

Meeting Date: Thursday 9 December 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

2 LDA2021/0139

126-128 Pittwater Road, Gladesville

Alterations and additions to the existing 3-storey mixed use development. 3

DEVELOPMENT APPLICATION

- 2 LDA2021/0139**
126-128 Pittwater Road, Gladesville
Alterations and additions to the existing 3-storey mixed use development.

Report prepared by: Assessment officer

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

File Number: GRP/09/6/12/1/2 - BP21/1124

City of Ryde
Local Planning Panel Report

DA Number	LDA2021/0139
Site Address & Ward	126-128 Pittwater Road, Gladesville East Ward
Zoning	B1 Neighbourhood Centre
Proposal	Alterations and additions to the existing 3-storey mixed use development
Property Owner	The Owners - Strata Plan No. 86144
Applicant	Latrade Australia Pty Ltd
Report Author	Niroshini Stephen – Assessment Officer
Lodgement Date	29 April 2021
No. of Submissions	Five (5) submissions received objecting to the original development and 1 submission to the amended development

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Cost of Works	\$468,506.50
Reason for Referral to LPP	Departure from Development Standard <ul style="list-style-type: none"> The proposed development results in a 15.9% departure from the development standard for floor space ratio imposed by Clause 4.4(2) of RLEP 2014
Recommendation	Approval
Attachments	Attachment 1: Draft Conditions of Consent Attachment 2: Clause 4.6 variation to C4.4 FSR Attachment 3: Architectural & Landscape Plans

1. Executive Summary

The following report is an assessment of Local Development Application LDA2021/0139 for alterations and additions to the existing 3-storey mixed use development at 126-128 Pittwater Road, Gladesville.

The subject site contains an existing mixed use retail and residential development comprising of the following:

- Basement 2
- Basement 1
- Ground floor containing Harris Farm Markets and a café
- First floor with residential units
- Second floor with residential units

The proposal involves alterations and additions to the existing 3-storey mixed use development. The proposal seeks to enclose a section of the existing terrace located adjacent to the western boundary to be used for additional retail space. The proposal maintains the number of storeys and car parking spaces of the existing mixed use development.

This application is reported to the Ryde Local Planning Panel for determination as it proposes a departure from a development standard in excess of 10% in accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 - Directions by the Minister.

The development contravenes Clause 4.4(2) of Ryde Local Environmental Plan 2014 (RLEP 2014), which prescribes a maximum Floor Space Ratio (FSR) of 0.8:1 (i.e. Gross Floor Area (GFA) of 1761.6m², based on a site area of 2,202m²). The proposal's

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GFA of 2,042m² equates to an FSR of 0.927:1, representing a 15.9% contravention of the development standard. The applicant has submitted a Clause 4.6 written variation in respect of the floor space ratio. The submitted Clause 4.6 written variation satisfies the pre-conditions for a consent authority to allow a variation to the standard.

The proposal has been assessed in accordance with the relevant environmental planning instruments and local provisions in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP & A Act). The proposal would not result in any unacceptable impacts upon the streetscape or the amenity of surrounding properties. The proposal does not raise any issues that would be contrary to the public interest and it is considered to be a suitable form of development for the site.

In accordance with Ryde Development Control Plan 2014 (RDCP 2014) Part 2: Community Participation Plan, the owners of surrounding properties were given notice of the application between 10 May 2021 and 31 May 2021. Five (5) submissions were received objecting to the development from the adjoining residential properties. The amended plans received on 27 August 2021 were renotified between 30 August 2021 and 20 September 2021. One (1) submission was received objecting to the development. The owners and residents within the subject site were notified between 4 November 2021 and 23 November 2021 and no submissions were received. The submissions raised the following concerns:

- The proposed structure will impact views and solar access
- The proposed development will significantly reduce the buffer zone between the commercial and residential precincts
- Concern is raised with the setbacks of the proposal
- The noise and visual impacts of the proposed extension and removal of trees
- The impacts of the proposal on carpark and storage facilities
- The lack of transition between the subject site and adjacent residential property
- The credibility of the proposed landscape plan given the existing failed landscaping
- The incompatibility between uses and overshadowing from landscaping
- The Clause 4.4 and Clause 4.6 objectives have not been met
- Concern is raised a comprehensive Landscape Management Plan and overall landscaping management regime should be submitted
- Height of landscaping on the boundary
- Concern is raised the Landscape Management Plan is to be approved prior to any Construction Certificate

The development application is recommended for approval subject to the recommended conditions of consent provided in **Attachment 1** of this report.

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2. The Site and Locality

The site is legally described as Lot 1 within DP1170650 and SP 86144 and is known as 126 - 128 Pittwater Road, Gladesville. The site is located on the north western corner of Pittwater Road and Gannet Street and has a total area of 2,202m². The subject site is irregular in shape with a frontage of 27.43 metres to Pittwater Road, 9.58 metres splayed frontage and frontage of 33.69 metres to Gannet Street.

The site currently contains an existing mixed use retail and residential development comprising of the following (**Figure 2 to Figure 6**):

- Basement Level 2
- Basement Level 1
- Ground floor containing Harris Farm Markets and a café
- First floor with residential units
- Second floor with residential units



Figure 1 - Aerial photograph of site

ITEM 1 (continued)



Figure 2 - The site as viewed from Pittwater Road



Figure 3 – The site as viewed from Gannet Street



Figure 4 – Existing terrace as viewed from Gannet Street footpath. The adjoining residential dwelling is visible in the left of the photo.

