

Meeting Date: Thursday 12 August 2021
Location: Meeting held remotely
Time: 5.00pm

City of Ryde Local Planning Panel Meetings will be recorded on audio tape for minute-taking purposes as authorised by the Local Government Act 1993. City of Ryde Local Planning Panel Meetings will also be webcast.

NOTICE OF BUSINESS

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DECLARATIONS OF INTEREST

DEVELOPMENT APPLICATION

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| 3 | 1 Stansell Street, Gladesville Demolition of existing structures and construction of a residential flat building containing six residential storeys (comprising 12 units) and two basement parking levels
LDA2021/0125 | 3 |
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There are no LPP Planning Proposals

DEVELOPMENT APPLICATIONS**1 1 Stansell Street, Gladesville**

Demolition of existing structures and construction of a residential flat building containing six residential storeys (comprising 12 units) and two basement parking levels

LDA2021/0125

Report prepared by: Senior Town Planner

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

File Number: GRP/09/6/12/1/2 - BP21/752

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2021/0125
Site Address & Ward	1 Stansell Street, Gladesville Lot 21 DP 6026 East Ward
Zoning	B4 Mixed Use
Proposal (as lodged)	Demolition of existing structures and construction of a residential flat building containing six residential storeys (comprising 12 units) and two basement parking levels.
Property Owner	Danny Tuhmeh
Applicant	Tony Jreige – Urban Link P/L
Report Author	Shannon Butler, Senior Town Planner

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Lodgement Date	13 April 2021
Notification - No. of Submissions	Seven (7) submissions received, all objecting to the proposed development
Cost of Works	\$6,460,312
Reason for Referral to LPP	Sensitive Development – Development to which <i>State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development</i> applies. <i>Schedule 1, Part 4 of Local Planning Panels Direction</i>
Recommendation	Refusal
Attachments	Attachment 1: Apartment Design Guide (ADG) Compliance Table Attachment 2 – LEP and DCP Compliance Table Attachment 3 – Clause 4.6 Written Variation Request Attachment 4 - Plans submitted with the development application

1. Executive Summary

This report considers a development application under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) on land at 1 Stansell Street, Gladesville, which is legally described at Lot 21 DP 6026.

The subject development application (LDA2021/0125) was lodged on 13 April 2021 and seeks consent for demolition of existing structures and construction of a six storey residential flat building, comprising 12 units and two basement parking levels.

In accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 – Directions by the Minister, this application is reported to the Ryde Local Planning Panel for determination as it constitutes sensitive development to which *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* applies.

The applicant has submitted a Clause 4.6 request to vary Clause 4.3(2) Height as the proposal exceeds the allowable building height of 19m. The maximum building height for the proposal is 22.15m, equating to a 16.6% variation to the control. The non-

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compliant parts of the building are the lift overrun, rooftop pergola and portion of the roof parapet in the northern portion of the site.

The Development Application was notified and advertised between 21 April 2021 and 12 May 2021. Seven (7) submissions were received objecting to the proposal. Concerns raised in the submissions related primarily to suitability of the site and locality for a residential flat building development, pressures on existing infrastructure, traffic impacts, construction impacts and impacts on the surrounding stormwater drainage network.

On 10 May 2021, Council wrote to the applicant requesting further information, which included an amended stormwater management plan, amendments to the design of the basement car parking areas, amendments to proposed works within the public domain, amendments to the waste storage area and amendments to the landscaping plan and arborist report. On 20 May 2021 a meeting was held with the Ryde Urban Design Review Panel (UDRP) and a number of urban design concerns were conveyed to the applicant. When the written comments from the UDRP were provided on 7 June 2021, they were provided to the applicant via email correspondence along with a request for additional information sought by Council's Senior Development Engineer.

On 18 June 2021, the applicant wrote to Council and advised that the requests for additional information were noted, however, the applicant did not wish to provide additional information or make any further design changes regarding the proposed development. It was requested that Council continues the assessment of the Development Application as currently proposed.

The proposal has not appropriately responded to the changing characteristics of the streetscape and relationship with adjoining development. The proposal does not receive compliant solar access, has an unacceptable privacy outcome for rear ground floor unit within the southern tower and insufficient details have been provided relating to landscaping. The proposal results in an unacceptable impact upon Tree 1 within the adjoining property at 3 Stansell Street. The proposal has not been supported by Council's Urban Design Review Panel due to inconsistencies with SEPP 65 and the Apartment Design Guide.

Having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act*, it is recommended Development Application No. LDA2021/0125 be refused.

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2. The Site and Locality



Figure 1 Aerial photograph of the site and locality

The subject site is legally described as Lot 21 DP 6026 and is known as 1 Stansell Street, Gladesville. The site is generally rectangular in shape and located on the southern side of Stansell Street. The site has an area of 724.2m² and a frontage of 12.275 metres to Stansell Street. The site has an eastern boundary length of 60.155 metres, a splayed southern rear boundary width of 12.535 metres and a western boundary length of 58.665 metres.

The subject site currently contains a single storey dwelling. The site has vehicular access adjacent to the western side boundary to a single garage. Other site works include extended concrete and a detached shed to the south-east of the dwelling (Figure 2).

The site is generally flat with a slight downslope from south eastern corner RL48.59 to the north western corner RL46.40. The site has a gentle cross fall east to west.

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Figure 2 Existing dwelling as viewed from rear of the site looking north to Stansell Street

The surrounding locality is characterised by a mix of existing development comprising residential flat buildings, mixed-use development and retail/commercial development fronting the Victoria Road corridor.

The adjoining site to the east, No. 3 Stansell Street (**Figure 3**) contains an older-style residential flat building comprising an enclosed at-grade car parking level and three levels of residential units above.



Figure 3 Adjoining site to the east, No. 3 Stansell Street

ITEM 3 (continued)

The adjoining site to the west (287-295 Victoria Road) is currently vacant land. However, there is a Development Application currently under assessment by Council for the construction of a six storey mixed use development comprising 66 residential units, three commercial tenancies and two basement car parking levels on this land (LDA2021/0089).

The adjoining site to the south, No. 2 Pittwater Road (**Figure 4**) comprises a Council-owned pedestrian pathway and at-grade car parking area. The pathway provides pedestrian access between Victoria Road and the car parking area and contains a number of established trees. There are a number of narrow commercial properties located south of the pathway, fronting Victoria Road.



Figure 4 Adjoining site to the south, No. 4 Pittwater Road

The properties on the opposite side of Stansell Street comprise three storey residential flat buildings of varying ages (**Figure 5**).



Figure 5 Surrounding development on the opposite side of Stansell Street

ITEM 3 (continued)

3. The Proposal

The proposal seeks consent for the demolition of existing structures and construction of a six storey residential flat building containing 12 residential units and two basement car parking levels. The building is in the form of two towers, with a central circulation core. The northern tower presenting to Stansell Street is shown in **Figure 6**.

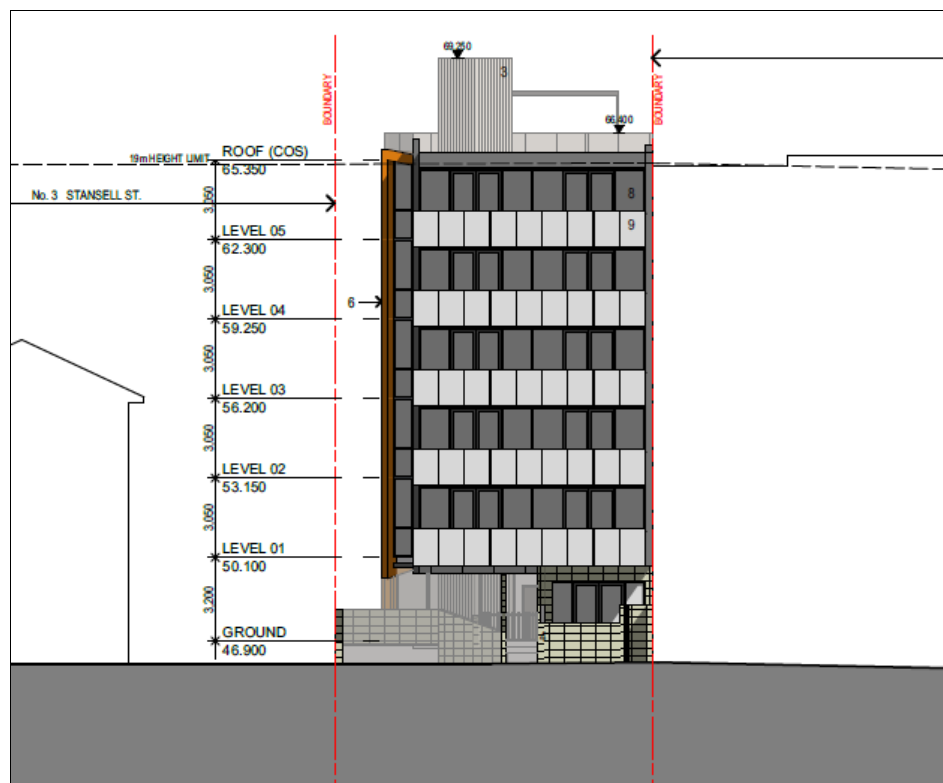


Figure 6 Proposed northern elevation presenting to Stansell Street

Basement Level 1 (RL 43.900) (Figure 7)

- Basement Level 1 comprises 10 car parking spaces (three of which are in a stacked arrangement), a bin storage room, bulky waste storage room, storage receptacles for the residential units and a pump room.
- Access between the two basement levels for vehicles is proposed by way of a 6.2m x 3m scissor car lift.
- Pedestrian access is provided between the basement and residential levels by way of a lift, with a central staircase proposed adjacent to the lift.

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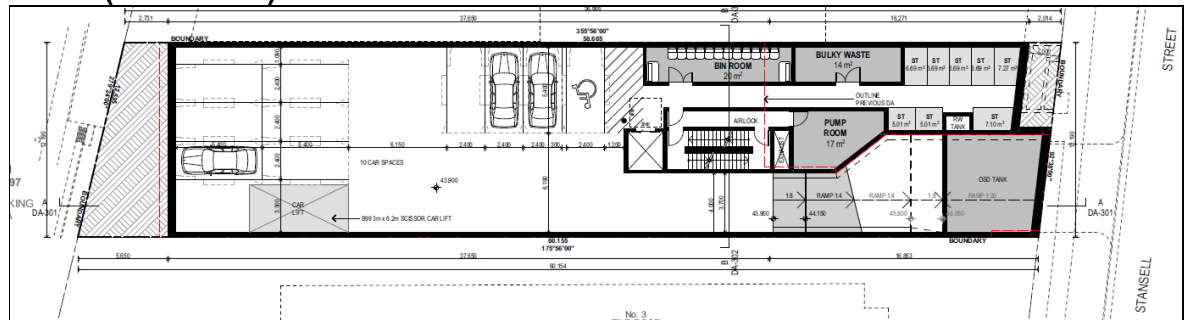


Figure 7 Proposed Basement Level 1

Basement Level 2 (RL 40.900) (Figure 8)

- Basement Level 2 comprises 15 car parking spaces (three of which are in a stacked arrangement), storage area, and two bicycle storage spaces.

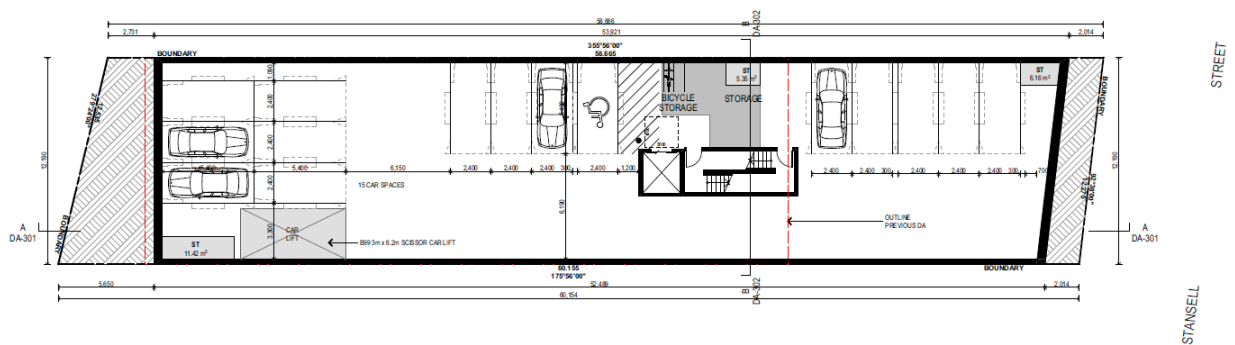


Figure 8 Proposed Basement Level 2

Ground Floor Level (RL46.900) (Figure 9)

- The ground floor level contains one x one bedroom unit (at the north-west of the site) and one x three bedroom unit at the rear of the site.
- There is a central linking circulation core containing lift and stair access.
- The driveway access to the basement level occupies the north-eastern corner of the ground floor level.
- An at-grade communal open space area is indicated to the rear of the building.

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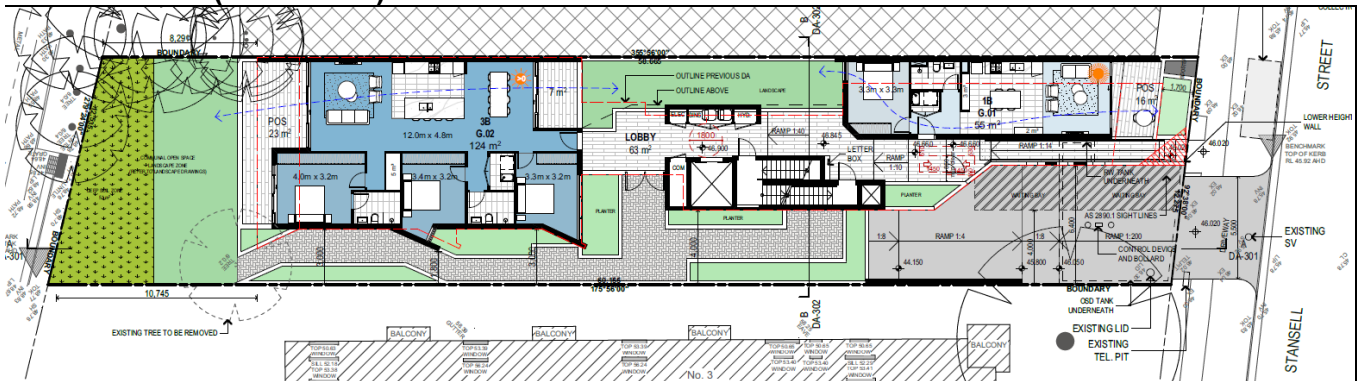


Figure 9 Proposed Ground Floor Level

Levels 1 to 5 (Figure 10)

- Levels 1 to 5 contain two x three bedroom units.
- There is a central linking circulation core containing lift and stair access.

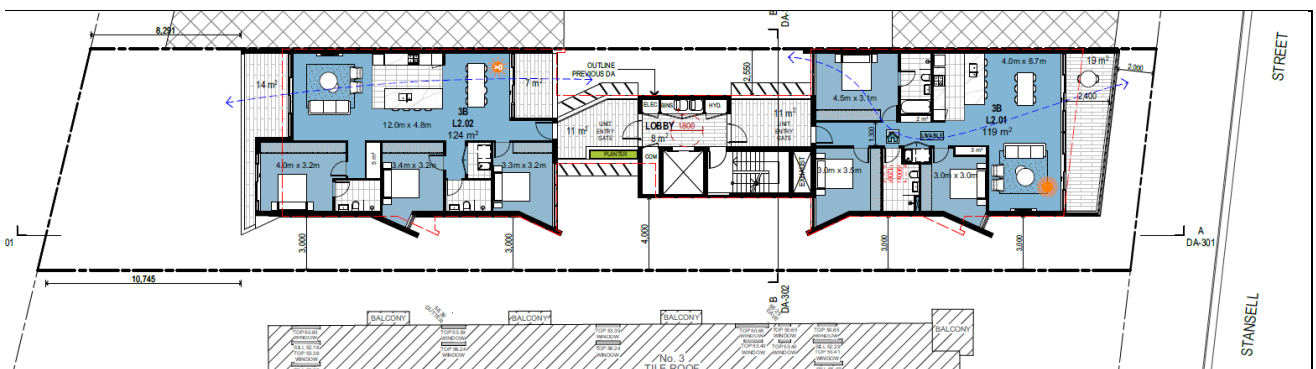


Figure 10 Floor plan of Levels 1 to 5

Rooftop Level (RL65.35) (Figure 11)

- The front (northern) portion of the building comprises a non-trafficable flat roof.
- The rear (southern) portion of the building comprises a common open space area of 191m² in size comprising a barbeque area, seating, an adjustable pergola and a turf exercise area. Access is provided by way of the lift and stairs from the central circulation core.

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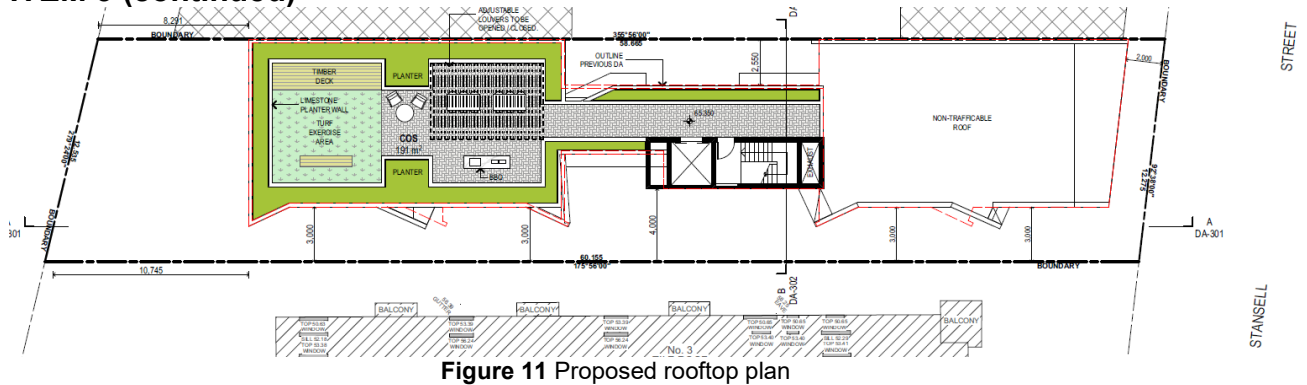


Figure 11 Proposed rooftop plan

External works

The proposal includes a 5.5 metre wide driveway adjacent to the eastern side boundary providing access to the two (2) basement levels. The OSD is proposed beneath the driveway at the north-eastern corner of the property.

The proposal includes ramped pedestrian access located between the northern tower and driveway access to a communal letter box, bin area, the first stairs and the lobby to the southern tower. There is a secondary pedestrian access from the lobby that runs adjacent to the western side boundary to the rear of the site.

Landscaping works (**Figure 12**) are provided centrally within the site and the communal open space is proposed at the rear of the site.

