections are undertaken, as specified under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.

88. **Noise Management Plan** - Where demolition or construction activities are likely to cause significant noise or vibration (eg. jackhammering ,rock breaking or impact piling) a noise management plan must be prepared by a suitably qualified acoustical consultant and be submitted to the Principal Certifying

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Authority before the work commences. The plan must be prepared in accordance with the Interim Construction Noise Guideline (DECC, 2009) and include:

- (a) Identification of nearby affected residences or other sensitive receivers.
- (b) An assessment of the expected noise impacts.
- (c) Details of the work practices required to minimise noise impacts.
- (d) Noise monitoring procedures.
- (e) Procedures for notifying nearby affected residents.
- (f) Complaints management procedures.

89. **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.
90. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
91. **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.
92. **Construction materials.** All materials associated with construction must be retained within the site.
93. **Site Facilities.** The following facilities must be provided on the site:
- (a) toilet facilities in accordance with Safework NSW requirements, at a ratio of one toilet per every 20 employees, and
 - (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.
94. **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.
95. **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".

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96. **Construction requirements** - All acoustical treatments nominated in the acoustical assessment report and any related project documentation must be implemented during construction.
97. **Hold Points during construction – Drainage Works** - For drainage works within Council controlled land construction inspections will be required by Council's Stormwater Engineer for the Council stormwater drainage connection works at the following hold points:
- Upon excavation of pipeline trenches and other drainage structures prior to backfilling.
 - After the completion of all pits and connection points.

An inspection fee is applicable for each visit, and at least 48 hours' notice will be required for the inspections. Please contact Council's Customer Service Section on 9952 8222 to book an inspection. Work is not to proceed until the works are inspected and approved by Council in writing.

98. **Hold Points during construction - Public Domain** – Council requires inspections to be undertaken by a Chartered Civil Engineer (registered on the NER of Engineers Australia), for the public domain, at the hold points shown below.

The Applicant shall submit to Council's City Works and Infrastructure, certification from the Engineer, at each stage of the inspection listed below, within 24 hours following completion of the relevant stage/s. The certificates shall contain photographs of the works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken.

- a) Prior to the commencement of construction and following the set-out on site of the position of the civil works to the levels shown on the approved civil drawings.
 - b) Upon excavation, trimming and compaction to the subgrade level - to the line, grade, widths and depths, shown on the approved civil engineering drawings.
 - c) Upon compaction of the applicable sub-base course.
 - d) Upon compaction or construction of any base layers of pavement, prior to the construction of the final pavement surface (e.g. prior to laying any pavers or asphalt wearing course).
 - e) Upon installation of any formwork and reinforcement for footpath concrete works.
 - f) Final inspection - upon the practical completion of all civil works with all disturbed areas satisfactorily restored.
99. **Traffic Management.** Any traffic management procedures and systems must be in accordance with *AS 1742.3 1996* and City of Ryde, Development Control Plan

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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.

100. **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.
101. **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 Eclipse Consulting Engineers Pty Ltd, drawing number 9599 C01 to C07, revision B, dated 22nd January 2019, submitted in compliance to the condition labelled “Stormwater Management.” and the requirements of Council in relation to the connection to the public drainage system.
102. **Stormwater Management – Works in the New Drainage Easement.** To ensure there is minimal imposition and loss of amenity to the owner/ occupants of the property burdened by the new drainage easement in construction of these drainage services, the builder/ developer must;
 - (i) Provide a minimum 3 weeks notification to the burdened property owner and occupants prior to the commencement of works in the neighbouring property.
 - (ii) Ensure the works are completed in a timely manner.
 - (iii) Ensure any structures adjacent the works are adequately supported at all times.
 - (iv) Make provision to restore the work area so as to maintain the amenity of the land / minimise the imposition of works on the burdened land, should the works be delayed due to unforeseen events such as weather, service adjustments, etc.
 - (v) Restore all areas on the burdened property disturbed by the construction works to a condition equivalent to the pre-developed state or otherwise as agreed by the owner of the burdened property.
 - (vi) Comply with any terms agreed upon by both parties in regards to the construction of the drainage services and restoration of the land, in the granting of the easement.
103. **Erosion and Sediment Control.** The applicant shall install erosion and sediment control measures in accordance with the approved plan at the commencement of works on the site. Suitable erosion control management procedures in accordance with the manual “Managing Urban Stormwater: Soils and Construction“ by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.