ITEM 1 (continued)



Figure 5 – Existing terrace located adjacent to the western boundary



Figure 6 – View of the existing terrace and adjoining dual occupancy at 2 Gannet Street

The site is adjoined to the north by No. 130 Pittwater Road. The site presently accommodates Woolworths Supermarket (see **Figure 7**). The site is adjoined to the west and south by No. 2 Gannet Street. This site presently accommodates a two storey dual occupancy development (see **Figure 8**). The site is also adjoined to the west by No. 2A Gannet Street. This site presently accommodates a split level two storey dwelling (see **Figure 9**). The dwelling is single storey at the front and two storeys at the rear.

Opposite the site to the south is No. 124 Pittwater Road. This site presently accommodates a single storey dwelling. Opposite the subject to the east is a three storey residential flat building, Boronia Park Uniting Church and commercial premises located within the Hunters Hill Local Government Area.

ITEM 1 (continued)



Figure 7 – Adjoining Woolworths Supermarket at 130 Pittwater Road



Figure 8 – Adjoining dual occupancy development at 2 Gannet Street

ITEM 1 (continued)



Figure 9 – Adjoining dwelling at 2A Gannet Street

Development in the locality is primarily for residential and small scale retail, business and community uses. Residential development in the locality is characterised by single and two storey dwelling houses and dual occupancy developments varying diversely in age, scale and architectural style. The small scale retail, business and community uses are located along Pittwater Road and are single and two storey.

3. The Proposal (as amended)

The amended proposal seeks consent for alterations and additions to the existing 3-storey mixed use development. The proposed works include:

- A section of the existing terrace located on the ground floor adjacent to the western boundary is to be enclosed and used for additional retail space. The enclosed terrace area results in 139m² additional floor area.
- The enclosed terrace includes highlight windows with a sill height of 2.4 metres on the western elevation and door openings on the southern and western elevation
- Removal of ten (10) trees which are identified as being dead. The trees are located in the existing planter boxes to the west and south of the site and adjoin 2 Gannet Street
- Landscaping works
- The number of storeys and overall building height are unchanged
- The number of existing car parking spaces are unchanged
- It is noted internal fitout works do not form part of this application and will form part of a separate application

Figures 10 to 13 below are the floor plans and elevations of the proposed alterations and additions.

ITEM 1 (continued)