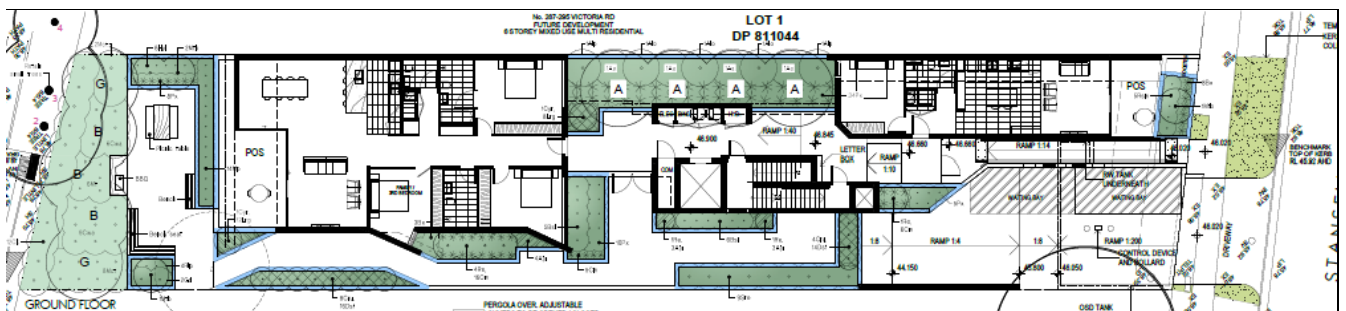


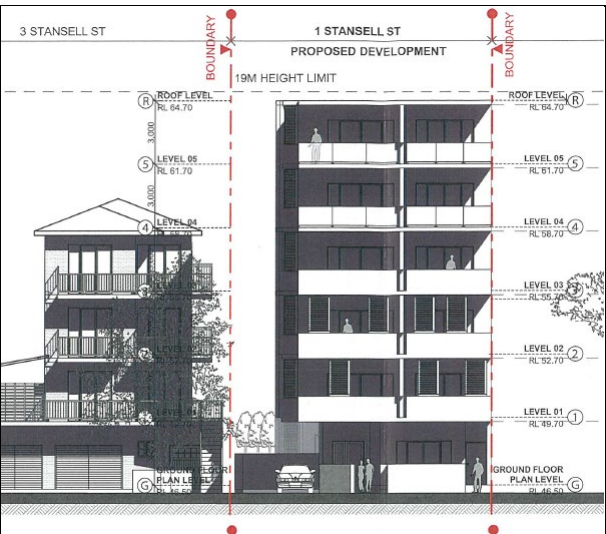
Figure 12 Proposed landscaping works

The proposed development is intended to adjoin a mixed use development proposed to the west at 287-295 Victoria Road (Development Application No. LDA2021/0089 currently under assessment by Council) comprising three ground floor commercial retail tenancies and 66 residential units.

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4. Background

4.1 Site History

12 August 2015	<p>An Urban Design Review Panel (UDRP) and Pre-lodgement Panel meeting was held to discuss an initial proposal for the site (PRL2015/17). The UDRP raised concerns over a number of issues particularly the design constraints associated with the very narrow site. The UDRP also observed that the design would seriously compromise the amenity of the adjoining property at No. 3 Stansell Street. It was advised that the proposal was yet to achieve an acceptable architectural and siting resolution and recommended that the proposal be revised addressing the issues raised.</p>
17 May 2017	<p>Development Application LDA2016/0151 for the construction of a six storey residential flat building containing 23 units with three levels of basement car parking was granted deferred commencement consent.</p> <p>The deferred commencement conditions relate to addressing the risk associated with the Viva Energy underground pipeline to the north of the site.</p>  <p>Figure 13 Northern elevation proposed under LDA2016/151</p> <p>Whilst the previously approved development was similar to the proposed development, the following key differences are noted:</p> <ul style="list-style-type: none"> - The previously approved development contained three basement car parking levels and the subject proposal contains two basement parking levels. The car parking layout differs significantly between the two schemes.

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	<ul style="list-style-type: none"> - The pedestrian access for the previously approved development was located along the western boundary of the site. The pedestrian access for the proposed development is located between the driveway and Unit G.01. - The basement on the previously approved development had a front setback of 14.127 metres. The proposed basement has front setback of 1.2 metres. - The proposed development has a lesser side setback to the east than the previously approved development for the 'ear' features. These were set back 1.94m and are now proposed to be set back 1.8m. - The previously approved development had a maximum height of RL68.75 and the proposed development has a maximum height of RL69.25 to the top of the lift overrun. Therefore, the subject proposal has a greater breach of the height standard. - The previously approved development had a unit mix of 11x studio, 1 x 1 bedroom and 11x2 bedroom and the proposed development has a unit mix of 1x1 bedroom and 11x3 bedrooms. - The proposed façade designs and finishes differ between the previously approved development and proposed development.
17 May 2018	The consent LDA2016/0151 lapsed given that Council was not provided with information addressing the deferred commencement conditions within the statutory timeframe.

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4.2 Applications on adjoining site 287 – 295 Victoria Road

8 May 2020	Development Application LDA2019/0454 for demolition and site remediation of service station was issued consent.
25 March 2021	<p>Development Application LDA2021/0089 was lodged seeking consent for the construction of a six storey mixed use development comprising 66 residential units, three commercial tenancies and two basement parking levels. This application is currently under assessment and is shown in Figures 14 - 16.</p> <div data-bbox="651 761 1366 1144" data-label="Image"> </div> <p>Figure 14 Northern elevation of proposed development at 287-295 Victoria Road</p> <div data-bbox="699 1196 1318 1628" data-label="Image"> </div> <p>Figure 15 Proposed basement level 1 with nil setback to southern boundary</p> <div data-bbox="638 1680 1382 1951" data-label="Image"> </div> <p>Figure 16 Proposed southern elevation</p>

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4.3 Application History

13 April 2021	Development Application No. LDA2021/0125 was lodged proposing the demolition of existing structures and construction of a six storey residential flat building containing 12 residential units and two basement car parking levels.
21 April – 12 May 2021	The DA was notified to surrounding properties. In response, seven (7) submissions were received; all objecting to the proposed development.
10 May 2021	<p>A Request for Information (RFI) was sent to the Applicant.</p> <p>Council identified the following issues with the proposal:</p> <ul style="list-style-type: none"> • Amendments were requested to the stormwater management plan. • It was requested that three car parking spaces be deleted to align with Council's DCP requirements. • Useability concerns were outlined in relation to the car lift within the basement car parking area. • The swept paths provided in the traffic report were requested to be amended to be based on a B99 passenger vehicle. • Concerns were outlined in relation to proposed works within the public domain associated with the driveway. • Amendments to the waste management plan were requested. • Amendments to the arborist report and landscaping plan were requested. <p>The letter also outlined that the application was to be discussed at the Ryde Urban Design Review Panel meeting on 20 May 2021 and that further issues may be identified in this meeting.</p>
20 May 2021	A meeting was held between the applicant, Council staff and the Ryde Urban Design Review Panel (UDRP) to discuss the

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	<p>proposal. A number of concerns were outlined by the Panel to be detailed in forthcoming written comments.</p> <p>An email was sent to the applicant on the same date requesting a Crime Prevention Through Environmental Design (CPTED) report as requested by the NSW Police in their comments.</p>
7 June 2021	<p>Email correspondence sent to the applicant attaching the report by the UDRP and outlining comments from Council's Senior Development Engineer requesting additional information. Given concerns raised by the UDRP, the applicant was advised that consideration should be given to amalgamation with the adjoining site to the west in order to provide for a greatly improved development outcome and that the application was unlikely to be supported in its current form.</p>
18 June 2021	<p>A letter was provided to Council by the applicant advising that they did not wish to provide any further information or make any further design changes. It was requested that Council continues the assessment of the application in its current form.</p>

5. Planning Assessment

5.1 State Environmental Planning Instruments

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

This Policy aims to improve the design quality of residential flat development in NSW and provides an assessment framework, the Apartment Design Guide (ADG), for assessing 'good design'.

Clause 50(1A) of the Environmental Planning and Assessment Regulation 2000 requires the submission of a design verification statement from the building designer at the lodgment of the development application. This documentation has not been submitted does not meet the lodgment requirement.

The application has been assessed by Council's Urban Design Panel and was considered to be unacceptable and their comments are provided below:

Urban Design Review Panel

During the assessment phase of the application, a meeting was held between the Ryde Urban Design Review Panel (UDRP), the applicant and Council staff and the UDRP provided the following comments on the proposal's performance with regard to the SEPP 65 Design Quality Principles. The UDRP comments on the principles and subsequent assessment comments are provided as follows:

ITEM 3 (continued)**a) Context and Neighbourhood Character**

The site was subject to a deferred commencement consent dated 9 May 2017 with a 12-month timeframe on the consent. The deferred commencement actions were never undertaken and therefore the Development Consent has lapsed.

The Panel notes that since the previous application the Petrol Station use on the adjacent site has been discontinued and this is also subject to a Development Application being considered by the Panel.

The subject site is highly constrained, and this is a serious obstacle to achieving an appropriate design outcome on the site. The narrow frontage of the site creates compromised outcomes in terms of vehicle and pedestrian access, separation, and amenity. The Panel also notes that the Council controls require a minimum 40m frontage for an apartment development. The proposal does not satisfy this requirement unless it amalgamates with the adjacent site to the west.

The previous approval was given some dispensations in this regard as the petrol station was still fully operational with no plans to redevelop.

This is no longer the situation, and therefore this frontage requirement should not be ignored. The opportunity now exists for this site and the petrol station site to amalgamate and achieve a far better development outcome.

It is also noted that both owners are using the same architectural firm. The Panel strongly encourages both owners to work together to achieve a single development solution that works across both sites and achieves high quality urban design and amenity outcomes, an improved response to the context, streetscape and improved amenity and relationship to the adjacent zone.

Adoption of the lapsed approved envelope for this site, without any consideration of other opportunities is not appropriate or supported by the Panel.

The lapsed approval had significant compromises in setbacks and separation to the adjacent R4 zone which are not supportable against SEPP 65 given the change in background instrument.

The Panel considers that the change in the context means that an approach which just seeks to adhere to a lapsed approval would not satisfy the SEPP 65 principle of Context and Neighbourhood.

Assessment Officer's Comments

The site has a width of 12.25 metres which results in a constrained site particularly for the scale of development proposed. The proposal relies upon placing a single tower to the north west of the site with a nil setback along the western side boundary and a

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5.5m driveway crossing to the north. The design relies upon an enclosed lobby access point sited between the basement entrance and the northern tower resulting in compromised amenity and poor streetscape outcome. The Gladesville Town Centre and Victoria Road Corridor DCP requires a minimum 40m site frontage for a residential flat building development. The intent of this requirement is to encourage the amalgamation of sites to form cohesive developments which respects the design principles and ADG guidelines.

The site forms part of the Victoria Road Town Centre Precinct within the DCP and the suite of built form controls and associated mapping which are area based includes this specific site in association with the controls applying to the adjoining site which presents to Victoria Road. The proposal takes the benefits of these controls but does not recognise the inclusion within this precinct was on the basis of amalgamation with 287 – 295 Victoria Road.

The context of the site has changed since the previous consent was issued. The single storey service station adjoining the site to the west has been demolished. Development Consent has been issued for the remediation works under LDA2019/454. A proposal has subsequently been lodged for the redevelopment for a mixed use building and this creates an opportunity to achieve a better design outcome through the amalgamation of allotments which removes the frontage width constraint. The previously approved design, because of the nil setback along the western side boundary is no longer appropriate because of the contextual scale proposed on the adjoining property and the resultant amenity impacts to the proposed development.

The submitted site analysis is simplistic. It has ignored the surrounding urban context including the surrounding development. The proposal has not taken into consideration the existing development and siting to the east and the proposed development to the west in terms of levels and transitions between the zoning interface. This is inconsistent with the requirements relating to site analysis in the ADG.

The site is at a zone interface for R4 High Density Residential development to the east and north. The proposal relies upon non-compliant side setbacks and represents an over development of the site. A comparison between the proposed finished floor levels and the proposed levels of the adjoining development to the west demonstrates there is on average a one metre difference, with the proposal being sited higher resulting in a disjointed and unharmonious appearance from the public domain. The site is located on the low side and the expected transitional design would not be elevated floor levels to the adjoining development on the high side.

It is considered that the proposal provides a poor response to the context and neighbourhood character principle.

ITEM 3 (continued)**b) Built Form and Scale**

Both this site and the petrol station site should be considered as a single built form solution which also includes a generous central/southern COS/Public Open space. The design outcome should improve the amenity impacts for the adjacent development to the east relative to the lapsed consent.

The Panel notes that the ADG requires an additional 3m setback to be applied to standard separation distances at zone boundary interfaces to a lower scale development form. The existing development to the east is only three storeys. The previous consent did not respond to this zone boundary change and instead presented a tall six storey sheer wall solution some 3m from the boundary.

The ADG seeks a sensitive solution to boundary interface conditions and the Panel considers that the central core (which exacerbates the length of the building form and does not achieve a 9m setback) should be deleted and the circulation for the development moved internally within the two building wings.

This would provide a central courtyard opportunity which should adopt a separation of 12m between the units for the first four storeys and 18m above, to allow for well-designed dual aspect apartments that can rely upon outlook for habitable rooms and POS into the site courtyard without compromised amenity.

This would assist in breaking up the building form and improving the amenity for the site and the development to the east relative to the previous consent.

It also ensures a lightwell scenario does not result when the petrol station site is redeveloped. The ADG does not support the use of lightwells for the primary outlook, light and air to habitable rooms so therefore the current design would not satisfy this consideration given habitable rooms rely on the western boundary condition to the adjacent site. This arrangement also impacts the development options on the adjacent site to the west.

The proposal does not adopt the ADG separation distances for the main portion of the building to the side boundary either. Whilst some dispensation might be considered for the two wings if there was no central mass, adopting only a 3m setback for the entire height of the building is not appropriate.

The levels above the fourth storey should provide a greater setback to moderate the massing and allow improved light to the eastern residential building and reduce the sense of dominance and enclosure created by the current design.

It is also noted that the design of the apartments results in privacy impacts within the scheme and for the adjacent three storey residential flat building. This is due to the large, angled windows to the bedrooms of both units per floor. This is discussed under amenity.

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The relationship of the scheme to Stansell Street and to the public access way to the rear of the site is also highly compromised in both this scheme and the lapsed consent. The streetscape is overwhelmed by the double width driveway (required to allow a passing bay), leaving little width for the ground level unit and resulting in a very tight and unpleasant, open pathway into the development.

The location of the entry creates safety concerns for residents leaving the development as it delivers pedestrians right next to the driveway and within the splayed sightline requirements for drivers. This is a poor outcome that does not satisfy SEPP 65.

The rear of the site currently benefits from a cluster of mature trees which are located on Council's walkway and the petrol station site. Section AA suggests the applicant intends to excavate the entire rear of the site to the boundary. This approach is poor and is likely to compromise those trees whilst also creating overlooking issues from the higher level of the walkway down into the COS and the apartments on the lower floors.

The scheme provides no relationship to the Council walkway. There is no connection or design outcome that might improve the amenity of the walkway or provide a sense that the scheme is addressing the parking area or link.

The location of the booster straddling the front setback is not supported by the Panel. It occupies the entire width of the setback and presents blank, high walls to the boundaries.

The zoning for the site is B4 and its objectives are to integrate suitable business, office, residential and retail into the zone. The proposal is purely residential, and no investigation has been provided on opportunities to consider these broader objectives in concert with consideration of the petrol station site.

The scheme also seeks to exceed the height controls. It is not clear what benefit is achieved by this exceedance. The floor-to-floor height of the proposal does not meet the ADG recommendation of 3.1m and most modern developments currently are providing 3.15m to allow for sprinkler requirements.

Therefore, the proposal should be amended to provide ideally 3.15m floor to floor or 3.1m as a minimum. This would increase the height non-compliance and may result in the loss of the top level to ensure compliance.

Given the significant compromises shown in this scheme the Panel does not consider that a height non-compliance is justified as the proposal is not responsive to SEPP 65 or the developing context. Reliance on a lapsed consent under a different Code is not sufficient justification.

ITEM 3 (continued)Assessment Officer's Comments

The proposal does not provide an adequate response to the adjoining residential flat building to the east (3 Stansell Street) and does not adequately address the zone transition from B4 Mixed Use to R4 High Density Residential given the proposed three (3) metre side setback to the eastern boundary for the entire elevation. The proposal is set back between 1.8 metres to 3.0 metres from the eastern boundary and fails to meet the required separation distances. Concern is also held regarding the separation distances achieved between the proposed development to the west.

The design of the development provides for a driveway access which dominates the narrow frontage and does not provide any opportunities for landscaping or suitable pedestrian access to the development, resulting in a cramped streetscape presentation at ground level. A fire booster is proposed to be located to the north-west corner of the site adjacent to Unit G.01 which will further diminish the presentation of the development from the public domain at ground level. The lack of a more detailed site analysis and consideration of the constraints leads to a compromised siting of the development which results in adverse impacts to the adjoining properties and unacceptable streetscape outcomes.

The proposed development exceeds the permitted building envelope with exceedances in height and encroachments in the required setbacks. The departures are representative of the over development of the site. The proposal has a non-compliant height with the development standard. The non-compliance contributes to the poor outcomes at the zone interface and amenity impacts upon existing development. The Clause 4.6 request in relation to the building height pursuant to Ryde Local Environmental Plan 2014 is discussed later in this report and is not supported.

It is considered that the proposal provides a poor response to the built form and scale design principle.

c) Density

The Panel notes that the FSR complies with the controls. However, that does not mean the density is appropriate to the site constraints given its narrow frontage width and inadequate separation distances.

Assessment Officer's Comments

Whilst the proposal complies with the floor space ratio control pursuant to Ryde Local Environmental Plan 2014, it is considered unsatisfactory in relation to building separation, internal amenity, side and rear setbacks and streetscape presentation. It is considered that an improved density outcome could have been achieved with the amalgamation with the adjoining site to the west.

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The constrained site would benefit from a communal basement access and could benefit from the proposal presently being considered at the adjoining site to the west. A shared basement entrance would create a more desired streetscape presentation and allow for a more responsive design approach to the constrained site.

d) Sustainability

Specific sustainability measures were not discussed by the Panel.

Assessment Officer's Comments

The submitted shadow diagrams show the proposed building envelope of the proposed development of 287 – 295 Victoria Road to the west in the view from the sun diagrams. The proposal shows that 25% of the proposed apartments receive no solar access throughout the entire day. However, shadow diagrams have not been provided taking into consideration this envelope and the resultant shadow cast. It is considered likely as a result of the proposed development to the west, only 50% solar access would be received for the six (6) units within the northern tower only. The proposal does not achieve compliance with the 70% requirement of Part 4A.1 of the ADG.