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104. **Tip Dockets.** Tip Dockets identifying the type and quantity of waste disposed/recycled during construction are to be kept in accordance with the Site Waste Minimisation & Management Plan for spot inspections.
105. **Maintenance.** The area surrounding the construction site must be maintained to reduce the incidence of illegal dumping and management of litter from the site and workers associated with the site must be undertaken.
106. **Implementation of Demolition and Construction Pedestrian and Traffic Management Plan.** All works including demolition and construction activities are to be undertaken in accordance with the approved Demolition and Construction Traffic Pedestrian and Management Plan (DCPTMP). All controls in the DCPTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate RMS accreditation. Should the implementation or effectiveness of the DCPTMP be impacted by surrounding major development not encompassed in the approved DCPTMP, the DCPTMP measures and controls are to be revised accordingly and submitted to Council.

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

107. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificate(s) numbered 885946M_02, dated 21 December 2018.
108. **Landscaping.** All landscaping works approved by condition 1, as amended, are to be completed prior to the issue of the final **Occupation Certificate**.
109. **Security deposit.** The Council must be provided with security for the purposes in a sum \$1000.00 per tree a total of \$2000.00 prior to the release of the Occupation Certificate and be held for a minimum of 12 months to ensure the long term health and condition of the replacement street tree.

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110. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to www.sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

111. **Compliance report** - A report from a qualified acoustical consultant demonstrating compliance with the relevant noise criteria must be submitted to the Principal Certifying Authority before the issue of an Occupation Certificate.
112. **Compliance report** - A report from a qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria must be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) before the issue of an Occupation Certificate.
113. **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.
114. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention, and pump/ 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 instrument are to be in accordance with the Council's standard terms for such systems, as specified in City of Ryde DCP 2014 - Part 8.4 (Title Encumbrances) - Section 7 and to the satisfaction of Council. The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.
115. **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

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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 Council's satisfaction, prior to the issue of any Occupation Certificate.

116. **Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
 - b) Confirming that the constructed interallotment drainage system complies with the construction plan requirements and the Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures.
 - c) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
 - d) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - e) Confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 - 2003 (National Plumbing and Drainage Code), the relevant sections of the Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures and any requirements of Council pending on site conditions.
 - f) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).
 - g) 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.
 - h) Compliance certificate from Council confirming that all external works in the public road reserve have been completed to Council's satisfaction.

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117. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at Ryde Civic Centre (Devlin Street, Ryde).
118. **Garbage Service.** Suitable arrangements must be made with the City of Ryde Council for the provision of garbage services to the premises prior to the issue of any Occupation Certificate. Council does not support the use of private contractors for the collection of domestic waste. All domestic waste will be collected by the Council waste collection contractor.
119. **CCTV Cameras.** CCTV cameras will be required to be installed throughout the site. The cameras should include the foyer area to the buildings including the area around the mail boxes. The cameras should also monitor the 50 metre vicinity outside the building including, but not limited to, the footpath area in front of the premises. CCTV cameras should also cover any communal areas, lifts, public spaces, pedestrian link and the basement car parks, including the entry and exit points to the car park. Recordings should be made twenty four (24) hours a day seven (7) days a week.

As a minimum, CCTV cameras at entry and exit points to the premises MUST record footage of a nature and quality in which it can be used to identify a person recorded by the camera. All other cameras MUST record footage of a nature and quality in which it can be used to recognise a person recorded by the camera. The time and date must automatically be recorded on all recordings made whilst it is recording. All recordings are to be kept for a minimum period of thirty (30) days before they can be reused or destroyed.

If requested by police, the applicant is to archive any recording until such time as they are no longer required. Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any windows computer.