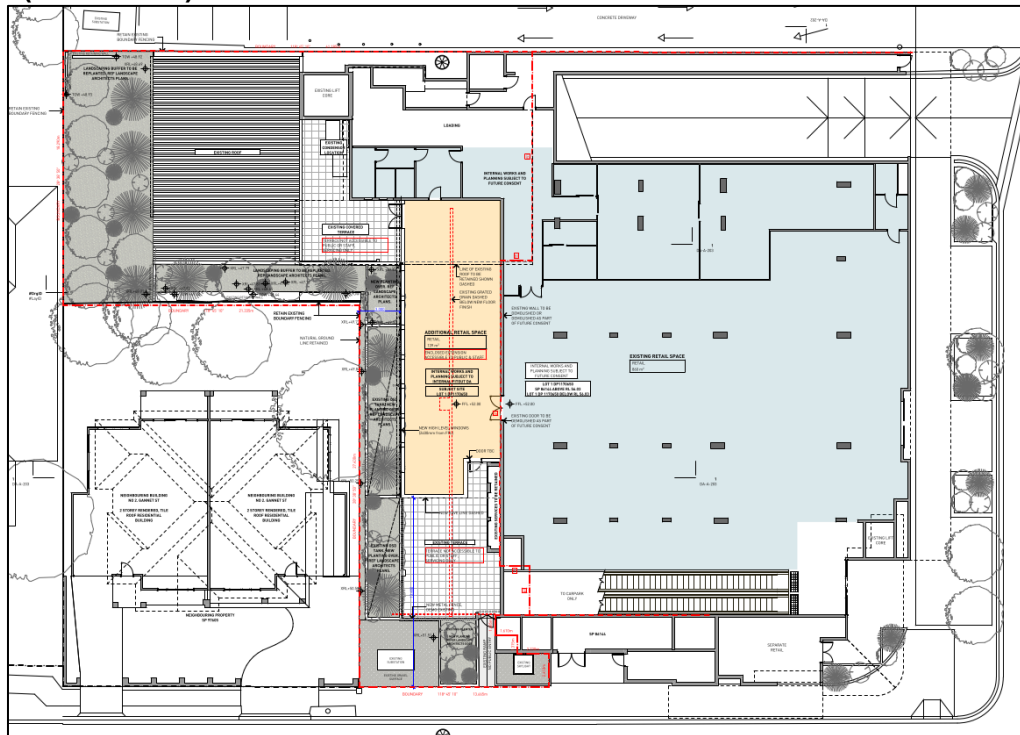


Figure 10 - Proposed Ground Floor Plan

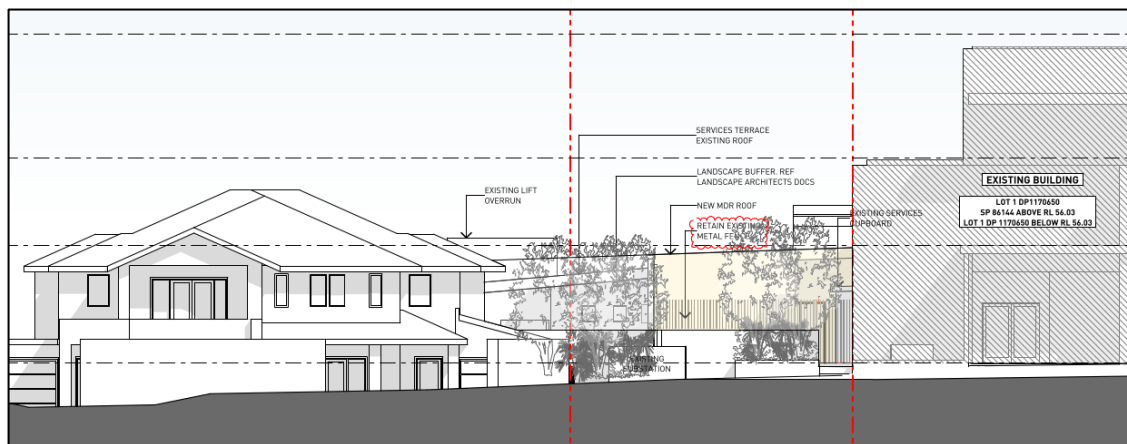


Figure 11 - Proposed South Elevation (Gannet Street frontage)

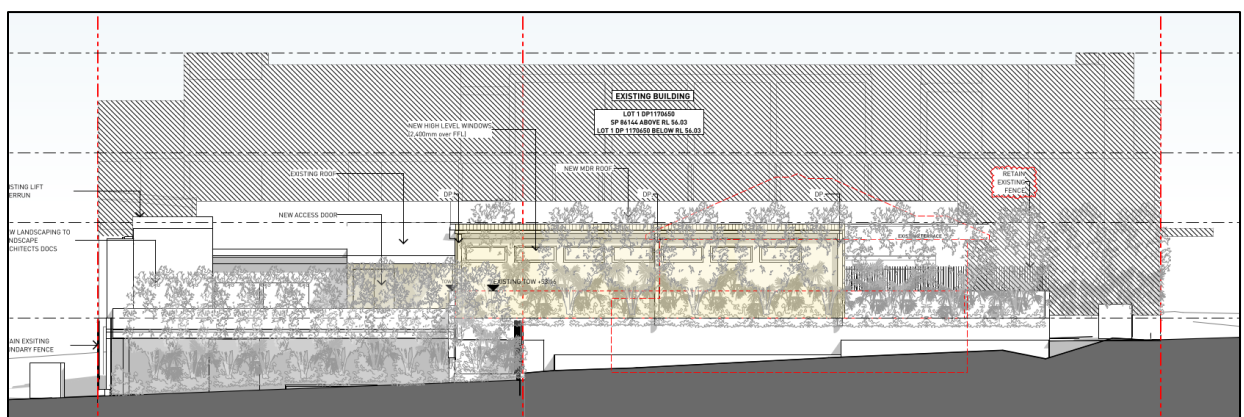


Figure 12 - Proposed West Elevation

ITEM 1 (continued)

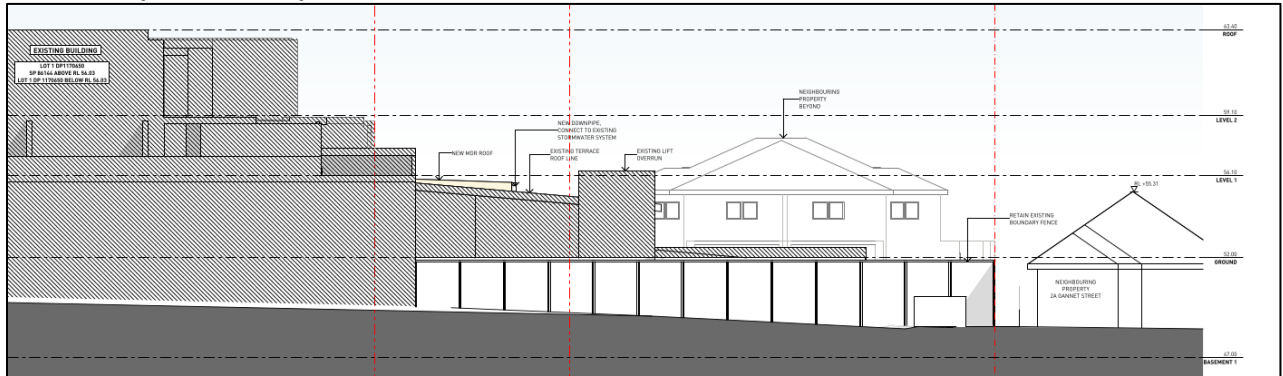


Figure 13 - Proposed North Elevation

4. Background

History of the site

Local Development Application No. LDA2005/0591

Local Development Application No. LDA2005/0591 to construct a mixed retail/residential development comprising 6 x 2 bedroom, 2 x 3 bedroom residential flats, 769.38m² retail space, 22.01m² staff amenities and 53 parking spaces was approved on 15 July 2008. The proposal involved the following:

- Ground Floor – 4 tenancies of 594.95m², 63.04m², 55.37m² and 56.02m², staff amenities of 32.01m² for the 4 retail areas, rear outdoor terrace and undercover courtyard, retail entry facing Pittwater Road, residential entry facing Gannet street, outdoor terrace facing Pittwater Road off the 3 small retail areas, loading/unloading area (temporary store), residential waste storage.
- First floor: 5 residential dwellings (3x2 bedroom, 2x3 bedroom (bedrooms on second floor))
- Second Floor – 3x2 bedroom units

Vehicular access to the site is via the Pittwater Road frontage. The access is along the northern part of the site adjacent to the existing Woolworth's premises and provides vehicular access to 2 basement levels:

- Upper basement- 33 retail parking spaces (including one disabled space), loading dock with service lift to the floors above, commercial waste storage and compactor, plant room, detention tank, separate lifts to the retail and residential areas, storage
- Lower basement- 20 residential parking spaces (including 2 disabled spaces), 2 visitor spaces, separate storage areas for each of the 8 residential units, a communal storage area, caretaker's room, lift access to the retail and residential areas, retention tank, wash bay

ITEM 1 (continued)

Landscaping along the street frontages and at the rear of the site adjoining the residential properties.