Apartment layouts are inconsistent with the accepted principles of good design. No habitable rooms or components of rooms are to have light or ventilation “borrowed” from other rooms. This is of particular concern with the layout of the southern tower. The external western and eastern elevations do not contain openings with the exception of the snorkel opening associated with a bedroom. Poor levels of natural ventilation to these areas will likely result in increased demand for mechanical ventilation to promote air movement.

Open lobbies are generally supported because they can achieve high levels of natural light and ventilation, which reduces life-cycle energy costs and increases the sense of well being in common areas. The proposed design arrangement on this site creates an enclosed lobby entrance sited between the basement and northern tower.

e) Landscape

The proposal risks the longevity of the existing trees on adjacent sites due to the excavation for the basement and rear of the site.

Due to the extensive path system proposed immediately adjacent to the eastern boundary, little landscape is proposed to moderate the building bulk or provide any landscaped separation to the adjacent existing development.

To the north Lilly Pillys are proposed that only achieve a 3m height and to the south, low scale plants only are provided. This strategy will do little to moderate the amenity impacts to the neighbour and the pathway location will create both privacy and acoustic privacy impacts to this boundary as well.

ITEM 3 (continued)

The Panel does not support the inclusion of COS on the ground level at the rear due to this impact and the privacy and amenity impacts to the ground level apartment facing towards the COS.

COS is nominated on the roof and this location is a more appropriate outcome. The deletion of the rear COS means that the pathway can be deleted along the side boundary and this area can be dedicated to significant landscape including trees. The rear space can then become POS for the apartment without the need for excavation.

The arborist report refers to a five storey development whereas this scheme is six storeys so it is not clear whether this report is sufficiently current. The report notes that the development will result in a major encroachment for Tree 1 which may impact its viability. The basement also results in a minor encroachment for Tree 2, 3 and 4.

The report requires retention of Trees 1-5 as all are on neighbouring properties. The report suggests that changes are required to the design of the ramp and basement to ensure the longevity of these trees.

Assessment Officer's Comments

Concerns have been raised by Council's Consultant Landscape Architect/Arborist in relation to the impact upon Tree 1 *Cedrus deodara* located to the rear of the site. The submitted arborist report recommends root mapping to be undertaken which has not been provided with the application. The enlargement of the basement towards the front boundary, contrary to the previously approved development results in this impact. In addition, it is noted that the plans depict the proposed removal of a Mango tree located in the south-eastern corner of the site. The removal of this tree is not addressed in the submitted arborist report.

The proposal has not adequately addressed the public domain upgrade works required along the site's frontage, as outlined in the City of Ryde Public Domain Technical Manual and primarily comprise street tree plantings and the installation of grey granite paving with sandstone-coloured granite banding. These concerns have been conveyed to the applicant who elected not to provide any additional information or amended plans.

The proposed landscape design relies heavily upon planting on structures and need for planter boxes. The landscape plan provides for a typical section detail only which given the depths has compromised ability to the survival and longevity of the shown plantings.

The proposed Private Open Space area of Unit G.02 is located directly adjacent to the rear Communal Open Space area. Only partial extents of screening or privacy elements (*Murraya paniculata* hedge) have been included within the landscape plan to provide a privacy buffer for overlooking from the adjacent communal open space (**Figure 17**). As only a portion of the POS has been provided with privacy screening,

ITEM 3 (continued)

concerns are raised over potential overlooking and privacy issues impacting this POS area which will significantly impact its amenity.

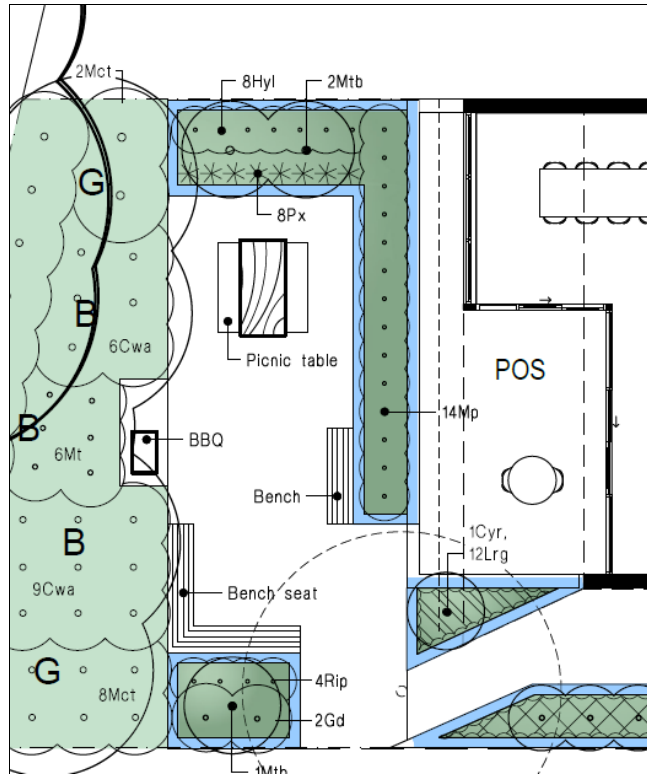


Figure 17 – Extract of landscaping plan depicting relationship of rear communal open space with POS of Unit G.02

f) Amenity

The scheme proposes compromised amenity both to neighbours and to the future residents. The Panel does not consider that the lapsed consent justifies a continuation and exacerbation of poor amenity outcomes given the imminent redevelopment of the adjacent site to the west.

The proposal locates a wide driveway and open ramp immediately adjacent to the neighbouring property with no landscape buffer, creating acoustic and light spill impacts. The ramp is also open to the narrow resident entry for the development and the central courtyard area.

The location of the tight building entry immediately next to the driveway also raises safety issues and there is potential for residents to block the view of drivers as the splay goes over the pathway into the building.

The pathway to the COS occupies the narrow setback to the eastern boundary with little landscape opportunity and this will add to the acoustic burden on the adjoining property as well as impacting the visual and acoustic privacy for the bedroom in Unit G.02.

ITEM 3 (continued)

The layout of the proposal also results in several visual and acoustic impacts within the development. It is possible to view from the central core area into the secondary POS and living room of Unit G.02 and its second bedroom where you can stand and touch the windows to the bedroom. The same situation exists for all units above as the louvres provided angle towards the open space and where they don't there are gaps that allow viewing immediately next to the windows. It is also potentially possible to see from the walkway into the bedroom of Unit G.01 and those above for similar reasons.

As the circulation area is not fully enclosed there will be potential for significant acoustic impacts for all units (irrespective of the louvres), from the circulation area if their windows are open or they wish to use their balcony.

No dimension is provided for the width of the 'lightwell' portion of the central area but there are also potential visual privacy impacts between the habitable rooms of the two apartments on each floor as well.

The proposal relies on a likely future lightwell condition for light, outlook and air to habitable rooms which is expressly contrary to ADG design outcomes.

Viewing to the adjacent developments balconies and windows is also possible from the angled windows to the second bedroom of the rear and front units as the ADG separation distance is not achieved.

The open circulation corridor is also likely to result in acoustic impacts to this development.

The angled balconies of the front units appear compromised by their geometry, with narrow proportions affecting layout options so that only a two seater table is possible for a three bedroom unit. The open space of the front ground floor unit G.01 is compromised by the high walls to its narrow POS.

The open walkway into the development is a poor solution and should be redesigned to be enclosed.

The COS on the roof may result in privacy impacts to the east and west as it relies on narrow planters to stop viewing only.

Assessment Officer's Comments

The proposal results in significant impact upon the amenity of the adjoining residential flat building to the east (3 Stansell Street) given the proposed side setback of the access driveway, the location of the pedestrian pathway from the lobby to the common open space area to the rear of the site and the lack of building separation proposed to the adjoining development.

ITEM 3 (continued)

Internal amenity is compromised by the narrow pedestrian entry to the development from Stansell Street, resulting in privacy and acoustic impacts resulting from the circulation core and the reliance on a lightwell scenario for a number of units. Concern is held regarding the amenity impacts to Unit G.02 and the north facing POS which adjoins the lobby (**Figure 18**). It is considered that the proposal provides for an unsatisfactory level of amenity for the adjoining property and for future residents of the development.

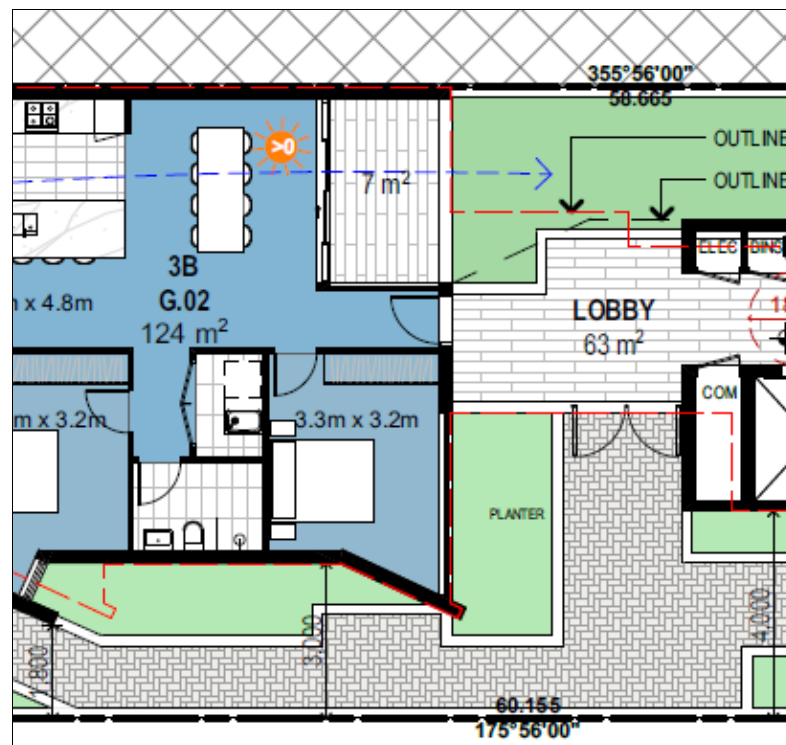


Figure 18 – Extract of ground floor plan showing relationship of lobby (access to communal open space) with the north-facing private open space and bedroom of Unit G.02

The proposal results in poor amenity for future occupants as a result of the non-compliant solar access, insufficient details provided regarding levels particularly relating to the communal open space and the rear ground floor unit G.02 and the absence of openings along the entire western elevation and reliance upon borrowed amenity to the internal areas contrary to the design principles.

g) Safety

The proposal creates potential safety issues due to the location of the building entry relative to the driveway.

Assessment Officer's Comments

The proposal has not been supported by a Crime Prevention Through Environmental Design (CPTED) report to demonstrate the design suitability addresses the

ITEM 3 (continued)

requirement for safety. The constrained site width does not provide an opportunity for a reasonable safety outcome in relation to the driveway and pedestrian access and results in a number of driveways being located in close proximity to each other (given the residential flat building to the east and proposed mixed use development to the west). Amalgamation with the adjoining site to the west would provide for a single consolidated driveway access and basement with less opportunity for pedestrian and vehicle conflict.

The proposal relies upon a car lift with the basement to facilitate internal maneuvering. The width of the basement does not allow for sufficient maneuvering space for a vehicle exiting the car lift and another vehicle waiting to use the car lift and will result in the need for the waiting vehicle entering the basement to reverse out of the basement. The basement additionally incorporates stacked parking spaces which further raises safety impacts due to maneuvering.

The ground level presents a safety issue particularly where the main entrance and letterboxes are not visible from the streetscape. The main pedestrian entry is within a partially enclosed area with a width of approximately 1.3 metres.

h) Housing Diversity and Social Interaction

Housing diversity and social interaction measures were not discussed by the Panel.

Assessment Officer's Comments

The proposal provides for 1x1 bedroom and 11x3 bedroom units. The proposal does not include any 2 bedroom units and does not provide for a sufficient apartment mix. The layout of the apartments is also replicated and does not provide for a variety of apartment layouts. The proposal includes one (1) adaptable unit and two (2) Livable units and does not comply with the required 20% Livable units required under the ADG.

i) Aesthetics

The Panel has no issues with the architectural response of the proposal but recommends that the lower two front units be amended to provide a solid balustrade rather than a glazed balcony. This will screen anything on the balcony from the street and improve their privacy.

The louvre screens to the central walkway are excessive in depth and should be reduced as they contribute to the bulk of the development and further reduce already compromised setbacks (noting the Panel considers that the linking bridge/core should be deleted).

ITEM 3 (continued)

Assessment Officer's Comments

The proposed driveway width on a narrow site, resulting in a nil setback to the east and a constrained pedestrian entrance to the development is a poor aesthetic outcome that could have been more suitably resolved with integration with the adjoining proposed development to the west. The front setback is compromised by reduced setbacks, provision of the driveway entrance, pedestrian access and the fire booster. The ground floor unit presenting to the streetscape has limited landscaping and does not have direct access. The location of the fire booster further reducing the amenity of this unit and results in a poor streetscape outcome. The site constraint has not been adequately responded to in the design.

Conclusion

The UDRP recommended that the proposal adopts the suggestions outlined within their report and consideration be given to amalgamation with the adjoining site to the west. The Panel considered that a major redesign is required and that any future proposal should be re-referred to the Panel for consideration.

Apartment Design Guide

Pursuant to Clause 30(2) of SEPP 65 in consideration of the Apartment Design Guide (ADG), **Attachment 1** provides a table of compliance addressing the ADG Guidelines. The proposal is considered to be non-compliant with the following provisions:

2F Building Separation

Part 2F of the ADG specifies the following minimum separation distances for buildings:

Up to four storeys:

- *12m between habitable rooms/balconies*
- *9m between habitable and non-habitable rooms*
- *6m between non-habitable rooms*

Five to eight storeys:

- *18m between habitable rooms/balconies*
- *12m between habitable and non-habitable rooms*
- *9m between non-habitable rooms*

The proposal does not provide for a suitable extent of building separation to the existing residential flat building to the east. Separation distances range between five and six metres between habitable rooms and balconies of the subject building and adjoining building to the east for all levels of the building. This extent of building separation is considered to be unsatisfactory given the opportunity to integrate the proposed development with the adjoining proposed development to the west.

ITEM 3 (continued)

2H Side and Rear Setbacks

Part 2H of the ADG outlines the following in relation to side and rear setbacks:

Test side and rear setbacks with the requirements for:

- *building separation and visual privacy*
- *communal and private open space*
- *deep soil zone requirements*

Part 4.6 – Gladesville Town Centre and Victoria Road Corridor of Ryde DCP requires a minimum 12m separation above the ground floor between residential buildings (including existing residential buildings on adjacent sites). The proposal provides for separation distances between 5 and 6 metres between habitable rooms and balconies of the subject building and the adjoining building to the east for all levels of the building and is non compliant.

3C Public Domain Interface

Part 3C of the ADG stipulates the following in relation to public domain interface:

The transition between private & public domain is achieved without compromising safety and security and amenity of the public domain is retained and enhanced.

The pedestrian entry to the building is located between the proposed driveway and Unit G.01. The proposal is considered to be a poor outcome in relation to safety and security for future residents due to restricted viewing corridors and enclosure of the space. The proposed pedestrian entry location is not supported by a CPTED analysis to demonstrate acceptability.

3F Visual Privacy

Part 3F of the ADG contains the following design criteria relating to visual privacy:

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:

<i>Building Height</i>	<i>Habitable rooms and balconies</i>	<i>Non-habitable rooms</i>
<i>Up to 12 m (4 storeys)</i>	<i>6m</i>	<i>3m</i>
<i>Up to 25m (5-8 storeys)</i>	<i>9m</i>	<i>4.5m</i>
<i>Over 25m (9+ storeys)</i>	<i>12m</i>	<i>6m</i>

ITEM 3 (continued)

The proposal provides for a separation distance of 5m – 6m between habitable rooms and balconies to the adjoining development to east, at 3 Stansell Street and does not meet the control requirement.

The proposal results in visual privacy impacts between the habitable rooms and balconies as a result of the proposed setbacks and reduced building separation. The adjoining RFB at 3 Stansell Street comprises ten (10) units with balconies presenting to the shared boundary and openings associated with the living areas.

The proposed communal open space at the roof top (**Figure 19**) is situated at RL63.350. Whilst planter boxes are proposed surrounding the communal open space area, the viability of future plantings cannot be guaranteed and there is a separation of only four metres between the eastern boundary and communal open space area which will compromise the visual privacy of 3 Stansell Street.

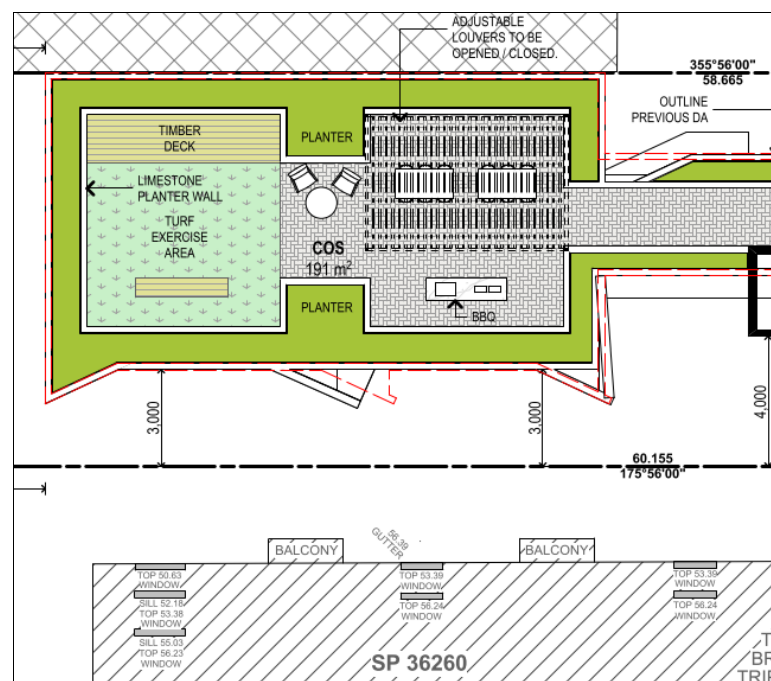


Figure 19 - Relationship of communal open space to adjoining development at 3 Stansell Street

4A Solar and Daylight Access

The submitted shadow diagrams do not take into consideration the shadow cast from the proposed development at 287 – 295 Victoria Road. The shadow diagrams submitted demonstrate 100% solar access is received to the northern tower throughout the day, and relies upon Units L3.02, L4.02 and L5.02 to receive solar access between 1pm and 3pm. **Figure 20** represents the overshadowing to the subject site at 3pm by the adjoining development. Compliant solar access to 70% of the apartments is not achieved.