The CCTV control system should be located within a secured area of the premise and only accessible by authorised personnel. If the CCTV system is not operational, immediate steps are to be taken by the applicant to ensure that it is returned to a fully operational condition as soon as possible.

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

120. **Car parking security.** Vehicular entry to residential parking and visitor's parking areas is to be through a secured roller shutter with an intercom system for visitor's access. The doors are to be controlled by locksets such as remote

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or card operating electronic lock sets. The phasing of the roller door needs to minimise the opportunity for unauthorised pedestrian access after a vehicle enters/exits the car park. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

121. **Graffiti.** All surfaces on the street level that are not glass should use graffiti resistant paints and/or other surfaces that discourage graffiti. A maintenance policy should be established for graffiti to be painted over within two a week of the graffiti.

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

122. **Security.** To enhance the physical security of doors, all glass doors are to be laminated and the main entry/exit doors to individual units on the ground floor, including balcony doors and fire exit doors to the development are to be fitted with a single cylinder lockset (Australian and New Zealand Standard - Lock Sets), which comply with the Building Code of Australia. Windows to individual units on the ground floor should also be fitted with key operated locksets (Australia and New Zealand Standard - Lock Sets) to restrict unauthorized access to the unit.

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

123. **Intercom System.** Intercom facilities should be incorporated into these entry/exit points to enable residents to communicate and identify with people prior to admitting them to the development. An auxiliary lock set should also be incorporated into the design of each of the entry/exit points to enable emergency services to access the development particularly in emergency situations.

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

124. **Balcony doors to units.** Balcony doors to units are to be fitted with single cylinder locksets (Australian and New Zealand Standard – Lock Sets) to restrict unauthorised access to units. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

125. **Signage and Linemarking – External.** “NO PARKING WASTE VEHICLE EXCEPTED” signs shall be installed on May Street along the site’s frontage to enable unimpeded access for Council’s 11m waste vehicle for kerbside collection on waste collection day(s) only. A plan demonstrating the proposed signage and line marking within Council’s Public Domain shall be prepared by a

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suitably qualified person and submitted to and approved by the Ryde Traffic Committee prior to the issue of any Occupation Certificate.

Note: The applicant is advised that the plan will require approval by the Ryde Traffic Committee if the proposal requires change in existing parking conditions and hence, adequate time should be allowed for this process.

126. **Signage and Linemarking – Implementation.** The applicant is to install all signage and linemarking, as per the plan approved by the Ryde Traffic Committee. These works are to be undertaken prior to the issue of any Occupation Certificate.
127. **Public Domain Improvements and Infrastructure Works – Completion – All** public domain improvements and infrastructure works shall be completed to Council's satisfaction, in accordance with the approved public domain plans and at no cost to the Council, prior to the issue of any Occupation Certificate.
128. **Restoration – Supervising Engineer's Certificate** - Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council a certificate from the Supervising Engineer confirming that the final restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure and replacement of any redundant vehicular crossings as a result of the construction works associated with this development site, have been completed in accordance with the Council's standards and specifications, and DCP2014 Part 8.5 *Public Civil Works*, or the Roads and Maritime Services' standards and specifications, where applicable.
129. **Compliance Certificate – External Landscaping Works** – Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, certification from a qualified Landscape Architect confirming that the public domain landscaping works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications.
130. **Public Domain Works-as-Executed Plans** – To ensure the public infrastructure works are completed in accordance with the approved plans and specifications, and that the assets to be handed over to Council are accounted for inclusion in Council's Assets Register, Works-as-Executed Plans shall be submitted to Council for review and approval. The Works-as-Executed Plans are to be prepared on a copy of the approved plans and certified by a Registered Surveyor, and shall contain notations in red, all departures from the Council approved details. Any rectifications required by Council shall be completed by the Developer prior to the issue of any Occupation Certificate.
131. **Supervising Engineer Final Certificate** – Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved drawings and City of

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Ryde standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

132. **Post-Construction Dilapidation Report** – To ensure Council’s infrastructures are adequately protected a post-construction dilapidation report on the existing public infrastructure in the vicinity of the completed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record of any observable defects to the following infrastructure where applicable.
- a. Road pavement,
 - b. Kerb and gutter,
 - c. Footpath,
 - d. Drainage pits,
 - e. Traffic signs, and
 - f. Any other relevant infrastructure.