The application was assessed under the Ryde Planning Scheme Ordinance 1979. It is noted the site was not subject to a height and FSR requirement.

Council resolved to approve the application at the meeting on 15 July 2008.

Local Development Application No. LDA2009/0192

Local Development Application No. LDA2009/0192 for fitout and use of ground floor retail space for food (fruit & vegetable) market, advertising signage, alterations to previous approved parking layout at basement levels to provide total of 89 parking spaces was approved on 9 October 2009.

The DA involved the use of the entire retail space (i.e. instead of 4 separate tenancies) by a single occupant as a food market (known as “Harris Farm”), and signage.

The development also involved various other changes from the previous DA as follows:

- Re-arrangement of the car parking for the entire development which resulted in an increase from 53 spaces (as per the previous DA) to 89 spaces. This is the result of a general re-configuration as well as an increase in area for car parking at Basement Level 2.
- Various internal layout changes in the ground floor retail space to support the proposed use including provision of travelators, provision of coolrooms, deletion of the staff room and adjustment in the size of the garbage storage room for the residential units above
- The proposal made no change to the residential units above the retail space.

Modification Application No. MOD2010/0110

Modification Application No. MOD2010/0110 of Local Development Application No. LDA2005/0591 was approved on 18 November 2010 for the following:

- Consolidate consent to LDA2009/192 into this consent
- Address BCA non-compliances
- Redirect sewer
- Improve layout and amenity of residential units
- Ancillary café to the fruit and vegetable market
- Internal changes to basement(s) layout and height
- Relocate lift
- Include number of matters required by conditions of consent
- Other minor modifications

Modification Application No. MOD2011/0099

ITEM 1 (continued)

Modification Application No. MOD2011/0099 of Local Development Application No. LDA2005/0591 for modifications to the approved mixed use development (LDA2005/591) was approved on 29 August 2011. The changes included:

- Basement area:
 - Change room relocated
 - Void area to be enclosed
- Ground floor:
 - New café toilet
 - Reconfigure coolroom / takeaway preparation area
- 1st floor:
 - Change planter beds
 - Increase terrace / balcony areas for units 2, 3, 4 & 5
 - Reduce unit 1 balcony along south-east corner
 - Amend windows adjacent to stairwell on Gannet Street
- 2nd floor:
 - Reduce balcony for unit 6
- Roof
 - Reduce height and fall of roofs

Complying Development Certificate No. CDP2018/0207 (Council Reference)

Complying Development Certificate No. CDP2018/0207 approved internal alterations to existing retail tenancy for use as a café on 5 April 2018.