ITEM 3 (continued)

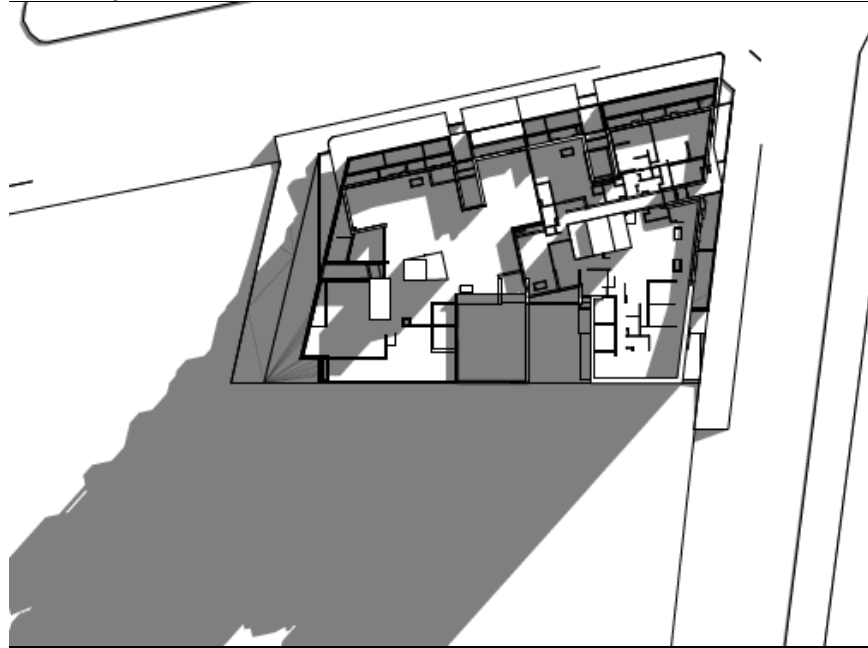


Figure 20 - Solar Access diagram provided with LDA2021/89 for proposed development at 287 - 295 Victoria Road at 3pm

Three (3) units (25%) will receive no direct sunlight between 9am and 3pm in mid-winter. However, it is noted that the shadow diagrams do not take the proposed adjoining development to the west into consideration which is likely to result in 50% of the units (all units in the southern tower) not receiving any direct sunlight between 9am and 3pm in mid-winter.

4H Acoustic Privacy

Part 4H of the ADG outlines the following in relation to 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 noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.

The extent of building separation to the adjoining development to the east is considered unsatisfactory and is not conducive to an appropriate acoustic privacy outcome. The acoustic privacy outcome is further diminished by the location of the rooftop communal open space area.

4K Apartment Mix

ITEM 3 (continued)

Part 4K of the ADG outlines the following in relation to apartment mix:

A range of apartment types with different number of bedrooms (1bed, 2 bed, 3 bed etc) should be provided.

The proposal comprises 1x1 bedroom and 11x3 bedroom units and is considered to represent a lack of diversity in apartment types when considered against the ADG control.

Part 4Q Universal Design

The proposal includes one (1) adaptable unit and two (2) Livable units. The applicant has not demonstrated that the adaptable unit is capable of achieving compliance with the Livable Housing Guidelines, noting the identified Livable units have a different internal layout to the adaptable unit. The proposal results in 16.6% of units being Livable and does not comply with the required 20% Livable units required under the ADG.

Other relevant State Environmental Planning Instruments

Instrument	Proposal	Compliance
State Environmental Planning Policy No. 55 – Remediation of Land		
The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated.	<p>A detailed site investigation was performed by Aargus Pty Ltd, dated 30 November 2020.</p> <p>The investigation concluded that there was very low potential for the past and current activities to have caused contamination, and soil samples analysed met their respective assessment criteria with the exception of borehole six located in the rear corner of the property.</p> <p>The report also identified the following data gaps:</p> <ul style="list-style-type: none"> ▪ The lateral and vertical extent of the identified hotspot BH6. ▪ Sampling beneath the existing site features. ▪ Assessment of groundwater quality due to the former service station in the adjoining western property. 	Yes

ITEM 3 (continued)

	<p>The report concludes by recommending that a Remedial Action Plan be prepared in order to render the site suitable for the proposed use.</p> <p>Council's Environmental Health Officer (EHO) has reviewed the submitted documentation raised no objections to the proposal subject to recommended conditions that would be imposed if the proposal was recommended for approval.</p>	
State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017		
<p>The Vegetation SEPP commenced on 25 August 2017 and replaced clause 5.9 of RLEP 2014, which related to the preservation of trees and vegetation.</p> <p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>The proposal includes the removal of one (1) Mango tree and proposes to protect the trees to the south of the site during construction.</p> <p>Concern is held regarding the impact upon Tree 1. Tree 1 is located upon the adjoining property at 3 Stansell Street. The submitted arborist report prepared by RedGum raises concerns with the major encroachment resulting from the alignment of the development. It is recommended that root mapping be undertaken.</p> <p>These concerns are also held by Council's Consultant Landscape Architect/Arborist. The application has not been supported by required root mapping information to demonstrate that there will not be any adverse impact upon Tree 1 despite the major encroachment which is contrary to the Australian Standard.</p> <p>Given the proposal results in a major encroachment of Tree 1 and consent is not being sought for the Tree's removal development consent cannot be granted for the development particularly given the absence of owner's consent.</p>	No
State Environmental Planning Policy (Building Sustainability Index BASIX) 2004		
<p>The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building.</p>	<p>A BASIX Certificate has been prepared (No. 1163055M_02 dated 31 March 2021) which provides the development with a satisfactory target rating.</p>	Yes

ITEM 3 (continued)

	In the event of the application being recommended for approval, appropriate conditions would be recommended requiring compliance with the BASIX commitments detailed within the Certificate.	
Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005		
This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.	The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the 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 Ryde DCP 2014. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.	Yes

5.2 Ryde Local Environmental Plan 2014 (RLEP 2014)

Under the provisions of Ryde LEP 2014, the subject site is zoned B4 Mixed Use and the proposal is for a residential flat building which is defined as follows:

Residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling or multi dwelling housing.

Development for the purpose of a residential flat building is permissible with consent within the B4 Mixed Use zone.

The relevant objectives for the B4 Mixed Use zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

The proposal is for a residential flat building which is regarded as a compatible use for the zone and surrounding locality. It is noted that the building contains only residential units, however, this is consistent with the controls within Ryde Development Control Plan 2014 - Part 4.6 - Gladesville Town Centre and Victoria Road Corridor which

ITEM 3 (continued)

envisage mixed use development on the Victoria Road corridor and residential uses on the streets connecting to Victoria Road. The proposal is not regarded as being inconsistent with the zone objectives, although noting amalgamation with the adjoining property to the west would achieve this zone objective.

Clause	Proposal	Compliance
4.3(2) Height of Buildings		
19m	The maximum height of the proposed development is 22.15m to the lift overruns located to the centre of the site. Top of lift overrun RL 69.250 EGL – RL47.1	No
4.4(2) Floor Space Ratio		
2.7:1 (1,955.34m ²)	GFA of 1,476.02m ² resulting in an FSR of 2.04:1.	Yes
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.	The proposal has a height of 22.15m and a variation of 16.6% sought to Clause 4.3(2). Refer to discussion below.	No
6.2 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.	The proposal provides for an extent of earthworks that is consistent with what would be anticipated for a residential flat building development. Concerns have been raised in relation to the impact of the excavation on Tree 1 located on the adjoining site to the rear.	Yes
6.4 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.	The proposed stormwater management system for the development discharges to an existing kerb inlet pit in Stansell Street. Concern has been raised by Council's Senior Development Engineer in regards to the proposed OSD and supporting calculations.	No

Clause 4.6 Exceptions to Development Standards

The development contravenes Clause 4.3(2) of RLEP 2014, which established a maximum building height of 19m. The proposal results in a height of 22.15 metres and does not comply with the development standard.

ITEM 3 (continued)

The proposal represents a 16.6% variation to the standard. The applicant has submitted a Clause 4.6 request prepared by Lighthouse Planning and dated 25 February 2021 (**Attachment 3**) to vary the development standard.

The variation occurs primarily to the lift overrun but also occurs to a portion of the roof form at the front of the building, and to the rooftop pergola (**Figures 21-23**).



Figure 21 - Building Height Plane and as viewed from the north-eastern corner (it is noted that this figure does not clearly show the rooftop pergola encroachment, however, Figure 23 clearly demonstrates this)

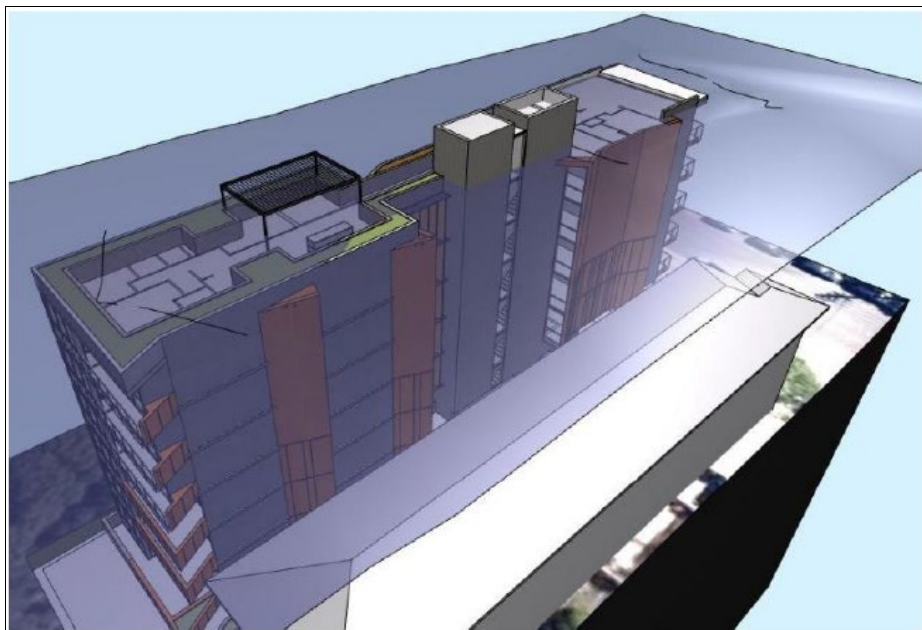


Figure 22 - Building Height Plane as viewed from the south - eastern corner (it is noted that this figure does not clearly show the rooftop pergola encroachment, however, Figure 23 clearly demonstrates this)

ITEM 3 (continued)

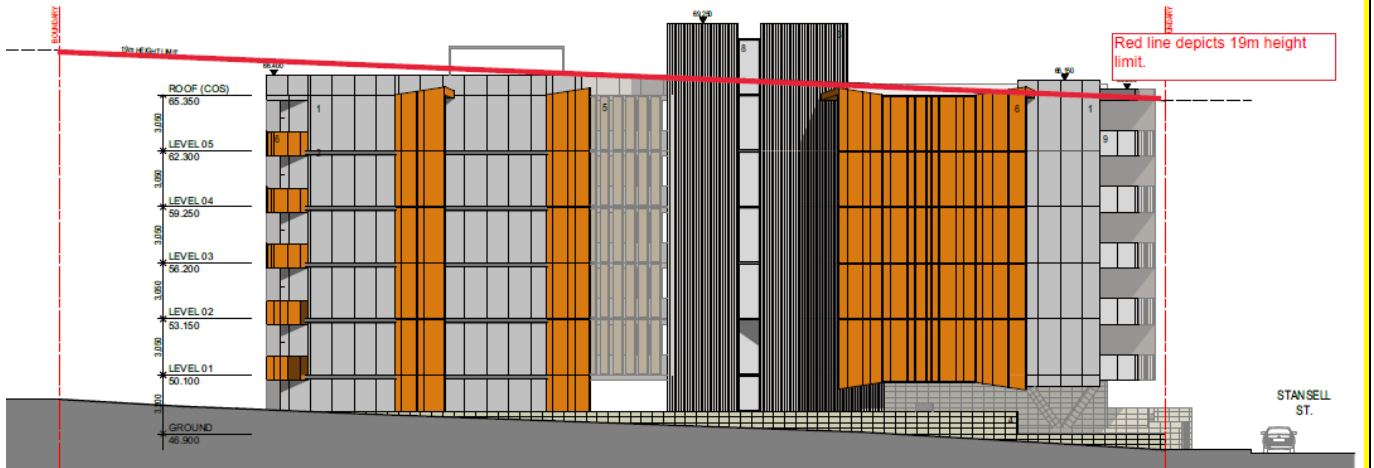


Figure 23 - Eastern elevation of proposed development with 19m height standard shown

An assessment of the relevant provisions of Clause 4.6 is as follows:

- Clause 4.6(3)(a) - Is compliance unreasonable or unnecessary in the circumstances of the case?
- Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below:

Unreasonable and unnecessary

In this instance, strict numerical compliance with the development standard for Height of Buildings is unreasonable and unnecessary for the following reasons that are specific to this site and proposal:

- *Despite numerical non-compliance, the proposal remains consistent with the relevant environmental and planning objectives of the B4 Mixed Use zone and Height of Building development standard.*
- *The proposed design and height variation are the result of providing access to the rooftop communal open space. It is unreasonable to require removal of significant portions of the development, that is within the permissible FSR, when the variations do not result in material adverse impact or discernible visual difference.*
- *The variation results in a scale and character that remains compatible with the surrounding locality and envisioned future character of the Gladesville Centre. A development compliant with the building height development standard*

ITEM 3 (continued)

contained in the RLEP 2014 would not achieve a perceivably different or better planning outcome.

- *Strict compliance with the development standard would likely require the loss of several dwellings, currently proposed in an appropriate and accessible location. This outcome would result in no discernible benefit to the site or surrounding locality.*

Assessment Officer's Comments:

It is contended that numerical compliance with the height of buildings standard is not unreasonable or unnecessary in this instance. As outlined in the comments addressing the ADG design guidelines, the proposal does not provide a suitable response to the building separation requirements of the ADG or the emerging character of the locality. Given the narrow nature of the site, the building height non-compliance contributes additional overshadowing impact on the adjoining residential flat building to the east of the site.

There are no site constraints or environmental reasons which necessitate non-compliance with the building height standard. The site is generally flat and whilst it is narrow, there is opportunity for amalgamation with the adjoining site to the west which would provide for a suitable site area for a development such as that proposed or a reduction in yield. Providing access to the rooftop communal open space area is not a sufficient reason for the variation as this could be achieved with a fully compliant building height.

Further, the support of the Clause 4.6 variation relating to building height in the previously approved development application for the site is not an adequate reason to the support a variation on this occasion. The context has been changed since the previous approval, given the discontinuation of the use of the adjoining site to the west as a petrol station and now its proposed development. Therefore, satisfaction is not reached that compliance with the standard is unreasonable or unnecessary.

Environmental planning grounds

The justification in the applicant's request and Assessment Officer's comments are below:

In the circumstances of the case, there are sufficient environmental planning grounds to justify the variation to the development standard, namely:

- *The reasons and context discussed in the sections above.*

ITEM 3 (continued)

- *The public interest is better served by supporting the variation as it allows occupants convenient access to the landscaped rooftop communal open space.*
- *The proposal satisfies the objectives of the B4 Mixed Use zone and the objectives of the Height of Buildings development standard, having regard to the particular nature of the development and the particular circumstances of the site.*
- *The non-compliance with the standard will nevertheless result in a scale of development that is compatible with both the existing and future character of the locality.*
- *The variation to the building height standard will not have unreasonable visual impact from the public domain. The extent of variation relates to the lift overruns, which do not present to the street and are considerably setback from the site boundaries.*

Assessment Officer's Comments:

It is considered that there are not sufficient environmental planning grounds to justify contravening the development standard. Access to the rooftop communal open space could be readily achieved by adopting a fully compliant building height with a design which amalgamates with the adjoining proposed development to the west.

The future intended character of the site and locality is partly guided by the height of building control. The proposed variation is a departure of up to 16.6% to the standard and occurs to the rooftop pergola, front portion of the roof form and to the lift overrun. This is not considered to be a minor departure and contributes to the impacts on the adjoining residential flat building to the east.

The applicant's comments only state that the variation relates to the lift overruns when in fact it also relates to the front portion of the roof form and to the rooftop pergola. These elements contribute to impacts on the adjoining properties.

Further, it was noted by the Urban Design Review Panel that the floor-to-floor height of the proposal does not meet the ADG recommendation of 3.1m and that most modern developments provide 3.15m to allow for sprinkler requirements. Therefore, in the event of the proposal being amended to achieve a 3.15m floor-to-floor or 3.1m as a minimum, the height non-compliance would be increased.

Therefore, satisfaction is not reached that there are sufficient environmental planning grounds to justify contravening the development standard.

ITEM 3 (continued)Is the proposal in the public interest?

Pursuant to clause 4.6(4)(ii), a development will be in the public's interest if it is consistent with the objectives of the development standard and also the zone objectives in which the particular development is carried out. Council is of the view that the development is contrary to the public interest as required by Clause 4.6(4)(a)(ii) for the following reasons:

- The proposal does not achieve the objective of the standard as required by Clause 4.6(3)(a) and 4.6(4)(a)(i).
- The site should be consolidation with the adjoining property to the west which is consistent with the suite of built forms controls to facilitate a superior design outcome. The proposal relies upon a breach of the development standard to facilitate the proposal.
- The building height variation contributes to the overshadowing impact of the development on the adjoining residential flat building to the east. The overshadowing is exacerbated by the lack of building separation to this adjoining development which arises from the development not amalgamating with the adjoining site to the west.
- The proposal is a residential development only and does not satisfy the objectives of the B4 zone. No investigation has been provided on opportunities to consider these broader objectives in concert with consideration of the adjoining site to the west.

Summary

The applicant has submitted a Clause 4.6 written request that seeks to justify contravention of the development standard Clause 4.3(2) Height. Pursuant to Clause 4.6(3)(a) of RLEP 2014, the written request has not demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The written request has not demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard, as required by Clause 4.6(3)(b).

Pursuant to Clause 4.6(4)(a)(i) of RLEP 2014, Council is not satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3). Further, it is Council's opinion that the proposed development will be contrary to the public interest because it is inconsistent with the objectives of the development standard for height.

ITEM 3 (continued)

The concurrence of the Planning Secretary is not required. Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Accordingly, the proposal variation is not supported.

5.3 Draft Environmental Planning Instruments

Instrument	Proposal	Compliance
Draft Remediation of Land State Environmental Planning Policy		
<p>The Draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:</p> <p><i>As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.</i></p>	<p>The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of DAs. As discussed within the SEPP 55 assessment earlier in this report, Council's Environmental Health Officer (EHO) has reviewed the submitted documentation and raised no objections to the proposal subject to recommended conditions that would be imposed if the proposal was recommended for approval.</p>	Yes
Draft Environment SEPP		
<p>The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating a number of SEPPs, which include:</p> <ul style="list-style-type: none"> - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 	<p>The proposal is not inconsistent with the provisions of the draft SEPP.</p>	Yes

5.4 Development Control Plans

Ryde Development Control Plan 2014 (RDCP 2014)

The proposal is subject to the provisions of the following parts of RDCP 2014:

- Part 4.6: Gladesville Town Centre and Victoria Road Corridor
- Part 7.2: Waste Minimisation and Management;

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- Part 8.2: Stormwater & Floodplain Management;
- Part 8.3: Driveways;
- Part 9.2: Access for People with Disabilities
- Part 9.3: Parking Controls

With regard to Parts 7.2 and 8.3 of the RDCP 2014, noting the advice from various technical departments within Council and the consideration of issues previously in this report, the proposal is considered satisfactory in relation to the controls contained in these Parts.