The report shall include summary statement/s comparing the pre and post construction conditions of the public infrastructure. The report is to be dated and submitted to, and accepted by Council’s City Works and Infrastructure Directorate, prior to issue of the Occupation Certificate. The report shall be used by Council to compare with the pre-construction dilapidation report, and to assess whether restoration works will be required prior to the issue of the Occupation Certificate.

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

133. **Decommissioning of Ground Anchors** – Prior to the issue of any Occupation Certificate, the Applicant shall provide Council a certificate from a suitably qualified Structural or Geotechnical Engineer confirming that all temporary soil/ground anchors installed into the public road reserve, have been decommissioned and are not transferring any structural loads into the road reserve stratum.
134. **Final Inspection – Assets Handover** - For the purpose of the handover of the public infrastructure assets to Council, a final inspection shall be conducted in conjunction with Council’s Engineer from City Works and Infrastructure Directorate following the completion of the external works. Defects found at such inspection shall be rectified by the Applicant prior to Council issuing the Compliance Certificate for the External Works. Additional inspections, if required, shall be subject to fees payable in accordance with Council’s Schedule of Fees & Charges at the time.

A minimum 48 hours’ notice will be required when booking for the final inspection.

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135. Compliance Certificate – External Works and Public Infrastructure

Restoration – Prior to the issue of any Occupation Certificate, a compliance certificate shall be obtained from Council’s City Works and Infrastructure confirming that all works in the road reserve including all public domain improvement works and restoration of infrastructure assets that have been dilapidated as a result of the development works, have been completed to Council’s satisfaction and in accordance with the Council approved drawings. The applicant shall be liable for the payment of the fee associated with the issuing of this certificate.

- 136. Engineering Condition – Public Domain Works** - All outstanding civil works associated with the kerb and gutter, footpath, vehicular crossings and stormwater drainage works for this development site shall be completed in accordance with Council’s specifications and to the satisfaction of Council prior to the issue of the strata plans/subdivision certificate

OPERATIONAL

- 137. Parking Allocation.** Both the owner and occupier of the development must provide and maintain the minimum parking allocation as follows;

- 6 residential spaces,
- 1 residential disabled space, and
- 2 visitor spaces.
- 1 bicycle and motor bike parking spaces.

- 138. Stormwater Management – Implementation of maintenance program.** The stormwater management system components are to be maintained for the ongoing life of the development by the strata management/ owners corporation, as per the details in the approved drainage system maintenance plan (DSMP).

- 139. 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.

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

- 141. Signs within the garbage area.** Signs will be required to be placed within the bin area to encourage correct recycling and reduce contamination. City of Ryde will provide the required signage.

- 142. Storage and disposal of wastes.** All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner. Waste storage areas must be maintained in a clean and tidy condition at all times.

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143. **Waste containers.** An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste. Garbage and recycling bins must always be stored on-site between collections.
144. **Recyclable wastes.** Wastes for recycling must be stored in separate bins or containers and be transported to a facility where the wastes will be recycled or re-used.
145. **Transfer of waste containers to emptying point.** Staff or contractors must be employed to take the waste containers from the garbage room or waste storage area to the container emptying point for servicing and to return the containers to the garbage room or waste storage area after servicing.

All material in the bulky items/hard waste storage rooms is to be taken to the collection area stipulated by Council, by the staff or contractors. The material is to be placed in such a manner so that it will not impede the access to any bins from a side arm waste collection vehicle or pedestrian access”

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.

146. **Maintenance of waste storage areas** - All waste storage areas must be maintained in a clean and tidy condition at all times.
147. **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*.
148. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause:
- (a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent 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.

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STATEMENT TO VARY A DEVELOPMENT STANDARD

(CLAUSE 4.3 HEIGHT OF BUILDINGS UNDER RYDE LEP 2014)

INTRODUCTION

A Development Application (LDA/2018/0244) has been lodged with Council to seek consent to the demolition of the existing substandard dwelling and associated structures and erection of a residential flat building development comprising 6 apartment units with basement carpark on land at No.20 May Street, Eastwood.