Application History

29 April 2021	<p>Local Development Application LDA2021/0139 was lodged with Council. The original proposal (see Figure 14), as lodged, consisted of the following:</p> <ul style="list-style-type: none"> - Enclosed terrace area located to the north west resulting in 121m² additional floor area. The terrace area was setback 6.5 metres from the western boundary and 7.6 metres from the southern boundary shared with 2 Gannet Street - Enclosed terrace area located to the west resulting in 162m² additional floor area. The terrace area was setback 3 metres from the western boundary and 8.5 metres from the Gannet Street frontage
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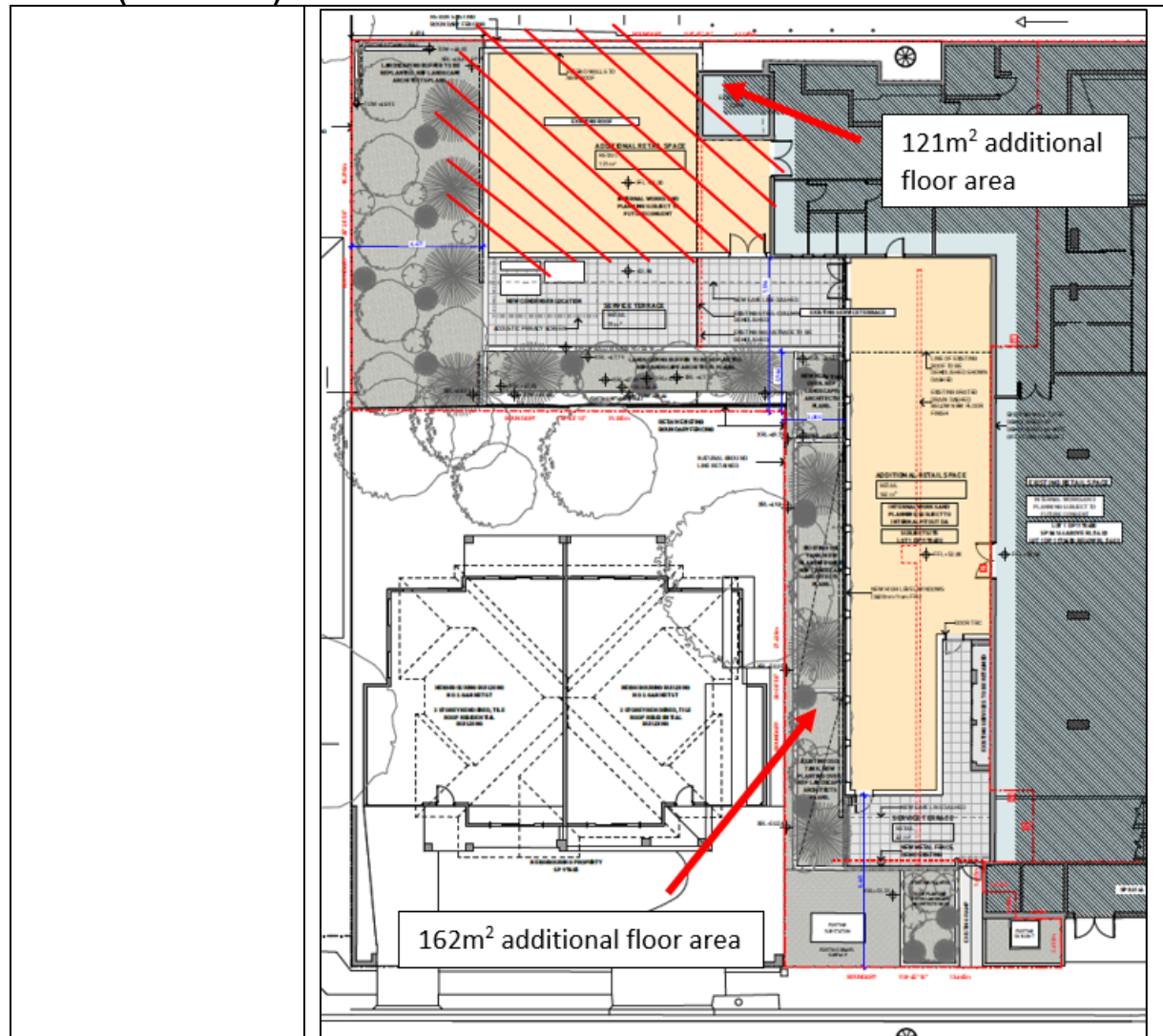


Figure 14 – Floor plan of original proposal (enclosed area with hatching has been deleted with the amended proposal and the enclosed area to the west has been reduced by 23m²)

10 May to 31 May 2021

The Application was notified to adjoining property owners and Hunters Hill Council. Five (5) submissions were received from adjoining residential properties objecting to the development application.

21 June 2021

A letter was sent requesting the application to be withdrawn for the following reasons:

- The proposed additional retail space results in the supermarket having a gross floor area of 1234m² and does not comply with Clause 5.4(7AA) which requires the gross floor area of neighbourhood supermarkets must not exceed 1,000 square metres;

ITEM 1 (continued)

	<ul style="list-style-type: none"> - The submitted Clause 4.6 does not demonstrate compliance with the development standard is unreasonable or unnecessary or that there are sufficient environmental planning grounds to justify contravening the development standard; and - The proposal results in visual privacy impacts to the neighbouring residential properties
5 July 2021	<p>The applicant submits amended plans and further information involving the following:</p> <ul style="list-style-type: none"> - Amended architectural plans showing deletion of north-western enclosed terrace area and reduction in size of western enclosed terrace area. The amendments resulted in a reduction in gross floor area of 144m²; - Updated Clause 4.6 submitted; and - Updated landscape plan submitted
16 August 2021	<p>A request for further information was sent to the Applicant, requesting:</p> <ul style="list-style-type: none"> - The submitted Clause 4.6 for the floor space ratio non compliance does not demonstrate compliance with the development standard is unreasonable or unnecessary or that there are sufficient environmental planning grounds to justify contravening the development standard; - Clear GFA calculation plans should be submitted which are to scale; - GFA calculation plans to be updated to include change room on Basement Level 1 and garden store, enclosed residential access area and stairs to Unit 7 and Unit 8 on first floor plan; - Clarification if the existing terrace areas are accessible to customers;

ITEM 1 (continued)

	<ul style="list-style-type: none"> - Clarification if customers can access the proposed addition from the existing ramp and terrace located on Gannet Street; - Updated floor plan including more details of the proposed use of the additional space; - Update shadow diagrams shows the shadow cast by the proposal in a different colour in order to differentiate between the existing shadows and proposed shadows; - A schedule of materials and finishes should be submitted; - The landscape plan to be updated to show existing planting on site, much of which is worth retaining; - There are several small trees that have died and need to be removed which needs to be shown on the Landscape Plan; - Some of the garden beds on structure over the On Site Detention (OSD) tanks appear to need restoration, this needs to be investigated and remedial measures recommended; and - The existing irrigation system needs to be investigated and remedial measures recommended
27 August 2021	<p>The applicant submits amended plans and further information involving the following:</p> <ul style="list-style-type: none"> - Updated Clause 4.6 submitted; - Clear GFA calculation plans submitted; - Clarification received the terrace areas and ramp on Gannet Street are not accessible to the public; - Updated shadow diagrams; - Schedule of materials and finishes provided; and - Updated landscape plan submitted

ITEM 1 (continued)