Part 4.6 – Gladesville Town Centre and Victoria Road Corridor

The proposal is subject to the requirements of Part 4.6 – Gladesville Town Centre and Victoria Road Corridor under RDCP 2014. A full assessment of the proposed under DCP 2014 is illustrated in the compliance table at **Attachment 2**.

The provisions of DCP 2014 have been considered in this assessment and it is concluded that the proposed is inconsistent with the aims and objectives of RDCP 2014. Where strict compliance has not been achieved, in accordance with Section 4.15 (3A)(b) flexibility has been sought to allow a reasonable alternative solution that achieves the objects the standard. These matters are discussed below:

Built Form Heights

Section 3.1.1(a) requires compliance with the maximum building height within the RLEP 2014 which is 19m. The proposal has a height of 22.15 metres and does not comply. The proposal seeks variation pursuant to Clause 4.6 of RLEP. The variation sought has not been supported as detailed in the discussion above.

Urban Elements

Section 3.3.4(a) requires paving, seats, benches and bins as selected by Council in accordance with the Ryde Public Domain Technical Manual to be provided. The landscape plan submitted indicates that no upgrade works are proposed along the Stansell Street frontage. This fails to comply with the provisions of Chapter 2 of the Ryde Public Domain Technical Manual. In this regard, amended plans were requested detailing the required public domain upgrades to the site frontage as specified by the Public Domain Technical Manual, however, the applicant has elected not to submit any additional information or amended plans. Therefore, the proposal does not adequately address the Public Domain requirements.

Part 8.2 - Stormwater & Floodplain Management

The proposed stormwater design includes an OSD beneath the driveway within the north-eastern corner of the site. Concern is held regarding the storage calculations provided and the supporting modelling. The proposal is inconsistent with Section 1.4.8 of Part 8.2 of the DCP.

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Part 9.2 – Access for People with Disabilities

The proposal has been assessed against the requirements of RDCP 2014 – Part 9.2 – Access for People with Disabilities. The applicant has submitted an Access Review Report prepared by Loka Consulting Engineers which has been reviewed as part of the assessment. Consideration has been given to Part 4Q of the Apartment Design Guide (ADG) which provides an objective stating that developments should achieve a benchmark of 20% of the total apartments incorporating the Livable Housing Guideline's silver level universal design features. The applicant has not provided any details of apartments meeting the ADG livable housing objective and has only outlined that one of the units has been designed as adaptable housing. Whilst the proposal provides one adaptable unit and meets the controls under Section 4.1.3 of the DCP which require a minimum of one adaptable unit where a development contains 10 to 15 units, details are not provided in relation to livable units.

Part 9.3 – Parking Controls

The following parking rates are applicable to residential development under RDCP 2014 – Part 9.3 – Parking Controls:

- 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.

An assessment of the above parking rates to the proposed development is below:

Apartment Type	Minimum	Max	Provided	Compliance
1 bedroom (1)	0.6	1	25 spaces	Yes
2 bedroom (0)	0	0		
3 bedroom (11)	15.4	17.6		
Sub-total	16	18.6 (19)	25 spaces	Yes
Visitor	2.4 (3)	2.4 (3)	25 spaces in total – none allocated as visitor.	Yes
Total	19 spaces	22 spaces	25 spaces	Yes

The proposal provides for three (3) additional parking spaces and does not specifically nominate the required three (3) visitor parking spaces. However, the number of spaces provided can accommodate the required visitor spaces and still achieve compliance with the required residential spaces. The oversupply of parking is considered unacceptable as the three (3) additional spaces are provided as stacked spaces. The deletion would improve the maneuverability of vehicles within the

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basement and allow for improved access for the spaces that are restricted by the stacked parking.

5.5 Planning Agreements OR Draft Planning Agreements

There are no planning agreements or draft planning agreements for this development.

5.6 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

The subject application has been recommended for refusal.

5.7 Any matters prescribed by the regulationsOwner's Consent

Schedule 1 of the *Environmental Planning and Assessment Regulation 2000*, Part 1(i) prescribes that development applications must be accompanied by evidence that the owner of the land on which the development is to be carried out consents to the application. The proposal results in a major encroachment of Tree 1 which is located on 3 Stansell Street. The applicant has not demonstrated this tree is capable of retention and therefore owner's consent would be required.

Owner's consent has not been provided. The Local Planning Panel does not have any authority to grant consent without being satisfied that the proposal does not involve the removal of Tree 1. The absence of the consent of all owners of land subject to the application is therefore included as a recommended reason for refusal.

Environmental Planning and Assessment Regulation 2000

The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning, Industry and Environment and others. As the proposal is recommended for refusal, there are no further matters for consideration.

6. The likely impacts of the development

The assessment demonstrates that the proposal will result in a number of impacts upon the adjoining residential flat building to the east of the site, given a lack of building separation and a non-compliant building height. The proposal will result in a concentration of driveways along Stansell Street and the proposed pedestrian access is constrained by the narrow width of the site and need for a two-way driveway.

The impacts of the development upon Tree 1 located upon 3 Stansell Street have not been resolved. The application has not been supported by sufficient information to demonstrate an acceptable outcome in regard to tree impacts and safety through

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design. The proposed development would result in adverse impacts to the natural environment.

7. Suitability of the site for the development

The proposal has not been appropriately designed in response to the site's constraints in terms of width and positioning. The proposal seeks variation to the required building separation from the adjoining RFB to the east and as a result of the reduced separation and proposed height results in overshadowing and privacy impacts.

Whilst it is considered that the site is suitable for a residential flat building development, an improved outcome could be achieved through the amalgamation of the site with the adjoining site to the west.

In the event that the two owners could not agree on an amalgamation, a connected basement arrangement could have potentially been negotiated between the two parties to reduce the concentration of driveways on Stansell Street. It is considered that the proposed form of development on the site is an overdevelopment and does not adequately respond to the changed context of the site since the previous consent was granted.

The submitted Clause 4.6 is not considered to have satisfied the jurisdictional prerequisite and is not supported. The proposal in its current form is considered unsuitable.

8. The Public Interest

Based on the assessment contained in this report, approval of the development is contrary to the public interest, and as such shall form a reason for refusal.

9. Submissions

In accordance with the Ryde Community Participation Plan the proposal was notified to owners of surrounding properties between 21 April 2021 and 12 May 2021. During the notification period, seven (7) submissions were received objecting to the proposal.

All concerns raised have been addressed below:

A residential flat building is not sustainable for the area. More facilities are needed in the area before bringing in more people.

Comment: The subject site is zoned B4 Mixed Use under the provisions of Ryde Local Environmental Plan 2014. Development for the purpose of a residential flat building is permissible with consent within the B4 Mixed Use zone. Further, a residential flat building development is envisaged for the site under Ryde Development Control Plan 2014 – Part 4.6 – Gladesville Town Centre and Victoria Road corridor. Nonetheless, the application is recommended for refusal for the reasons outlined within this report.

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Infrastructure is insufficient for the number of people already living within the bounds of Victoria and Morrison Roads in Gladesville. Another high density complex like this will only exacerbate the issue.

Comment: The application has been assessed by Council's Senior Development Engineer and City Works team and it is considered that the infrastructure in the locality is capable of accommodating the development, notwithstanding some design issues.

The proposal will result in shadowing effects that will be felt by neighbouring residents.

Comment: Given the orientation of the site, the proposed development will result in overshadowing of the existing residential flat building at 3 Stansell Street from 2pm on June 21 (winter solstice). It is noted that the majority of the overshadowing created by the development will fall within the carpark to the rear of the site and the adjoining site to the west. The application is recommended for refusal for reasons other than overshadowing impact.

Victoria Road and Morrison Road are already at a peak and cannot take any additional traffic.

Comment: The application was referred to Council's City Works team to provide comments in relation to traffic. Concerns were raised in relation to logistical issues relating to the car lift within the basement car parking area, however, no concerns were identified in relation to traffic impacts for Victoria and Morrison Roads.

On-street parking is already an issue and will become worse with this development and the adjoining development to the west.

Comment: The proposal includes 12 units and there are 25 car parking spaces proposed. This exceeds Council's DCP requirements which stipulate that a minimum of 19 spaces and a maximum of 22 spaces would be required based on the proposed unit mix. Therefore, the proposal exceeds the DCP requirement notwithstanding some logistical issues that have been raised relating to the proposed car lift.

There will be significant noise and dust generated during the construction phase of the development.

Comment: In the event of the application being recommended for approval, suitable conditions of consent would be recommended to address construction noise and dust impacts.

The objector's garage flooded twice in the last two years. The first time was in February 2020 and more recently in March 2021. On both occasions there was about 1-2 feet of water in the basement garage. Adding additional apartments in

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the area is only going to contribute more water into the existing drainage system which means the objector's garage will flood more often.

Comment: According to Council's records, the objector's property discharges via a private drainage easement to Harvard Street. Council's Senior Development Engineer has advised that this issue identified by the objector is very likely associated with the capacity of the drainage service in the easement or possibly the pump system in the basement level (if one exists). The proposed development discharges to an existing kerb inlet pit in Stansell Street and incorporates an on-site detention system. As the objector's site and subject proposal will discharge to separate systems, the issue identified by the objector is unrelated to the proposed development.

10. Referrals**Viva Energy**

The subject site is located in the vicinity of the Viva Energy (formerly Shell) high pressure pipeline and the application has been referred to Viva Energy for comment. Comments from Viva Energy were provided and no objections were raised subject to conditions of consent being imposed (in the event of the application being recommended for approval) relating to vibration monitoring, the application of a membrane to the basement to prevent the penetration of liquids and gases and in relation to 'Dial Before You Dig' requirements during construction.

NSW Police

The application was referred to the NSW Police who requested a Crime Prevention Through Environmental Design (CPTED) report. This report was formally requested from the applicant who subsequently advised that they did not wish to submit any additional information or amended plans.

Senior Development Engineer

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

Stormwater Management

The proposed stormwater management system for the development discharges to an existing kerb inlet pit in Stansell Street and incorporates an on-site detention system complying with Council's requirements.

A review of the stormwater management plans by Loka Consulting Engineers P/L, reference 15NL283, drawings D00 to D05, revision B, dated 17 December 2020, has noted the following matters;

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- The wet well storage within the basement should be designed and constructed in accordance with section 9.3 of AS 3500.3. with the exception that the well shall have the capacity to store the total runoff from the area draining to it during a 100yr - 3-hour ARI event. The plans show the design of the sump to 100 year - 2-hour ARI event. Amended calculations are required.
- High Early Discharge (HED) pits should only be used where OSD systems have been modelled with the detailed computation method as per Section 1.4.8 of Part 8.2 of the DCP. The HED wall is to be removed from the design.

These will require the stormwater management plan to be amended prior to development consent.

Vehicle Access and Parking

The proposal consists of 12 residential apartments. The development is subject to the parking controls within Section 2.2 Part 9.3 of Council's DCP 2014. The generated parking numbers are illustrated within the table below;

Residential Development – High Density (Residential Flat Buildings);

Unit Type	Quantity	Minimum Provision Rate	Minimum Spaces Required	Maximum Provision Rate	Maximum Spaces
1 Bedroom	1	0.6	0.6 (1)	1	1
2 Bedroom	0	-	-	-	-
3 Bedroom	11	1.4	15.4 (16)	1.6	17.6 (18)
TOTALS	12	-	16	-	18.6
Rounded Totals			17		19

Visitor Parking is to be provided at a rate of 1 space per 5 dwellings, equating to 3 spaces. The minimum allowable parking spaces is 20 spaces and the maximum allowable spaces for the development is 22.

Bicycle parking is to be provided at a rate of 10% of the required car spaces. If the minimum required spaces are adopted, then a total of 2 bicycle parking spaces are required to be provided for the development.

The total parking requirement is summarised in the table below:

Use	DCP Requirement	Provided	Compliance
Residential	17 min – 19 max	25	No
Visitor (Residential)	3	Unmarked	-
TOTAL	20 min – 22 max	25	No
Bicycle	2 min	2	Yes

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The development exceeds the maximum number of parking spaces stipulated in Council's DCP through the provision of an additional 3 parking spaces. It is recommended that 3 of the stacked parking spaces be deleted on basement level 1 in order to improve manoeuvrability in the vicinity of the car lift.

As per Council's DCP Part 9.2, the development requires 10% of the total units to be adaptable resulting in a requirement for 2 adaptable units, and as a result a minimum of 4 out of the 22 residential spaces must provide accessible spaces dimensioned in accordance with AS2890.6. The development provides for 1 adaptable unit and is required to provide another. Also, one of the visitor spaces must accommodate an accessible space, requiring a total of 5 accessible spaces. A review of the plans indicates non-compliance with the required number of accessible parking spaces.

A review of the carparking layouts and general basement access has noted the following:

- *Visitor spaces must be on Basement 1 so as to not utilise the car lift. Spaces must be allocated and marked on plan.*
- *A designated car lift waiting bay is required to be shown on Basement level 1 in order to minimise conflict between a vehicle already using the lift and a vehicle waiting for the lift.*
- *Turning paths provided are generally acceptable.*
- *The parking layout, gradients, and dimensions have been reviewed and found to generally comply with the requirements of AS2890.1 raising no objection.*

Planner's comment: The issues identified form part of the recommendation for refusal.

City Works – Traffic

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

The proposed development is to be serviced by 25 car parking spaces (including one space for people with disabilities) within two (2) basement levels below the residential flat building, which is accessible via a 6.4m wide combined ingress/egress driveway connecting with Stansell Street at the north-eastern corner of the site.

Connectivity between the two (2) levels of basement parking is facilitated by a car lift located at the south-eastern corner of the site. The following comments are provided for the applicant's attention:

- *Based on Part 9.3 of Council's DCP, the proposed development is required to provide a maximum of 22 off-street parking spaces. The proposed parking provision of 25 car parking spaces exceeds the maximum DCP requirement and should therefore be reduced to comply with the DCP*

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- *It is unclear how the car lift will be effectively managed to ensure safe and efficient internal maneuvering by passenger vehicles. The key internal maneuvering issues associated with the car lift, which need to be addressed are as follows:*
 - *How are opposing traffic movements in the immediate vicinity of the car lift to be managed? (e.g. how is a vehicle approaching the lift going to know where and how far to stop from the lift to allow a vehicle already in the lift to exit and maneuver around the vehicle waiting to enter the lift?)*
 - *A vehicle exiting the lift will be required to reverse to exit. It is noted that staked/tandem parking spaces are proposed to the immediate west of the lift. In the event that a vehicle is reversing out from the lift at the same time as a vehicle is reversing from the parking space next to the lift, this can increase the risk of accidents/collisions due to blind spots.*
 - *In the event that the car lift malfunctions, this could represent a major inconvenience for future residents of the building. How will this issue be effectively mitigated?*
- *The swept path diagrams provided in the traffic study is to be updated based on a B99 passenger vehicle as that represents the largest passenger vehicle that could be expected to access the basement car park.*

Planner's comment: The deletion of the surplus car parking spaces provide for additional space for vehicle manoeuvring in the basement level. In addition, the workability of the proposed car lift has not been adequately addressed to ensure that it would operate effectively for the future occupants of the building.

City Works – Public Domain

The application was referred to Council's City Works – Public Domain team and the following comments were provided:

- *The proposed access driveway to the site conflicts with an existing stop valve and an existing Telstra Pit fronting to Stansell Street. The applicant shall redesign the driveway to ensure the proposed driveway location is not in conflict with the existing telecommunication or utility services.*

In the case that relocation of services are required, the applicant shall seek consent from relevant service providers and submit documentary evidence from the relevant service providers to Council to allow for further assessment.

- *In order to assess the susceptibility of vehicles to scraping as they pass over the proposed access the applicant shall submit longitudinal sections along each side of the proposed new access drawn at 1:20 Natural Scale. The section shall show the existing and proposed levels to AHD along the vehicle path from the*

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centre of the Road through the gutter/layback to the proposed new driveway. The driveway is to be designed using the B99 Ground Clearance Template from AS2890.1.

Planner's comment: The applicant has not addressed the conflict of the driveway location with the existing services and has not addressed potential vehicle scraping when entering and exiting the driveway.

City Works – Waste

The application was referred to Council's City Works – Waste team and the following comments were provided:

- The size of the bins in the interim waste service room is unclear. If these are the 240L bins which will be taken to the kerbside for servicing then, the waste management plan needs to identify what will be left in the interim waste service room while the bins are being serviced. Further details are required in this regard.*

The Waste Management Plan advises that the building manager will take the bins from the storage room to the kerbside using a bin trailer for collection.

- Bins will need to be placed out prior to 5.00am on Tuesday morning to ensure that they are out in time for collection. The bins also need to be returned to the bin storage room as soon after servicing as possible.*
- The plans are to be amended to depict how the bins will be presented at the kerbside for easy access by a side load truck without blocking the driveway or pedestrian access.*

Council notes that a 14m² bulky waste storage room is available for unwanted household items awaiting a Household Clean-up booking.

- The Waste Management Plan has not identified how this bulky waste will be transported to the kerbside, this needs to be addressed.*

Planner's comment: The Waste Management issues raised are considered to be minor and were capable of being addressed.

Environmental Health Officer

The application was referred to Council's Environmental Health Officer for comment. The following comments were received:

Contamination

A detailed site investigation was performed by Aargus Pty Ltd, dated 30 November 2020.

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The investigation concluded that there was very low potential for the past and current activities to have caused contamination, and soil samples analysed met their respective assessment criteria with the exception of borehole six located in the rear corner of the property.

The report also identified the following data gaps:

- *The lateral and vertical extent of the identified hotspot BH6.*
- *Sampling beneath the existing site features.*
- *Assessment of groundwater quality due to the former service station in the adjoining western property.*

The report concludes by recommending that a Remedial Action Plan be prepared in order to render the site suitable for the proposed use.

Waste

The waste management plan supplied adequately addresses the removal and disposal of waste at all stages of the development including demolition, construction and operational use.

Additional information about contaminated soil will be further explained in the Remediation Action Plan.

The architectural plans detail the location of a bin room and bulky waste room, in basement level 01.

Noise

A “traffic noise assessment” supplied with the application, prepared Rodney Stevens Acoustics Pty Ltd, assesses the road traffic noise impacts from the nearby arterial road (Victoria Road).

The unattended noise monitoring was performed at a location away from the subject site, rather than from the boundary of the site. The acoustic consultant justifies this location selection as it is representative of the traffic level exposure.

The projected noise trigger levels are detailed in Table 4.2 on page 9 of the report with the RBL detailed in Table 3.1 on page 6. The internal noise for the proposed development complies with the SEPP, specifically 35dBA between 10pm-7am in the bedrooms of the residential development.

Recommended noise control treatments are listed in sections 5.2 to 5.7 on pages 10, 11 and 12.