This written request to vary a development standard is made pursuant to the provisions of Clause 4.6 of Ryde LEP 2014. In this regard, it is requested Council support a variation with respect to compliance with the 11.5m maximum building height requirement for the subject site which is contained in Clause 4.3 of Ryde LEP 2014.

The height of the building upon the original proposal had been in compliance with the development standard. However, the lift and stairwell had to be extended above the roof to enable pedestrian access to the new roof top communal open space which was recommended by the Urban Design Review Panel upon the meeting in July 2018.

This written request has been structured generally in accordance with 'Varying Development Standards: A Guide' published by the NSW Department of Planning & Infrastructure in August 2011.

1. What is the name of the environmental planning instrument that applies to the land?

Ryde Local Environmental Plan 2014

2. What is the zoning of the land?

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R4 (High Density Residential)

3. What are the objectives of the zone?

Zone R4 High Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a high density residential environment.
- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

4. What is the development standard being varied? (e.g. FSR, height, lot size)

The 11.5m maximum building height requirement for the subject site.

5. Under what clause is the development standard listed in the environmental planning instrument?

Clause 4.3(2) of Ryde LEP 2014 states:

4.3 Height of buildings

(2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map."

The LEP map indicates the maximum height of buildings for the subject site to be 11.5m

6. What are the objectives of the development standard?

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Subclause 4.3(1) of Ryde LEP 2014 specifies the objectives of the building height development standard as follows:

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*
- (c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*
- (d) to minimise the impact of development on the amenity of surrounding properties,*
- (e) to emphasise road frontages along road corridors.*

7. What is the numeric value of the development standard in the environmental planning instrument?

11.5m

8. What is proposed numeric value of the development standard in your development application?

12.575m

9. What is the percentage variation (between your proposal and the environmental planning instrument)?

The variation is 1.075m or 9.35%

10. How is strict compliance with the development standard unreasonable or unnecessary in this particular case?

Strict compliance is considered unreasonable and unnecessary in this particular case for the following reasons:

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Firstly, the proposed variation is due to providing the lift and stairwell for pedestrian access to the communal open space on the roof top level which has been recommended by the Urban Design Review Panel. A light weight open pergola structure is also proposed to achieve the amenity in the COS.

Secondly, the proposed encroachments are limited to small sections of the building which are illustrated in the 3D perspective building height plane. The majority of the building is well below the maximum. As such, the variation will not result in detrimental impact on the residential amenity and the streetscape character. The proposed building (as amended) will have a better design whilst blending in with the surround development. The variation to the building height in such a case will not significantly undermine the natural and built environment in the locality.

Thirdly, the proposal, despite the numerical non-compliance, is consistent with the objectives of R4 (High Density Residential) and the objectives of the standard in question which will be discussed in details in 'Item 13' below.

11. How would strict compliance hinder the attainment of the objects specified in Section 5(a)(i) and (ii) (Currently Section 1.3) of the EP&A Act?

In this instance, the aim of Clause 4.6 of Ryde LEP 2014 is to be considered:

“4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.”*

In this regard the objects of the Environmental Planning & Assessment Act under Section 5(a)(i) and (ii) which have been replaced with Section 1.3 now are:

Previously: Section 5(a)(i) and (ii)

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(a) to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,

Currently: Section 1.3 (equivalent subclauses highlighted)

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (d) to promote the delivery and maintenance of affordable housing,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

Strict compliance with the development standard is not necessarily consistent with the aim of Clause 4.6 of Ryde LEP 2014 and would hinder the attainment of the objects specified in Section 1.3 of the EP&A Act. In that, insisting strict compliance and not permitting the proposed development with the minor variation to the building height:

- (a) would unnecessarily prevent the opportunity of ensuring social and economic welfare and a better built environment for the community by providing affordable

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and modern housing that the existing house on the subject site cannot offer.