30 August to 20 September 2021	The Application was re-notified to adjoining property owners. One (1) submission was received objecting to the amended proposal.
10 September 2021	<p>An email was sent requesting further information, requesting:</p> <ul style="list-style-type: none"> - The height of the proposed metal slat fencing to be specified; - The area adjacent to the lift on the ground floor and corridor area adjacent to the stairs on the first floor to be included in the gross floor area calculation; - Clarification if the corridor areas adjacent to the Unit 7 and Unit 8 stairs on the Level 1 plan are enclosed; - The area calculations plan and Clause 4.6 to be updated to reflect updated FSR; and - The Clause 4.6 should be updated to identify that there are grounds which are particular to the circumstances of the proposed development on the subject site
17 September 2021	An email was sent requesting the architectural plans to be updated to delete any references to the previously proposed enclosed terrace area located west of the existing lift core.
19 September 2021	<p>The applicant submits amended plans and further information involving the following:</p> <ul style="list-style-type: none"> - Updated plans showing existing fence to be retained, - Updated GFA plans showing floor area and area calculation correctly, and - Updated Clause 4.6 submitted
4 November to 23 November 2021	The owners and residents within the subject site were notified and no submissions were received.

ITEM 1 (continued)**5. Planning Assessment**

The following planning policies and controls are of relevance to the development:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55 – Remediation of Land (SEPP 55);
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Ryde Local Environmental Plan 2014; and
- Ryde Development Control Plan 2014:
 - Part 7.2: Waste Minimisation and Management;
 - Part 9.2: Access for People with Disabilities; and
 - Part 9.3: Parking Controls

5.1 State Environmental Planning Instruments**State Environmental Planning Policy (Infrastructure) 2007**

Pittwater Road is a classified road (Regional). The proposal does not alter the existing vehicular access to Pittwater Road.

As the proposal is development with frontage to a classified road it is subject to consideration pursuant to Clause 101 of the SEPP. Clause 101(2) requires that a consent authority must not consent to the carrying out of any development on land that has a frontage to a classified road unless the provisions of Clause 101(2)(a), (b) and (c) are satisfied, these clauses are as follows:

- (2) *The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that—*
- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
 - (i) the design of the vehicular access to the land, or*
 - (ii) the emission of smoke or dust from the development, or*
 - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
 - (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

ITEM 1 (continued)

Given the proposal is for a section of the existing terrace to be enclosed and used for additional retail space and does not seek to alter the existing vehicular access arrangements the provisions of Clause (2)(a) and (b) are not applicable in this instance. Clause (2)(c) includes consideration of traffic noise and vehicle emissions on the development site arising from the classified road. Due to the nature of the proposal not being a sensitive use and being an extension of the existing neighbourhood supermarket (within a business zone), it is not considered necessary for noise or emissions mitigation to be required.

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

The provisions of SEPP 55 require Council to consider the potential for a site to be contaminated. The subject site has historically been used for residential and commercial purposes. As such, it is unlikely to contain any contamination and given that the proposed additions are to the ground floor with no disturbance of the existing ground level, further investigation is not warranted in this case.

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

The proposal does not involve any changes to the approved residential units and will not impact the residential units on the first floor and second floor. As such, consideration of the provisions within SEPP 65 and the Apartment Design Guide was not required for the proposal.

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017

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.

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.

The proposal seeks to remove ten (10) trees. Six (6) trees are located to the south of the northern wing of the building and four (4) trees are located to the west of the site (**Figure 15**). The trees are identified as being dead. The proposal has been considered acceptable by Council's Landscape Architect. A satisfactory Landscaping Plan has been submitted which includes tree replanting adjacent to the western boundary and within the Gannet Street frontage. No new planting is proposed along the southern elevation of the northern wing. It is considered that the proposed development does not unduly impact upon any existing biodiversity or trees or vegetation on the site.

ITEM 1 (continued)