Mechanical plant has not been proposed in this application, recommended conditions have been included relevant to mechanical plant.

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The acoustic report is limited to the traffic noise assessment impacting the design of the building and does not address construction noise. It is therefore recommended that a construction noise management plan be prepared prior to issuing the construction certificate (in the event of the application being approved).

Consultant Landscape Architect/Arborist

The application was referred to Council's Consultant Landscape Architect/Architect who provided the following comments:

- 1. Impact to Existing Trees. The proposed level of impact to Tree 1 (Cedrus deodara) is not supported. Incursions to the Tree Protection Zone (TPZ) of this tree as a result of the proposed basement / driveway footprint and storm water OSD alignment, have been calculated as 'Major' (29.3%) under the provisions of AS4970-2009 Protection of trees on development sites, and are not considered sustainable. It is stated within the Arborist report that 'This specimen may not remain viable beyond completion of development given the proposed development impacts to this specimen'. Given this tree affords a moderate-high level of amenity to the surrounding context and is located on a neighbouring allotment to the East, it is considered to be a priority for retention. As such, the proposed level of impact to this existing tree cannot be supported.*
- 2. Proposed Public Domain Upgrade Works: The landscape plan prepared by RFA Landscape Architects (Rev. E, dated 6th April 2021) indicates that no upgrade works are proposed along the Stansell Street frontage. This fails to comply with the provisions of Chapter 2 of the City of Ryde Public Domain Technical Manual. In this regard, the lack of inclusion of public domain upgrade works cannot be supported.*
- 3. Privacy and Overlooking Concerns to Private Open Space: The proposed Private Open Space (POS) area of dwelling G.02 is located directly adjacent to the rear Communal Open Space (COS) area. Only partial extents of screening or privacy elements (Murraya paniculata hedge) have been included within the landscape plan prepared by RFA Landscape Architects (Rev. E, dated 6th April 2021) to provide a privacy buffer for overlooking from the adjacent communal open space. As only a portion of the POS has been provided with privacy screening, concerns are raised over potential overlooking and privacy issues into this POS. As such the lack of privacy or screening elements to fully negate privacy and overlooking concerns for dwelling G.02's private open space cannot be supported.*

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4. *Insufficient Levels Information: The landscape plan prepared by RFA Landscape Architects (Rev. E, dated 6th April 2021) fails to provide an adequate degree of 'levels' information to determine compliance and buildability of the proposed development. Spot levels, top & bottom of walls, and top & bottom of ramp level information has not been included and as such the landscape plan regarding levels information, cannot be supported.*
5. *Insufficient Landscape Resolution: The architectural Section M, shown on sheet DA-301, prepared by Urban Link (Rev. A, dated 16th December 2020) indicates that a significant cut of approximately 2m is required to the Natural Ground Line (NGL) within the rear of the subject site. This is proposed to facilitate the ground floor level (RL46.90) which encompasses the rear communal open space and deep soil zone. In order to achieve this cut to the NGL, a retaining wall is required to ensure existing NGL's are retained within the neighbouring rear allotment and land slippage does not occur. The landscape plan prepared by RFA Landscape Architects (Rev. E, dated 6th April 2021) fails to include the abovementioned retaining wall along the rear boundary line, instead only includes (deep soil zone) tree and shrub vegetation planting throughout this area. As such the lack of levels resolution along the rear boundary cannot be supported.*

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 in its current form is not suitable for the site and is contrary to the public interest.

Therefore, it is recommended that the application be refused pursuant to Section 80(1)(b) of the Act. The reasons for the decision are as follows:

1. The proposal does not adequately respond to the context of the surroundings. It does not integrate effectively with the adjoining proposed development to the west (No. 287-295 Victoria Road) and is unsympathetic to the existing residential flat building development to the east (No. 3 Stansell Street).
2. The proposal does not provide an adequate response to the Design Quality Principles outlined in SEPP No. 65 – Design Quality of Residential Apartment Development. The proposal does not provide an adequate response to the objectives and design criteria outlined in the Apartment

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Design Guide (ADG) with respect to building separation, side and rear setbacks, public domain interface, visual privacy, solar and daylight access, acoustic privacy, apartment mix and universal design.

3. The Clause 4.6 request is not considered to be well founded and has not demonstrated that compliance with the height of buildings standard is unreasonable or unnecessary or that there are sufficient environmental planning grounds for the departure to Council's satisfaction.
4. The proposal does not reflect the principles of orderly development.
5. Insufficient information has been submitted in relation to impacts on Tree No. 1 to the rear of the site, crime prevention and required public domain works.

The proposed development is not considered to be suitable for the site and approval would not be in the public interest.

12. Recommendation

A. Subject to Section 4.16(1) of the Environmental Planning and Assessment Act 1979, the Local Planning Panel refuse the Development Application LDA2021/0125 for the demolition of existing structures and construction of a six storey residential flat building with two basement car parking levels on land at 1 Stansell Street, Gladesville for the reasons as follows:

1. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the following provisions of *Ryde Local Environmental Plan 2014*:
 - a. Clause 4.3(2)'Height' - the proposed development has a height of 22.15 metres which exceeds the maximum height of 19m development standard.
 - b. The submitted Clause 4.6 written request prepared by Lighthouse Planning and dated 25 February 2021 has not satisfied the jurisdictional prerequisites to support the proposed 16.6% variant to Clause 4.3.
2. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, the development does not satisfy the Design Quality Principles outlined in Schedule 1 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

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- a. The proposal does not meet Principle 1: Context and neighbourhood character due to a non-compliance with Objectives 1B and 3A-1 of the ADG.
 - b. The proposal does not meet Principle 2: Built form and scale due to a non-compliance with Objectives 2A, 2B, 2C, 2F, 2H, 3F of the ADG.
 - c. The proposal does not meet Principle 4: Sustainability due to a non-compliance with Objectives 2C, 4A of the ADG.
 - d. The proposal does not meet Principle: Landscape due to a non-compliance with Objective 3E of the ADG.
 - e. The proposal does not meet Principle 6: Amenity due to a non-compliance with Objectives 3D, 3F, 4A, and 4C of the ADG.
 - f. The proposal does not meet Principle 7: Safety due to a non-compliance with Objective 3G of the ADG's.
 - g. The proposal does not meet Principle 8: Housing diversity and social interaction due to a non-compliance with Objective 4K and 4Q of the ADG'.
3. Pursuant to Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, The submitted site analysis does not provide sufficient information to demonstrate that the design has responded directly to the specific site conditions as required by Objective 3A-1 of the Apartment Design Guide.
 4. Pursuant to Clause 50 of the Environmental Planning and Assessment Regulation 2000, the proposal has not been supported by a Design Verification Statement (DVS) and does not satisfy the requirements of clause 50(1AB)(b):
 - a. The omission of ADG Part 3 information (3A site and context analysis), and/or a lack of demonstrated coordination between the design strategy (3B to 3J), detailed design of Part 4 and the specific site conditions (3A) means the proposed design **cannot** satisfy the EP&A or SEPP 65, and fails the first test.

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5. Pursuant to Section 4.15(1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposal does not comply with the Ryde Development Control Plan 2014 – Part 4.6 – Gladesville Town Centre and Victoria Road Corridor in relation to built form heights and urban elements (required public domain upgrades).
6. Inaccurate/insufficient information has been provided with relation to the documentation provided. The following information has been incorrectly notated on plans/documents or has not been submitted:
 - a. A Crime Prevention Through Environmental Design (CPTED) report, as requested by the NSW Police was not submitted;
 - b. The Stormwater Management Plan is considered to be inadequate. A number of amendments were requested, which have not been made;
 - c. The proposal does not provide details in relation to the public domain upgrades required by the City of Ryde Public Domain Technical Manual;
 - d. A number of logistical issues associated with the proposed basement car lift and general car parking layout were identified and have not been resolved;
 - e. A number of waste management issues were identified which have not been resolved;
 - f. The level of impact of the proposal on Tree No. 1 to the rear of the site is not supported and has not been resolved. Owner's consent has not been provided for the removal of this tree.
 - g. Insufficient information provided to demonstrate the extent of overshadowing of adjoining properties as required by Objective 3B-2 of the Apartment Design Guide.
 - h. The solar modelling diagrams provided with the application do not detail the floor levels, balcony, window, or living room locations on adjoining building.
 - i. The submitted shadow diagrams do not take into consideration the shadow cast by the proposed development to west. It is considered the proposal does not achieve the required solar access to 70% of units, with 50% receiving no solar access.

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- j. The landscape plan prepared by RFA Landscape Architects (Rev. E, dated 6th April 2021) fails to provide an adequate degree of 'levels' information to determine compliance and buildability of the proposed development.
 - k. Spot levels, top & bottom of walls, and top & bottom of ramp level information has not been shown on plans. The submitted plans do not show necessary retaining walls throughout the site.
7. Pursuant to the provisions of Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not suitable for the site. The proposal is contrary to Section 1.3 Objects of the Environmental Planning and Assessment Act 1979
8. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the Environmental Planning and Assessment Act 1979, approval of the development application is not in the public interest.

ATTACHMENTS

- 1 ADG Guidelines - Table of Compliance
- 2 Ryde Development Control Plan 2014 - Table of Compliance
- 3 Clause 4.6 Request
- 4 Architectural Plans - subject to copyright provisions

Report Prepared By:

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ITEM 3 (continued)

ATTACHMENT 1

Attachment 1 - Apartment Design Guide – Table of Compliance

SEPP No. 65 – Design Quality of Residential Apartment Development requires consideration of the "Apartment Design Guide" (ADG) which supports the nine design quality principles by giving greater detail as to how those principles might be achieved. The table below addresses the relevant matters:

Part 2 - Developing the controls		
	Proposal	Compliance
Building Depth Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.	Apartment depths range between 13m up to 16.5m from glass line to glass line.	Yes
Building Separation Minimum separation distances for buildings are: <i>Up to four storeys (approx 12m):</i> <ul style="list-style-type: none"> - 12m between habitable rooms/balconies - 9m between habitable and non-habitable rooms - 6m between non-habitable rooms. <i>Five to eight storeys (approx 25m):</i> <ul style="list-style-type: none"> - 18m between habitable rooms/balconies - 12m between habitable and non-habitable rooms - 9m between non-habitable rooms Note: <ul style="list-style-type: none"> • At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m • No building separation is necessary where building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within centres. 	West – Nil East – 1.8m – 3m South – 8.29m The proposed extent of separation to the east is considered unsatisfactory. Particularly given the change in zoning from B4 Mixed Use to R4 High Density Residential.	No
Front, Rear & Side Setbacks See discussion under the relevant Development Control Plan.	As per requirements under Council's DCP. With regard to side/rear setbacks, the DCP Chapter requires a minimum 12m	No

ITEM 3 (continued)

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	separation above the ground floor between residential buildings (including existing residential buildings on adjacent sites). This is not achieved to the east where the setback reduces to 4.3m in some areas.	
Part 3 Siting the development Design criteria/guidance		
3A Site Analysis Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context <u>Design guidance</u> Each element in the site analysis checklist should be addressed	The submitted site analysis is simplistic and is not responsive to the context of the site, particularly its relationship to the proposed development to the west. The proposal has not adequately address solar access and has been designed without proper analysis of the implications of the development to the high side.	No
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 site is oriented to the north with the rear of the building facing the south. To the west of the site, the land is vacant, however, there is a development application currently under assessment for a mixed-use development that is proposed to abut the proposed building. The site is adjoined to the south by a Council owned public car park. To the east of the site are 3-4 storey residential flat buildings. The proposal will overshadow these buildings from 3pm onwards on 21 June.	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 proposed pedestrian entry to the building is located between the proposed driveway and Unit G.01 and is considered to be a poor outcome in relation to safety and security for future residents.	No
3D Communal & public open space Provide communal open space to enhance amenity and opportunities for landscaping & communal activities. <u>Design guidance</u> Provide communal open space (COS) with an area equal to 25% of site; Minimum 50% of usable area of communal open space to receive direct sunlight for a minimum of 2	A 191m ² rooftop terrace area is proposed (which is equivalent to 26% of the site). More than 50% of the surface of the rooftop terrace will receive direct solar access in midwinter.	Yes

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hours between 9 am and 3 pm on 21 June.														
<p>3E Deep Soil Zone 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>Design criteria 1. Deep soil zones are to be provided equal to 7% of the site area and with min dimension of 3m – 6m.</p>	7% of the site area, being 51m ² of the site is proposed to comprise deep soil area to the rear of the site.	Yes												
<p>3F Visual Privacy Building separation distances to be shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.</p> <p>Design Criteria 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="204 1227 667 1601"> <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> <p>Note:</p> <ul style="list-style-type: none"> No separation is required from blank walls; Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties. 	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>West – Nil East – 1.8m – 3m South – 8.29m</p> <p>The proposal provides for a separation distance of 5m – 6m between habitable rooms and balconies to the adjoining development at 3 Stansell Street which does not meet the control requirement.</p> <p>The proposal results in visual privacy impacts between the habitable rooms and balconies as a result of the proposed setbacks and reduced building separation. The adjoining RFB at 3 Stansell Street comprises ten (10) units with balconies presenting to the shared boundary and openings associated with the living areas.</p> <p>The proposed communal open space at the roof top is situated at RL63.350. Whilst planter boxes are proposed surrounding the communal open space area, the viability of future plantings cannot be guaranteed and there is a separation of only four metres between the eastern boundary and communal open space area which will compromise the visual privacy of 3 Stansell Street.</p>	No
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												

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3G Pedestrian Access & entries Pedestrian Access, entries and pathways are accessible and easy to identify.	The proposed pedestrian entry to the building is located between the proposed driveway and Unit G.01 and is considered to be a poor outcome in relation to safety and security for future residents.	No
3H Vehicle Access. Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	No concerns have been raised by Council's Senior Development Engineer in relation to the vehicle access into the site, however, it is considered that an improved outcome could have been achieved with the integration of the basement of the subject development with the adjoining site to the west.	Yes
3J Parking Provisions. Car parking: For development in the following locations: <ul style="list-style-type: none"> • on sites that are within 800 metres of a railway station; or • within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, the minimum parking for residents and visitors to be as per TfNSW Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less.	The site is not within 800m of a railway station. The car parking rate is determined by Council's DCP. Under the DCP rates, the minimum parking required is 19 spaces and maximum is 22 spaces based on the proposed unit mix. There are a total of 25 spaces proposed. It is considered that it would be suitable for 3 of these spaces to be deleted to facilitate improved manoeuvrability within the basement.	Yes
Bicycle Parking: Provide adequate motorbike, scooter and bicycle parking space (undercover). 10% of carspaces	Suitable bicycle parking is proposed in the basement.	Yes
Part 4 Designing the building		
4A Solar & daylight access 1. 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.	50% of the proposed apartments achieve compliance. Sunlight is received the northern tower only. The submitted shadow diagrams do not take into consideration shadow cast from the proposed development on the adjoining western property, resulting in all units within the southern tower being non compliant.	No
No more than 15% of apartments in a building receive no direct sunlight	As a result of the proposed adjoining development to the west, 50% of the	No

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ATTACHMENT 1

between 9 am and 3 pm at mid-winter.	apartments will receive no direct sunlight between 9am and 3pm at mid-winter.													
Design should incorporate shading and glare control, particularly for warmer months.	Suitable features proposed.	Yes												
4B Natural Ventilation All habitable rooms are naturally ventilated.	All habitable rooms are naturally ventilated (have access to a window).	Yes												
Design layout of single aspect apartments to maximises natural ventilation and airflow (See Figure 4D.3)	N/A – No single aspect apartments are proposed.	N/A												
<u>Design criteria for natural cross ventilation:</u> 1. 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. 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	 100% living areas but central bedrooms sited along eastern elevation do not receive natural ventilation. Maximum proposed is 16.5m.	 Yes Yes												
4C Ceiling Heights Ceiling height achieves sufficient natural ventilation and daylight access. The following is required as a minimum: <table border="1"><thead><tr><th colspan="2">Min ceiling height for apartment & mixed use buildings</th></tr></thead><tbody><tr><td>Habitable rooms</td><td>2.7m (3.1m floor to floor)</td></tr><tr><td>Non Habitable</td><td>2.4m</td></tr><tr><td>2 storey apts</td><td>2.7m for main living area 2.4m for 2nd floor</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room</td></tr><tr><td>Mixed used zone</td><td>3.3m for ground & 1st floor to promote future flexibility of use.</td></tr></tbody></table>	Min ceiling height for apartment & mixed use buildings		Habitable rooms	2.7m (3.1m floor to floor)	Non Habitable	2.4m	2 storey apts	2.7m for main living area 2.4m for 2 nd floor	Attic spaces	1.8m at edge of room	Mixed used zone	3.3m for ground & 1 st floor to promote future flexibility of use.	 The submitted plans nominate a habitable room height of 2.7m, which does not meet the required floor-to-floor height of 3.1m.	 No
Min ceiling height for apartment & mixed use buildings														
Habitable rooms	2.7m (3.1m floor to floor)													
Non Habitable	2.4m													
2 storey apts	2.7m for main living area 2.4m for 2 nd floor													
Attic spaces	1.8m at edge of room													
Mixed used zone	3.3m for ground & 1 st floor to promote future flexibility of use.													
4D Apartment size and layout Apartments are required to have the following minimum internal areas with one bathroom:	<table><thead><tr><th>Apartment type</th><th>Proposed</th></tr></thead><tbody><tr><td>Studio</td><td>N/A</td></tr><tr><td>1 bedroom</td><td>55m²</td></tr></tbody></table>	Apartment type	Proposed	Studio	N/A	1 bedroom	55m ²	<table><thead><tr><th>Proposed</th></tr></thead><tbody><tr><td>Yes</td></tr><tr><td>N/A</td></tr><tr><td>55m²</td></tr></tbody></table>	Proposed	Yes	N/A	55m ²		
Apartment type	Proposed													
Studio	N/A													
1 bedroom	55m ²													
Proposed														
Yes														
N/A														
55m ²														

ITEM 3 (continued)

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<ul style="list-style-type: none"> • Studio = 35m²; • 1 bedroom = 50m²; • 2 bedroom = 70m²; • 3 bedroom = 90m²; • 4 bedroom = 102m². <p><u>Note:</u></p> <p>➤ Additional bathrooms increase the minimum internal area by 5m²;</p>	<p>2 bedroom N/A</p> <p>3 bedroom 119m² to 124m²</p>	<p>N/A</p> <p>119-124m²</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. Daylight and air may not be borrowed from other rooms.	All habitable rooms have direct access to a window opening that achieves light and ventilation. No borrowed daylight and air is proposed.	Yes
Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layouts – habitable room (where the living, dining and kitchen are combined) be maximum depth of 8m from a window.	All units comply with this requirement.	Yes
Bedroom - minimum dimension of 3m (excluding wardrobe space)	All bedrooms have minimum dimension of 3m.	Yes
Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments; • 4m for 2 & 3 bedroom apt 	Complies with the minimum width for 1 & 3 bedrooms.	Yes
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	8.7m minimum proposed.	Yes