- (b) would unnecessarily prevent the opportunity of facilitating ecologically sustainable development. The Commonwealth Government suggested the following definition for ESD in Australia: *'using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased'*. By allowing the proposed development, it will promote the last remaining and isolated suburban residential allotment to accommodate a RFB consisting 6 dwellings which in turn reduces the cumulative impact of urban sprawl for the metropolitan Sydney in the long run.
- (c) would prevent the orderly and economic use and development of land, although the minor variation sought would not result in detrimental impact in terms of privacy and overshadowing.
- (d) would prevent the opportunity of promoting the housing diversity in more affordable dwelling types.
- (e) would not necessarily protect the environment, including conservation of threatened and other species of native animals and plants, ecological communities and their habitats in the long run in this case
- (f) would not necessarily promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage) in this case
- (g) would prevent the opportunity of promoting better built environment than that of the existing substandard dwelling house on the subject site
- (h) would prevent the opportunity of promoting the proper construction and maintenance of buildings, including the protection of the health and safety of their future occupants
- (i) Council to note
- (j) Council to note

12. Is the development standard a performance based control? Give details.

A 'performance based control' is considered to refer to 'merit assessment' recognising that more than one solution may be available to achieve the desired outcomes. The 11.5m maximum building height is not a performance based control. It is rather a quantitative and prescriptive arbitrary standard which does not allow for any flexibility in achieving the same or even better environmental outcome and which focuses on artificial

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definitions and numerical designation rather than the actual effects or impact of development.

The 11.5m maximum requirement under Clause 4.3 of Ryde LEP does not differentiate whether it is an ancillary building element such as a lift overrun or main building elements for habitable floor space. It is not uncommon that lift overruns project over the roof level in residential flat building development. In this case, the proposed lift and stairwell will need to be provided for the communal open space on the rooftop causing the said numerical non-compliance, despite the planning performance being considered to improve.

13. Would the proposal, despite a numerical non-compliance, be consistent with the objectives of the zone and the objectives of the standard in question, in your particular case? Why?

The proposed RFB development is not considered contrary to the objectives of the R4 (High Density Residential) Zone and Clause 4.3 in question, having regard to the judgement in *Wehbe v Pittwater Council [2007] NSWLEC 827*.

At [42], it was noted that *'the most common way to establish that compliance with a development standard is unreasonable or unnecessary is because the objectives of the development standard are achieved despite non-compliance with the control.'*

Then, the Court added at [43]:

"Development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

The questions raised by this includes:

- 1) Would the proposal, despite a numerical non-compliance, be consistent**

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with the relevant environmental or planning objectives?

The objectives of R4 (High Density Residential) include; (1) to provide for the housing needs of the community within a high density residential environment and (2) to provide a variety of housing types within a high density residential environment.

The subject site is an isolated and last remaining underdeveloped allotment in the locality. The proposal would be consistent with the said zoning objectives in providing housing variety and housing needs of the community within the existing high density residential environment, despite the numerical non-compliance regarding the lift and stairwell height.

The proposal will not compromise the integrity of LEP 2014, since the subject site is unique in the locality which will not set a precedence. The variation in the building height is fundamentally due to providing the recommended roof top communal open space for better residential amenity.

- 2) Establish that the underlying objective or purpose [of the development standard] is not relevant to the development, with the consequence that compliance is unnecessary.***

Comment: N/A in this case

- 3) Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required, with the consequence that compliance with the development standard is unreasonable.***

Strict compliance is not necessarily consistent with the objective outlined in Clause 4.3 of Ryde LEP 2014 for the following reasons:

- (a) The streetscape is predominantly characterised by residential flat buildings of 3 storey in height throughout May Street and adjacent streets. Many of the existing RFB sites are similar to the subject site in terms of the road frontage width, including Nos.22 and 24 May Street next doors. The proposal would be in keeping with the character of the nearby development for certain.