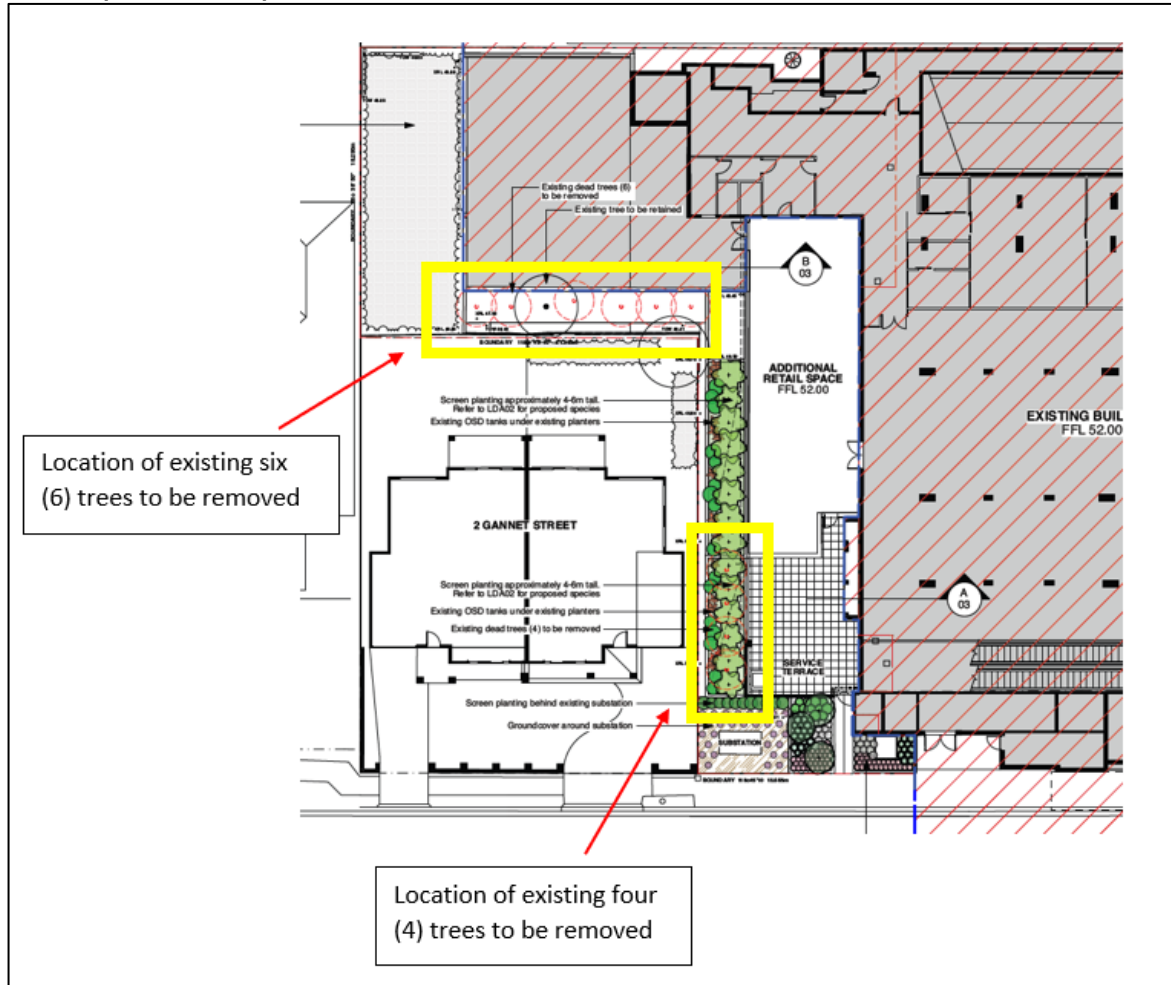


Figure 15 – Landscape Plan showing location of existing ten (10) trees to be removed and proposed tree replanting adjacent to the western boundary and within the Gannet Street frontage

The replacement planting will improve the amenity for occupants of the subject site and the adjoining properties, as it replaces the dead trees with new landscape screening, as well as providing a suitable maintenance schedule to ensure these trees/landscaping will survive. **Condition 24** is recommended requiring the automatic watering system as referenced in Point 9 of the landscape plan (Dwg No. LDA-01 dated 23/08/2021) shall be shown on the construction certificate plans with verification from a Landscape Architect that this is sufficient.

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

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

ITEM 1 (continued)**5.2 Ryde Local Environmental Plan 2014**

The subject site is identified as being within the B1 Neighbourhood Centre zone under the provisions of RLEP 2014. The proposal for alterations and additions to the existing 3-storey mixed use development is permissible with development consent.

Aims and objectives for B1 Neighbourhood Centre zone:

- *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
- *To encourage employment opportunities in accessible locations.*

The proposal is for alterations and additions to the existing 3-storey mixed use development. The proposal seeks to enclose a section of the existing terrace located adjacent to the western boundary to be used for additional retail space. The proposal is consistent with the objectives in providing a small-scale retail use that serves the needs of people who live or work in the surrounding neighbourhood. The proposed development encourages employment opportunities and is in an accessible location on Pittwater Road in close proximity to a number of bus stops.

Clause 4.3 Height of Buildings

The height of buildings map specifies the maximum height of any building on the site must not exceed 9.5m. Building height is defined in this instrument as meaning *“the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like”*.

The proposed enclosed extension has a height of 6.59 metres and complies with the height development standard.

It is noted the proposed enclosed extension is located above the existing Basement 1 level and Basement 2 level. The existing basement levels have not been adopted as the existing ground level in accordance with Land and Environment Court judgement *Bettar v Council of the City of Sydney* [2014] NSWLEC 1070. The following extract is relevant to this matter:

“Furthermore, the definition of basement in LEP 2012 is the space of a building where the floor level of that space is predominantly below existing ground level and where the floor level of the storey immediately above is less than 1 metre above existing ground level [italics added]. From this definition, it does not follow that existing ground level becomes the level of the basement floor or the soil beneath the basement following the construction of a basement. A basement is, by definition, below ground level and so the level of the basement floor cannot be taken to be existing ground level.”

ITEM 1 (continued)