ITEM 3 (continued)

ATTACHMENT 1

<p>4E Private Open Space and balconies Apartments must provide appropriately sized private open space and balconies to enhance residential amenity.</p> <p>Design criteria 1.All apartments are required to have primary balconies as follows:</p> <table><tr><td>Dwelling type</td><td>Minimum area</td><td>Min.depth</td></tr><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></table>		Dwelling type	Minimum area	Min.depth	Studio apartments	4m2	N/A	1 bedroom	8m2	2m	2 bedroom	10m2	2m	3+ bedroom	12m2	2.4m	<p>Minimum 12m² with secondary POS 7m² for southern tower.</p> <p>Minimum 19m² for 3 bedroom units in northern tower</p>	<p>Yes</p>
Dwelling type	Minimum area	Min.depth																
Studio apartments	4m2	N/A																
1 bedroom	8m2	2m																
2 bedroom	10m2	2m																
3+ bedroom	12m2	2.4m																
<p>2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>		<p>G.01 being 16m² but with minimum dimension of 2.3m along eastern elevation and non-compliant.</p>	<p>No</p>															
<p>4F Common circulation and spaces. Design criteria 1. The maximum number of apartments off a circulation core on a single level is 8.</p> <p>Where design criteria 1 is not achieved, no mor than 12 apartments should be provided of a circulation core on a single level.</p>		<p>A maximum of 2 apartments are proposed off the circulation core at each level.</p>	<p>Yes</p>															
<p>Design Guide: Daylight and natural ventilation should be provided to all common circulation space above ground. Windows should be provided at the end wall of corridor, adjacent to the stair or lift core.</p>		<p>Suitable daylight and natural ventilation is provided to all common circulation space.</p>	<p>Yes</p>															
<p>4G Storage Adequate, well designed storage is to be provided for each apartment.</p> <p>Design criteria 1.In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:</p>		<table><tr><td>Dwelling type</td><td>Proposal</td></tr><tr><td>Studio apartments</td><td>N/A</td></tr></table>	Dwelling type	Proposal	Studio apartments	N/A	<p>Yes</p>											
Dwelling type	Proposal																	
Studio apartments	N/A																	

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ATTACHMENT 1

		1 bedroom apartments 2 bedroom apartments 3+ bedroom apartments	5m³ in unit and 5.01m³ in basement N/A All have 5m³ in unit and 5.01m³ to 7.27m³ in basement	
Dwelling type	Storage size volume			
Studio	4m³			
1 bedroom apt	6m³			
2 bedroom apt	8m³			
3 + bedroom apt	10m³			
At least 50% of the required storage is to be located within the apartment. Additional storage is conveniently located, accessible and nominated for individual apartments (show on the plan).				
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 noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.		The extent of building separation to the adjoining development to the east is considered unsatisfactory and would contribute to a poor acoustic privacy outcome.		No
4K Apartment mix A range of apartment types with different number of bedrooms (1bed, 2 bed, 3 bed etc) should be provided.		The proposal comprises 1x1 bedroom and 11x3 bedroom units and is considered to represent a lack of diversity in apartment types.		No
4L Ground floor apartments Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents.		Unit G.01 is considered to be unsatisfactory given the proposed front setback and the identified location of the fire booster to the NW of the site. The area nominated on the plans is not consistent with the requirements in terms of allowing for access surrounding the booster and results in comprised amenity. The unit also does not have direct access from the streetscape.		No
Building functions are expressed by the façade.		Satisfactory.		Yes
4N Roof design		Satisfactory.		Yes

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Roof treatments are integrated into the building design and positively respond to the street.		
Opportunities to use roof space for residential accommodation and open space are maximised.	A rooftop communal open space area is proposed on the southern building.	Yes
Roof design incorporates sustainability features.	The application will comply with BASIX.	Yes
4O Landscape design Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable	Given the site's constraints, there is limited opportunity for landscaping to contribute to the streetscape.	No
4P Planting on structures Appropriate soil profiles are provided.	The landscape plan provides for a typical section detail only which given the depths has compromised ability to the survival and longevity of the shown plantings.	No
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 provided.	The proposal includes 12 units and provides for 2 nominates 2 apartments as Liveable and 1 adaptable unit. However, the applicant has not demonstrated that the adaptable is capable of use as a Livable and that it meets the requirements of Livable Housing Guidelines. The proposal results in 16.6% of units as Livable.	No
4T Awnings and signage Awnings are well located and complement and integrate with the building design.	There are no awnings proposed which are visible from the public domain.	N/A
4U Energy efficiency Development incorporates passive environmental design measures – solar design, natural ventilation etc.	BASIX Certificates submitted.	Yes

ITEM 3 (continued)

ATTACHMENT 2

Attachment 2 - Ryde Development Control Plan 2014 – Table of Compliance

Ryde Development Control Plan 2010 (Part 4.6) Gladesville Town Centre and Victoria Road Corridor

Control	Comment	Compliance
2.0 Vision		
<p>2.2.4 Vision Statement</p> <p>Town Centre Precinct</p> <p>The town centre precinct is to be transformed from a poorly functioning strip shopping centre into a genuine mixed use town centre. The existing shops and pedestrian amenity on Victoria Road have been degraded by traffic and lack of renewal in recent years. The town centre will be revitalised with new large retail developments in Cowell Street and Coulter Street, which will support the existing retail shops with parking and greater pedestrian amenity. An enhanced pedestrian network and new public spaces will be created off Victoria Road, with a new square at the end of Wharf Road and street tree planting around the Coulter Street retail development. A pedestrian bridge across Victoria Road will link the existing shops and the proposed “one-stop” parking in large new retail developments in Cowell and Coulter Streets. Better pedestrian amenity on and around Victoria Road and a greater range of services will revitalise the town centre as the focus of urban life for the communities on both sides of the town centre. The intersection of Wharf Road, Meriton Street and Victoria Road is a key site (refer section</p>	<p>The development is consistent with the vision statement for the Town Centre Precinct. The development proposes to replace a single dwelling with 12 apartments which will support the viability of the growing Gladesville Town Centre.</p>	<p>Yes</p>

ITEM 3 (continued)

ATTACHMENT 2

4.3 of this part). The Clocktower marks this important intersection, which will be strongly defined by appropriately scaled buildings built to the street alignments.		
3.1 – Built Form		
3.1.1 Built Form Heights Buildings must comply with the maximum heights described in RLEP 2014.	The LEP specifies a maximum building height of 19m for the site. The majority of the building achieves compliance, with the exception of the lift overrun, rooftop pergola and a portion of the roof parapet. A Clause 4.6 request has been submitted with the application.	No – Clause 4.6 request submitted. See discussion in body of report.
Floor to ceiling heights must be a minimum of 2.7m for residential uses.	The floor to ceiling height for the residential units complies, being 2.7m. However, a floor to floor minimum height of 3.1m is required by the ADG and the proposal does not comply with this.	Yes with DCP but not ADG.
Ground floor levels are to have a floor to floor height of a minimum of 3.6m (mixed use developments).	The ground floor has a floor to floor height of 3.2m and complies with the requirement, however, the development is wholly residential.	N/A
3.1.2 Active Street frontages Provide ground level active uses where indicated on the map.	The DCP does not call for active uses along the Stansell St frontage.	N/A
Residential uses, particularly entries and foyers must not occupy more than 20% of the total length for each street frontage	This control does not apply as the DCP does not require active uses on the Stansell Street frontage.	N/A

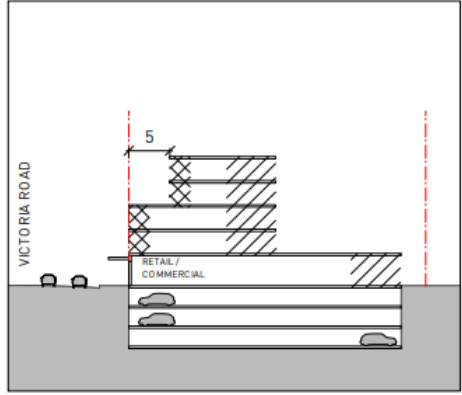
ITEM 3 (continued)

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Where required, active uses must comprise the street frontage for a depth of at least 10m.	This control does not apply as the DCP does not require active uses on the Stansell Street frontage.	N/A
Vehicle access points may be permitted where active street frontage is required if there are no practicable alternatives.	This control does not apply as the DCP does not require active uses on the Stansell Street frontage.	N/A
Security grills can be incorporated to ground floor shops. Blank roller shutter doors are not permitted.	This control does not apply as the DCP does not require active uses on the Stansell Street frontage.	N/A
<p>3.1.3 Buildings Abutting the Street Alignment</p> <p>Provide buildings built to the street boundary in the Gladesville Town Centre precinct and in Monash Road precinct except as shown on the appropriate map under Section 4.0.</p> <p>Ground level architectural features, such as recessed doors and windows, are permitted to a maximum of 400mm from the street boundary to design out concealment opportunities and promote personal safety and security.</p>	The DCP does not require the building to abut the street alignment on the Stansell St frontage.	Yes
<p>3.1.4 Setbacks (front)</p> <p>Setbacks in accordance with Setback Requirements Table and Key Sites Diagram.</p> <p>Front Setback (Diagram E)</p> <p>The table under this section requires the setback as follows:</p> <p>Ground level = Nil</p> <p>Above level 3 = 5m (see DCP illustration below)</p>	The DCP considers the subject site and 287-295 as a single site. It requires a minimum 2m setback from the Stansell St frontage. The proposal provides for a 2m setback for the building from the Stansell St front boundary.	Yes

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 <p>SETBACK E</p>		
<p>Side & Rear Setbacks and Residential Amenity</p> <p>b) Provide 12m separation minimum above the ground floor between residential buildings (including existing residential buildings on adjacent sites).</p> <p>c) Buildings fronting Victoria Road may build to the side boundary for a depth of 20m measured from the street frontage. A side setback is then required to achieve 12m separation between proposed and potential residential land uses.</p>	<p>The building set back is between 8.29m to 10.74m to the rear boundary. The site adjoins a public car park to the rear.</p> <p>It should be noted that the DCP does not provide any controls with respect to side boundary setbacks. In this instance, the building separation requirements in the ADG are applicable.</p>	<p>No – proposal is considered unsatisfactory with regard to the building separation guidelines of the ADG.</p>
<p>3.1.6 Conservation Area and Built Form Guidelines</p> <p>All development proposals within the Conservation Area shall be assess for their impact on the heritage significance of the Conservation Area and have regard to the Statement of Significance</p>	<p>The site lies outside of the Conservation Area.</p>	<p>N/A</p>
<p>3.1.7 Awnings</p> <p>Provide awnings over footpaths for ground level building frontages as shown on relevant</p>	<p>Not applicable to this site.</p>	<p>N/A</p>

ITEM 3 (continued)

ATTACHMENT 2

map and setback 600mm from kerb. Provide street trees. Height of awning minimum 3m. The heights of adjoining awnings should be considered. Glazed unit not permitted. Provide lighting, preferably recessed, to the underside of awnings, sufficient to ensure a high level of safety for pedestrians at night.		
3.2 – Access		
3.2.1 Minimum Street frontage North and South Gladesville Precincts to have a minimum 40m to Victoria Road and have one driveway crossing unless access is possible from a local road.	N/A – site is located in the Town Centre precinct.	N/A
3.2.2 Vehicular Access Provide vehicular access from the local roads network in preference to Victoria Road. This will require the development of public laneways within the rear setback of most sites in the North Gladesville and Monash Road Precincts.	All vehicle access is proposed from Stansell St.	Yes
3.2.3 Parking Provide publicly accessible parking in specified locations.	The site does not fall in the area designated for publicly accessible parking.	N/A
3.3 Public Domain		
3.3.1 Pedestrian Connections Provide street furniture, lighting and generous paved areas along the main pedestrian routes within the retail and commercial core with clear direct sightlines and direct linkages.	Not applicable to this site.	N/A

ITEM 3 (continued)

ATTACHMENT 2

<p>Provide pedestrian through-site connections and public domain parks, squares and plaza's in accordance with the Pedestrian Connections Control Drawing (Figure 4.6.13) and the Public Domain Control Drawing (Figure 4.6.14).</p> <p>Courtyards, plazas or squares should be provided to complement and adjoin pedestrian through-site connections.</p>		
<p>3.3.2 Public Domain Framework</p> <p>Increase the quantum and diversity of public space in the heart of the town centre as shown on the Public Domain Framework Control Drawing.</p>	<p>The Public Domain Framework Control Drawing does not require any specific public space features for the subject site.</p>	<p>Yes</p>
<p>3.3.3 Landscape Character</p> <p>Create a consistent planting theme with a number of species to ensure that the planting provides a visual coherence, Provide street trees as shown on the Landscape Character Control Drawing (Figure 4.60) and in accordance with the Ryde Public Domain Technical Manual and Relevant Street Tree Master Plans.</p>	<p>The proposed landscaping within the front setback will contribute to the variety of existing species within the street.</p>	<p>Yes</p>
<p>3.3.4 Urban elements</p> <p>Provide paving, seats, benches and bins in accordance with the Ryde Public Domain Technical Manual.</p> <p>Provide seating and shelter (awnings or bus shelter) at all bus stops. Seating shall be in accordance with the Ryde Public Domain Technical Manual.</p>	<p>The applicant requested to address the Public Domain requirements in the Technical Manual but elected not to submit any further information.</p>	<p>Insufficient information.</p>

ITEM 3 (continued)

ATTACHMENT 2

<p>Provide new street lighting to primary and secondary streets as selected by Council and underground power cables.</p> <p>Provide pole lighting, lighting from building awnings and structures, in new public spaces, to ensure night time pedestrian safety.</p>		
<p>3.3.7 Victoria Road – Town Centre Precinct Section</p> <p>a. Provide a 3.5 m wide footpath and buildings typically built to the boundary defining both sides of Victoria Road.</p> <p>b. Provide continuous granite paving for the full footpath width in accordance with the Ryde Public Domain Technical Manual.</p> <p>c. Provide landscaping consistent with an urban setting including planter boxes and the like.</p> <p>d. Provide street furniture in accordance with Ryde Public Domain Technical Manual including:</p> <p>i. provide seats and bins at 50 m intervals and at bus stops, a minimum one per block, if required by Council;</p> <p>ii. provide new street lighting, staggered at 20 m intervals on both sides of street; or to Council satisfaction;</p> <p>iii. provide lighting to the underside of awnings for the safety and security of pedestrians.</p> <p>e. Powerlines are to be underground in locations specified by Council.</p>	<p>N/A – the site does not have frontage to Victoria Road.</p>	<p>N/A</p>

ITEM 3 (continued)
Part 9.3 - Car Parking

ATTACHMENT 2

Car Parking

The following parking rates are applicable to residential development under the RDCP 2014.

- 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.
- Retail 1/25m²

An assessment of the above parking rates to the proposed development is below:

Apartment Type	Minimum	Max	Provided	Compliance
1 bedroom (1)	0.6	1	25 spaces	Yes
2 bedroom (0)	0	0		
3 bedroom (11)	15.4	17.6		
Sub-total	16	18.6 (19)	25 spaces	Yes
Visitor	2.4 (3)	2.4 (3)	25 spaces in total – none allocated as visitor.	Yes
Total	19 spaces	22 spaces	25 spaces	Yes

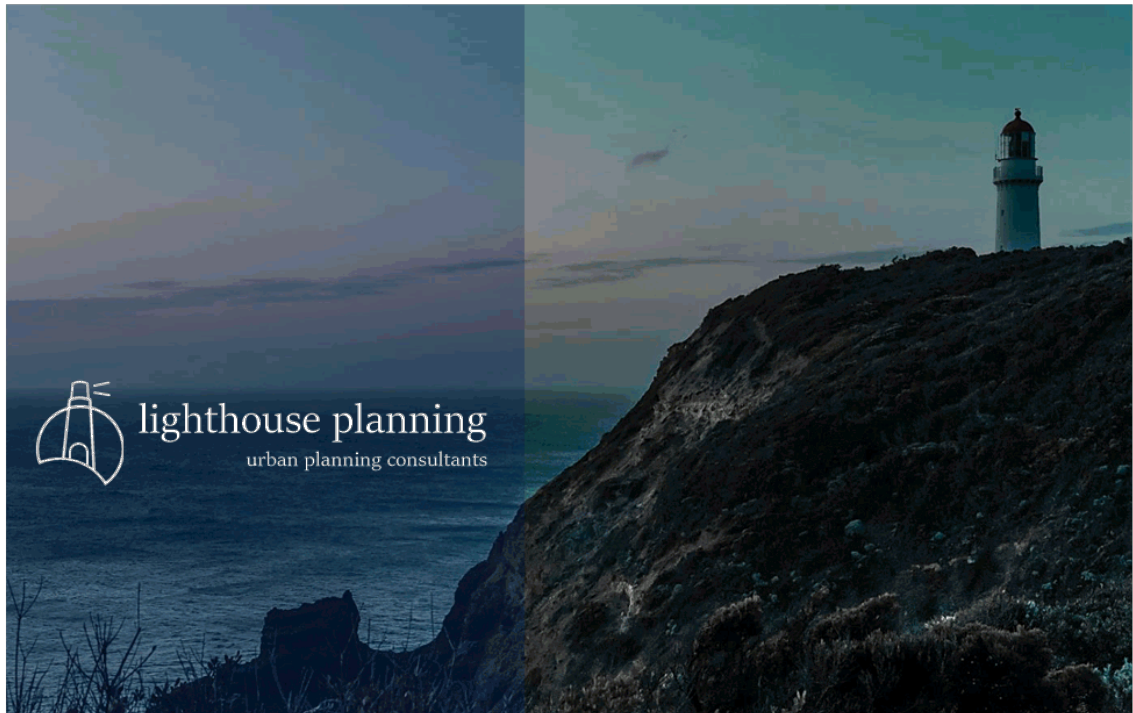
Bicycle Parking

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.*

Two bicycle parking spaces are required for this development. The proposal provides bicycle parking comprising two spaces.

ITEM 3 (continued)

ATTACHMENT 3



CLAUSE 4.6
VARIATION TO HEIGHT OF BUILDING

1 STANSELL STREET
GLADESVILLE

PREPARED FOR
PRISM SAFETY PTY LTD

PREPARED BY



LIGHTHOUSE PLANNING PTY LTD
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PROJECT NO. 107A
FEBRUARY 2021
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1 INTRODUCTION

1.1 PURPOSE

This submission has been prepared for Prism Safety Pty Ltd to accompany a Development Application (DA) to City of Ryde Council relating to the property known as 1 Stansell Street, Gladesville (the Site). It seeks a variation to the building height development standard contained at Clause 4.3 of the Ryde Local Environmental Plan 2014 (RLEP 2014).