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- (b) Although, the non-complying building element may generate slightly greater shadow impact on the western side neighbour. The north facing living rooms and POSs of this neighbouring property will not be affected by the proposal. Also, the proposed built form is compatible with and will contribute to the appearance of the area which is demonstrated in the 3D photo montages.
- (c) The subject site is the last remaining residential allotment which could not have been consolidated to.
- (d) The non-complying elements of the building are limited to small sections which will not significantly add to the bulk and scale impact on the surrounding properties.
- (e) N/A

4) *Establish that the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the development standard, and hence compliance with the standard is unnecessary and unreasonable.*

Although the development standard in question has not been virtually abandoned or destroyed by Ryde Council's own actions in granting consents departing from the standard, Council has numerous cases of supporting minor variations to the maximum building height standard on merit from time to time.

By the same token, the proposed development has its merit despite the variation which has been discussed throughout this report. As such, insisting strict compliance and removal of the lift and stairwell access for the roof top communal open space against the UDRP's recommendation in this case would be unnecessary and unreasonable.

5) *Establish that the zoning of particular land was unreasonable or inappropriate so that "a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land" and that "compliance with the standard in that case would also be unreasonable or unnecessary.*

Comment: N/A, in this case

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14. Are there sufficient environmental planning grounds to justify contravening the development standard? Give details.

Firstly, Section 3D-1 of the Apartment Design Guide stipulates a 'Design Guidance' which requires provision of a landscaped roof top open space where development is unable to achieve the minimum 25% communal open space due to a small lot size which is the case for the subject site. In this instance, provision of the landscaped roof top open space will enhance the visual amenity and microclimate for the prospective residents and adjacent neighbours in the context. Currently, none of the adjoining sites provides a landscaped open space behind the building line due to the extensive concrete driveways and car parking structures, as illustrated in the aerial photograph below.



Aerial photograph of the site & surroundings (Courtesy of LPI)

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The written recommendation of the Urban Design Review Panel and Council from the first meeting in July 2018 corresponds with the above section of the ADG. In that, it is more appropriate to provide a communal open space on the roof level rather than in the rear setback area due to the site circumstance. The Panel added that *'the building height shows there is sufficient clearance under the height plane to provide potential access to this space although disabled access throughout the building needs to be clarified'*.

Contravention of the development standard in this case is mainly due to providing the lift and stairwell access to the recommended roof top communal open space for everyone including people with a disability. Light weight open pergolas have also been provided to facilitate the amenity and recreational use of the open space.

It is therefore considered that contravention of the development standard in this case is a direct outcome of development assessment process in order to improve the proposal on planning grounds as explained above and strict compliance would eliminate the opportunity to facilitate the accessibility and functionality of the landscaped roof top COS.

Secondly, Section 4N (Roof Design) of the Apartment Design Guide recognises that *'the roof is an important element in the overall composition and design of a building. Quality roof design provides a positive addition to the character of an area and can form an important part of the skyline. Roofs also provide opportunities for open space where appropriate and can add to the sustainability performance of a building. The Standard Instrument (LEP) Order 2006 allows for architectural roof features that can exceed the maximum building height. This is an important tool for achieving high quality roof design and articulation.'*