1.2 THE PROPOSAL

The application generally proposes the construction of a six-storey residential flat building comprising:

- 12 residential units consisting of:
 - 1 x 1-bedroom units
 - 11 x 3-bedroom units
- Two (2) x basement levels
- Rooftop Communal Open Space

1.3 VARYING A DEVELOPMENT STANDARD

The NSW Department of Planning and Environment's publication "Varying Development Standards: A Guide" (August 2011), states that:

The NSW planning system currently has two mechanisms that provide the ability to vary development standards contained within environmental planning instruments:

- Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP).
- State Environment Planning Policy No 1 – Development Standards (SEPP1).

SEPP 1 no longer applies and RLEP 2014 is a Standard Instrument LEP.

This proposal seeks to vary the Height of Building development standard applicable to the Site and not introduce new controls across an area. Subclause 4.6 (8) of RLEP 2014 also states specifically when this clause is not to be used. Neither the Site, nor the proposal, satisfy these criteria and therefore, the use of Clause 4.6 to vary the Height of Building is appropriate in this instance.

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2 NATURE OF THE VARIATION

2.1 WHAT IS THE APPLICABLE PLANNING INSTRUMENT AND ZONING?

The RLEP 2014 is the local environmental planning instrument that applies to the Site. The Site is zoned B4 Mixed Use under RLEP 2014, in accordance with the Land Zoning Map.

2.2 WHAT ARE THE ZONE OBJECTIVES?

The relevant objectives of the B4 Mixed Use Zone are:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.*
- *To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.*

2.3 WHAT IS THE STANDARD BEING VARIED?

The standard being varied is the Height of Buildings development standard contained in Clause 4.3(2) of RLEP 2014.

2.4 IS THE STANDARD TO BE VARIED A DEVELOPMENT STANDARD?

Yes, the Height of Building standard is a development standard in accordance with the definition contained in Section 1.4 of the Environmental Planning and Assessment Act 1979 (as amended) (EP&A Act).

2.5 IS THE DEVELOPMENT STANDARD A PERFORMANCE BASED CONTROL?

No, the development standard is a numeric control.

2.6 WHAT IS THE UNDERLYING OBJECT OR PURPOSE OF THE STANDARD?

The objectives of Clause 4.3 of RLEP 2014 are as follows:

- *to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
- *to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*

ITEM 3 (continued)

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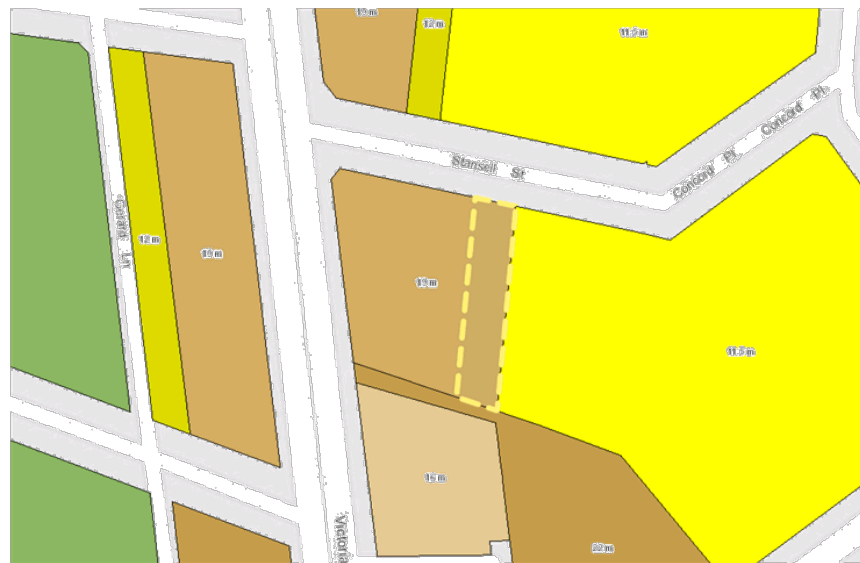
- to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,
- to minimise the impact of development on the amenity of surrounding properties,
- to emphasise road frontages along road corridors.

In summary, the underlying purpose of the development standard is to manage the height and scale of any future built form, in order to mitigate any adverse impacts and ensure compatibility with the character of the streetscape and amenity of the surrounding area.

2.7 WHAT IS THE NUMERIC VALUE OF THE DEVELOPMENT STANDARD IN THE ENVIRONMENTAL PLANNING INSTRUMENT?

Subclause 4.3 (2), in association with the Height of Buildings Map of the RLEP 2014, establishes a maximum building height of 19 metres for the Site.

FIGURE 1: EXCERPT FROM THE HEIGHT OF BUILDINGS MAP



SOURCE: NSW PLANNING PORTAL

2.8 WHAT IS THE PROPOSED NUMERIC VALUE OF THE VARIATION IN THE DEVELOPMENT APPLICATION?

The proposed maximum building height is 22.15m metres. This equates to a variation of 3.15m (16.6%) from the numeric development standard.

ITEM 3 (continued)

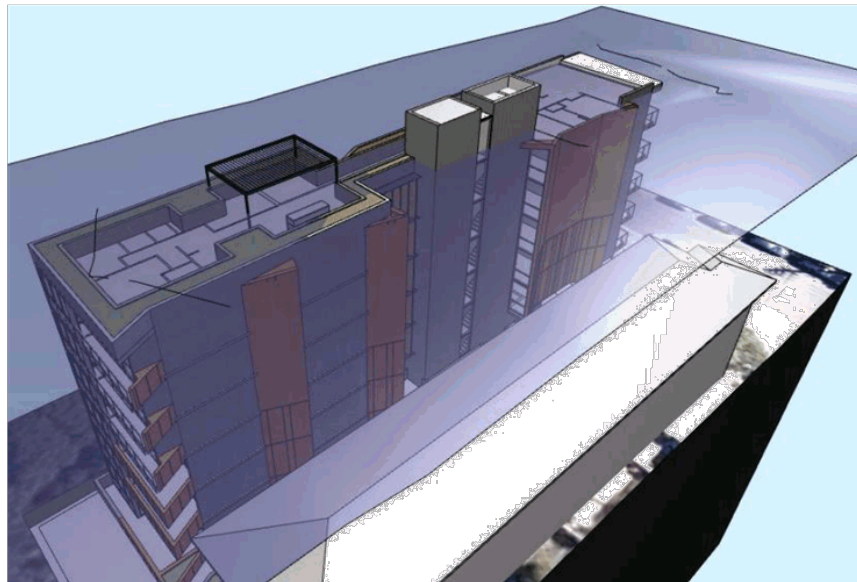
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FIGURE 2 | BUILDING HEIGHT PLANE – NORTHWEST CORNER



SOURCE: URBAN LINK

FIGURE 3 | BUILDING HEIGHT PLANE – SOUTHEAST CORNER



SOURCE: URBAN LINK

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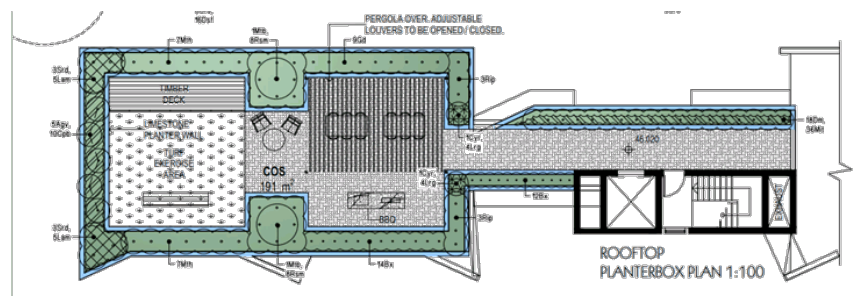
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2.9 WHAT IS THE CONTEXT OF THE VARIATION?

The variation to the prescribed maximum height of building occurs primarily to the lift overrun, located centrally within the site. This lift core provides required and beneficial access to the generous and well-designed communal open space area at the roof level. Its location on the building and site mean they will not be perceived from the public domain at street level. Figure 4 demonstrates the level of landscaping envisaged as part of the communal open space, which will serve to soften and 'green' the visual impact of the upper most portion of the building. A pergola, with adjustable louvres for shade and protection at the rooftop, also extends above the height plane to a lesser extent (refer to Figures 2 & 3).

Minor elements of the front facade also result in variation to the prescribed maximum building height. The non-compliance is not discernible due to its minor nature and is a consequence of the topography of the site, sloping down from the rear to Stansell Street. The rear of the building is comfortably compliant with the development standard.

FIGURE 4 | PROPOSED ROOFTOP LANDSCAPING AND LIFT CORE



SOURCE: RAY FUGGLE & ASSOCIATES PTY LTD – LANDSCAPE ARCHITECTS

ITEM 3 (continued)

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3 ASSESSMENT OF VARIATION

3.1 OVERVIEW

Clause 4.6 of RLEP 2014 establishes the framework for varying development standards applying under the instrument. Council must not grant consent to a development that contravenes a development standard unless a written request has been received from the applicant that seeks to justify the contravention of the standard by demonstrating:

'4.6(3)(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case.

4.6(3)(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Subclause 4.6(4)(a) mandates that development consent must not be granted for a development that contravenes a development standard unless Council is satisfied:

- (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....'*

Relevant case law to Clause 4.6 Variation Requests

This request has been prepared having regard to the principles established by the Court when considering the assessment of Clause 4.6 requests (including applicable principles adopted from consideration of SEPP 1 requests), contained in the following guideline judgments:

- *Wehbe v Pittwater Council* [2007] NSWLEC 827
- *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118
- *RebelMH Neutral Bay Pty Ltd v North Sydney Council* [2019] NSWCA 130

In summary, the principles adopted and applied in this clause 4.6 request include:

- In *Wehbe V Pittwater Council* (2007) NSWLEC 827 Preston CJ held that, it can be demonstrated that the objectives of the development standard are achieved notwithstanding non-compliance with the standard, as below (emphasis added):

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"43 The rationale is that 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)." Wehbe V Pittwater Council (2007) NSWLEC 827 Preston CJ

- Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118 held (at paragraph 15) that for there to be power to grant development consent for a development that contravenes a development standard, cl 4.6(4)(a) requires that the Court, in exercising the functions of the consent authority, be satisfied that the written request adequately demonstrates that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (cl 4.6(3)(a) and cl 4.6(4)(a)(i)) and adequately establishes sufficient environmental planning grounds to justify contravening the development standard (cl 4.6(3)(b) and cl 4.6(4)(a)(ii)). The Court must also be satisfied that the proposed development will be consistent with the objectives of the zone and with the objectives of the standard in question, which is the measure by which the development is said to be in the public interest (cl 4.6(4)(a)(ii)).
- At paragraphs 23 and 24 in Initial Action, Preston CJ held that with respect to "environmental planning" grounds, although not defined, the grounds should relate to the subject matter, scope and purpose of the EP&A Act, including the objects in s. 1.3 of the Act. Further, in order that the environmental planning grounds proffered in the written request are "sufficient", firstly the focus should be on the aspect or element of the development that contravenes the development standard, rather than the development as a whole and why the contravention is justified and secondly, the environmental planning grounds must justify the contravention of the development standard, not just promote the benefits of carrying out the development as a whole.
- RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130 the Court, in exercising the functions of the consent authority, must "in fact" be satisfied of the above matters. The state of satisfaction that compliance is "unreasonable or unnecessary" and that there are "sufficient environmental planning grounds" to justify the contravention must be reached only by reference to the cl 4.6 request. The evidence in the proceedings cannot supplement what is in the request, although the evidence may assist in understanding the request and in considering its adequacy. On the other hand, the state of satisfaction that the proposed development is consistent with the relevant objectives, and therefore in the public interest, can be reached by considering the evidence before the Court and is not limited to what is contained in the cl 4.6 request.

ITEM 3 (continued)

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This variation adopts Method 1 in Wehbe which requires an applicant to demonstrate that the objectives of the relevant development standard will be achieved, despite the non-compliance with the numerical standard.

3.2 IS STRICT COMPLIANCE WITH THE DEVELOPMENT STANDARD UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE?

Yes - in this instance, strict numerical compliance with the development standard for Height of Buildings is unreasonable and unnecessary for the following reasons that are specific to this site and proposal:

- The reasons and context discussed in the section above.
- Despite numerical non-compliance, the proposal remains consistent with the relevant environmental and planning objectives of the B4 Zone and Height of Building development standard. This is explored further in Section 3.4 of this report.
- The proposed design and height variation are the result of providing access to the rooftop communal open space. It is unreasonable to require removal of significant portions of the development, that is within the permissible FSR, when the variations do not result in material adverse impact or discernible visual difference.
- The variation results in a scale and character that remains compatible with the surrounding locality and envisioned future character of the Gladesville Centre. A development compliant with the building height development standard contained in the RLEP 2014 would not achieve a perceivably different or better planning outcome.
- Strict compliance with the development standard would likely require the loss of several dwellings, currently proposed in an appropriate and accessible location. This outcome would result in no discernible benefit to the site or surrounding locality.

3.3 ARE THERE SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS?

Yes. In the circumstances of the case, there are sufficient environmental planning grounds to justify the variation to the development standard, namely:

- The reasons and context discussed in the sections above.
- The public interest is better served by supporting the variation as it allows occupants convenient access to the landscaped rooftop communal open space.

ITEM 3 (continued)

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- The proposal satisfies the objectives of the B4 Mixed Use zone and the objectives of the Height of Buildings development standard, having regard to the particular nature of the development and the particular circumstances of the Site. This is discussed further in section 3.4.
- The non-compliance with the standard will nevertheless result in a scale of development that is compatible with both the existing and future character of the locality.
- The variation to the building height standard will not have unreasonable visual impact from the public domain. The extent of variation relates to the lift overruns, which do not present to the street and are considerably setback from the site boundaries.

3.4 PUBLIC INTEREST

The public involvement in the planning process shapes and endorses the objectives that underpin the relevant development standard. The standards are derived as a means of achieving the public interest in delivering development that meets the objectives. Compliance with the Development Standard is accepted as being one method by which the objectives are met. Equally, the public interest can be served if the objectives are met, notwithstanding a variation to the development standard.

Approval of the proposed variation to the building height is in the wider public interest as the underlying objectives are met. This is detailed in the below section.

THE PROPOSAL REMAINS CONSISTENT WITH THE OBJECTIVES OF THE B4 MIXED USE ZONE:

The proposal remains consistent with the relevant Zone objectives outlined in Clause 2.3 and the Land Use Table of the RLEP 2014, despite the non-compliance, as demonstrated below:

- *To provide a mixture of compatible land uses.*

The proposal results in a residential flat building with a mix of unit arrangements. The use is permissible in the zone and compatible with the uses on Stansell Street and Victoria Road. It provides additional, high-quality housing stock in close proximity to a wide range of services and facilities, including public transport.

- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

ITEM 3 (continued)

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The site is located in an accessible area and integrates appropriate residential uses in close proximity to a wide range of services and facilities, including public transport options.

- *To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.*

N/A.

- *To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.*

N/A

THE PROPOSAL REMAINS CONSISTENT WITH THE OBJECTIVES OF THE HEIGHT OF BUILDINGS DEVELOPMENT STANDARD:

The proposal remains consistent with the relevant objectives of the Height of Buildings development standard outlined in subclause 4.3 (1) of the RLEP 2014, despite the numerical non-compliance with subclause 4.3 (2), as demonstrated below:

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

The proposed variations are not perceivably different from the street frontage, with the primary variation being for the lift overruns central to the building. The lift overrun is set back considerably from the front building line.

The minor variations in height do not compromise the potential building envelope that is available to the development site to the west (fronting Victoria Road). The proposed building has been designed with a street wall to facilitate the adjoining development "abutting" this development and therefore not compromising the character of that development.

The minor variation to the front façade occurs as a consequence of the topography and is not discernible from the public domain. The development also generally reflects the building envelope and scale of that previously approved by Council under DA/2016/0151.

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

The proposal is a high-quality, well considered design despite resulting in minor variation to the height. The variation to the lift overrun does not result in material additional overshadowing as it predominantly falls on the rooftop of the proposed development, rather than neighbouring properties. The proposed pergola results in

ITEM 3 (continued)

ATTACHMENT 3

negligible overshadowing due to the nature of the structure and location, while the front elevation has negligible adverse impact due to the minor nature of the variation and its location. Adjoining properties will retain satisfactory and compliant solar access. The use of materials softens the scale to Stansell Street and does not result in discernible variation from the streetscape.

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

The proposal provides additional housing stock in close proximity to existing services and public transport routes. The variation supports greater design and amenity for occupants of the building and the locality, near these public transport options.

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

The proposal is within the anticipated level of impact of development in terms of use and built form. The proposal retains a compliant FSR and adopts the building envelope approved under LDA/2016/0151, which was reviewed on several occasions and supported by the Urban Design Review Panel. The proposed height variation does not result in material amenity impacts beyond those reasonably anticipated by redevelopment of the site as a whole, in accordance with the envisioned character for the area.

(e) to emphasise road frontages along road corridors.

The development is located on a 'secondary' street but is contained within the identified Victoria Road corridor by virtue of its zoning and built form controls. The proposal is appropriately oriented to Stansell Street yet provides a residential transition from the primacy of Victoria Road.

3.1 WOULD STRICT COMPLIANCE HINDER THE ATTAINMENT OF THE OBJECTS SPECIFIED IN SECTION 1.3 OF THE ACT?

Relevant objects in Section 1.3 of the Act include the following:

- *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,*
- *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- *to promote the orderly and economic use and development of land,*
- *to promote the delivery and maintenance of affordable housing,*

ITEM 3 (continued)**ATTACHMENT 3**

- *to promote good design and amenity of the built environment,*
- *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*

In this instance, strict compliance would unnecessarily limit the opportunity to readily provide additional housing stock and a generous rooftop communal open space with great amenity, with no discernible reduction in environmental impacts.

The proposed non-compliance with the development standard would support, rather than hinder the attainment of the objects of Section 1.3 of the EP&A Act. These objectives are to encourage social and economic welfare of the community, the proper management of built and natural resources, good design and to promote and coordinate orderly and economic use and development of land. The proposal remains consistent with the design criteria of the ADG and is consistent with the objectives of both the land use zone and the development standard.

In this instance, strict compliance with the development standard would not result in any discernible benefits to the amenity of adjoining sites or the public. It therefore stands that the environmental planning grounds and outcomes that are particular to this development and this Site are such, that a departure from the development standard in that context would promote the proper and orderly development of land.

ITEM 3 (continued)

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4 CONCLUSION

This report accompanies a Development Application for a residential flat building at 1 Stansell Street, Gladesville. An exception is sought, pursuant to Clause 4.6 of the Ryde Local Environmental Plan 2014 to the maximum permissible building height prescribed by subclause 4.3(2) of the RLEP 2014.

The proposed variation primarily occurs as a result of a central lift overrun accessing the rooftop communal open space, with minor variations also to the north elevation and rooftop pergola. The variation enables a well-considered development that addresses the streetscape and relevant objectives of both the standards and the zone. The proposal appropriately adopts the building envelope approved under LDA/2016/0151 for the site, which was reviewed on several occasions and supported by the Urban Design Review Panel.

The report finds that the variation will not result in unreasonable environmental impacts. Accordingly, a variation of the development standard is justified.