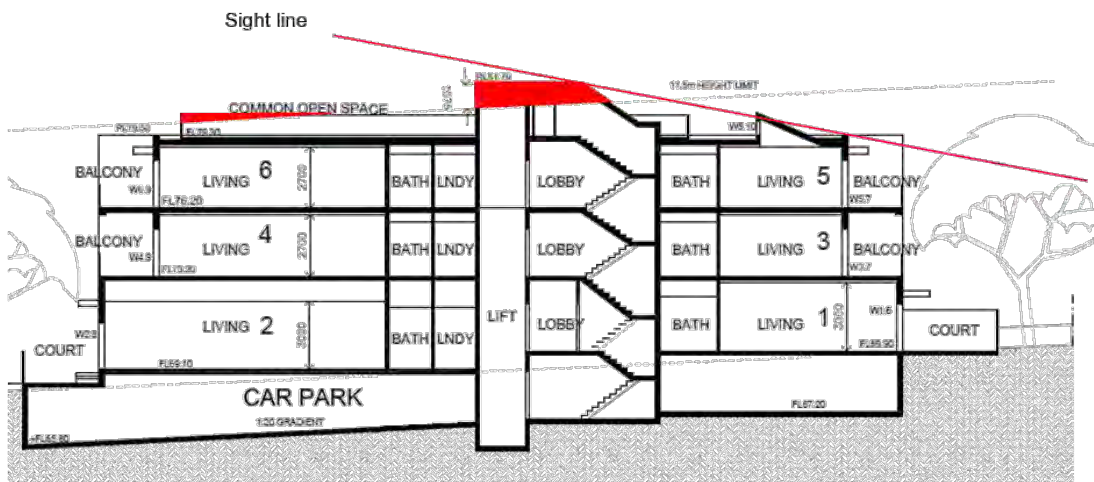
Although Ryde Local Environment Plan 2014 does not adopt Clause 5.6 (Architectural roof feature), the non-compliant portion of the building is substantially set back from the front building line and would not result in unacceptable bulk and scale impact on the May Street streetscape. Rather, the proposed lift and stairwell is small in scale and is proportionate to the overall building size, scale and form which will contribute to the visual interest and achieve articulation and better composition of the roof design when seen from the adjacent neighbours.

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Furthermore, the current built form environment in the vicinity, which is predominantly characterised by older style conventional 3 storey walk-up apartments, lacks a composition of varied building elements and changes in texture, material, detail and colour. Despite the numerical non-compliance, the proposed development will make a positive contribution to the existing built environment in the local context.



SECTION A

Section Plan showing the non-compliant portions of the development

Thirdly, Council's support for the variation would be in the public interest. 'The Guide to Section 79C (Currently Section 4.15)' published by the previous Department of Planning refers '(e) – the public interest' to be '*Federal, State and Local government interests and community interests*' as below:

(e) – The public interest

<i>Primary Matters</i>	<i>Specific Considerations</i>
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<p>Federal, State and Local government interests and community interests</p>	<ul style="list-style-type: none"> ▪ Do any policy statements from Federal or State Governments have relevance? ▪ Are there any relevant planning studies and strategies? ▪ Is there any management plan, planning guideline, or advisory document that is relevant? ▪ Are there any credible research findings, which are applicable to the case? ▪ Do any covenants, relevant issues raised in public meetings and inquiries? ▪ Have there been relevant issues raised in public meetings or inquiries? ▪ Was there consultations and submissions made in addition to (d) above? ▪ How will the health and safety of the public be affected?
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To apply the specific considerations in the table to the proposed development, the following assessment is made:

- Numerous policy statements and planning studies and strategies (e.g. The Sydney Metropolitan Strategy 2031) have been published by the NSW Department of Planning and Environment in recent years to facilitate housing supply to keep up with the increasing housing demand in NSW.
- The Apartment Design Guide applies for the subject development proposal and the Urban Design Review Panel has been appointed pursuant to SEPP 65 so as to assess and determine the suitability of RFBs having regard to the provisions of the ADG. The roof top COS has been recommended by the UDRP and therefore is considered to be in the interest to the UDRP and Council at the same time.
- No covenant or registered easement exists that could possibly undermine the public interest.
- All written submissions objecting to the proposal can be adequately dealt with during Council's DA conciliation process if received.
- The health and safety of the public will not be adversely affected by the provision of the lift and stairwell access.

CONCLUSION

This application seeks approval for the demolition of the existing substandard dwelling house and associated structures and construction of a residential flat building consisting 6 units. It has been established that the strict compliance with the development standard

ITEM 3 (continued)

ATTACHMENT 2

20 May Street, Eastwood

(Height of Buildings) specified in Clause 4.3 of Ryde LEP 2014 in this case is unreasonable and unnecessary for the reasons stated above and there are sufficient environmental planning grounds to justify contravening the development standard. It has also been demonstrated that the proposed development will satisfy the objectives of R4 (High Density Residential) Zone and the development standard and is in the public interest.

Therefore, it is concluded that the proposed development is worthy of Council support notwithstanding the numerical non-compliance with the development standard.

Yours faithfully,



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There are no LPP Planning Proposals