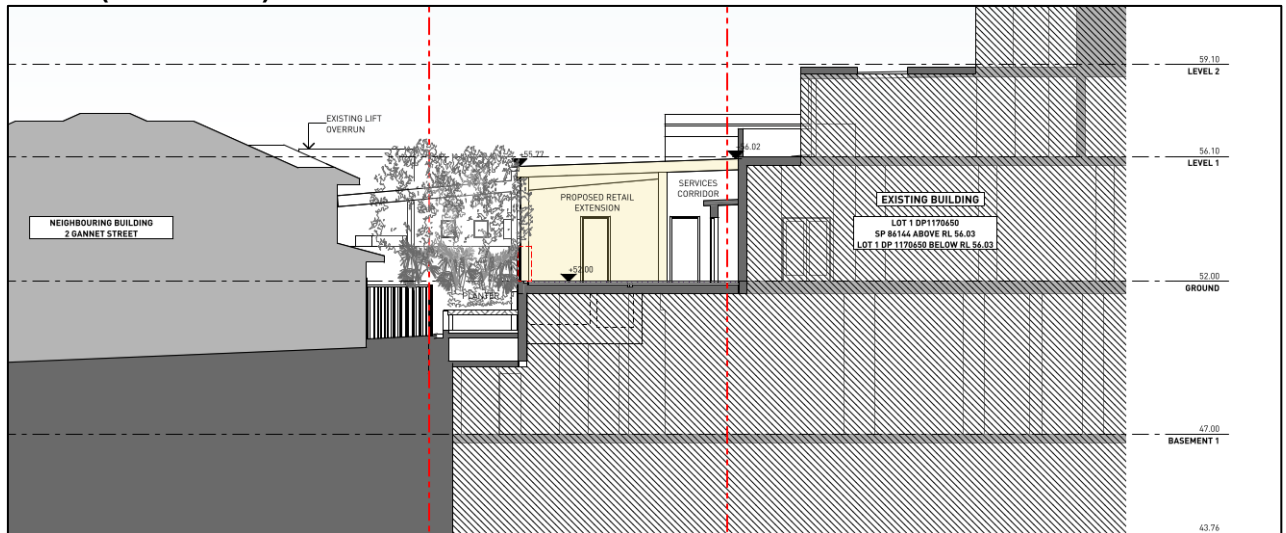


Figure 16 – Section A plan showing proposed extension located above Basement 1 and Basement 2 levels (shaded in yellow)

Clause 4.4 Floor Space Ratio

Clause 4.4(2) states the floor space ratio (FSR) of a building is not to exceed the maximum specified on the FSR Map. The FSR Map specifies a maximum FSR of 0.8:1 for the site.

The proposal is subject to a maximum FSR of 0.8:1 (1761.6m²). The proposal results in an FSR of 0.927:1 (2,042m²) and does not comply with the development standard and represents a 15.9% or 280.4m² contravention of the development standard.

The existing building has a floor space ratio of 0.864:1 (1,903m²). The proposed floor space ratio of 0.927:1 results in an increase in gross floor area of 139m² associated with the section of the terrace area to be enclosed.

The applicant has sought variation pursuant to Clause 4.6 of RLEP 2014 and an assessment of the variation request is detailed below.

Clause 4.6 Exceptions to development standards

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

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

ITEM 1 (continued)

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated.

These principles for assessment and determination of applications to vary development standards are relevant and include:

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

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

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

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

ITEM 1 (continued)

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

The applicant has submitted a written request to vary the FSR control. An assessment of the relevant provisions of Clause 4.6 is as follows:

Whether compliance with the standard is unreasonable and unnecessary in the circumstances of the case

The submission relies upon the common ways to demonstrate compliance with a development standard is unreasonable or unnecessary in accordance with *Wehbe v Pittwater Council (2007)*. The submission relies upon the objectives of the standard being achieved notwithstanding the non-compliance with the standard.

The objectives of the floor space ratio standard are set out in Clause 4.4 as follows:

- (a) to provide effective control over the bulk of future development,*
- (b) to allow appropriate levels of development for specific areas,*
- (c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.*

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

4.4(a) to provide effective control over the bulk of future development.

The proposed FSR variation associated with the retail extension is suitable for the subject site and fits within the context of the locality.

The proposed single-storey extension is setback from the western rear boundary perimeters to enable an appropriate buffer between the B1 Neighbourhood Centre zone and the R2 Low Density zone.

The concealed nature of the proposed addition ensures that the minor extension will not be discernible from the public domain of Pittwater Road and therefore continues to reinforce the area's existing and future neighbourhood character. The setback of the additional floor space from the Gannet Street frontage and the minor nature of the

ITEM 1 (continued)

extensions combined with landscaped screening also ensures that there are no adverse streetscape impacts when viewed from Gannet Street. Such assessment demonstrates that the FSR variation will not generate any adverse visual bulk impacts to the public domain nor to any private property beyond that of a compliant FSR.

The proposed enclosure to part of the existing raised terrace indicates that the proposal will not significantly change the site's existing footprint, thereby indicating that the additional FSR variation will be internally contained. As such, no adverse or unreasonable streetscape impact to either street frontage will incur.

More importantly, the proposed FSR variation will not be responsible for any adverse amenity impacts to neighbouring properties in terms of view loss, overshadowing or privacy impacts. Instead, the proposal increases the amenity of the adjoining western neighbour, which is currently compromised by the accessible nature of the unscreened outdoor terrace. The enclosure of built form over the existing terraces removes the potential for overlooking and acoustic impacts. The proposed landscape buffer also softens the effect of the additional bulk when viewed from the residential neighbours.

On this basis, it is confirmed that the additional bulk associated with the FSR variation will also have no adverse visual bulk impacts as viewed from its closest residential neighbours at 2 Gannet Street nor to the public domain.

Assessment Officer's Comments: The proposed single storey extension has a height of 6.59 metres and maintains the existing 3m setback from the western boundary which enables an appropriate buffer between the B1 Neighbourhood Centre Zone and R2 Low Density Residential Zone. It is noted that the RDCP 2014 requires a 1.5m side setback for two storey dwellings/dual occupancy developments. The existing setback to the terrace, which appears as a two storey structure once enclosed, doubles the 1.5m side setback. This allows for adequate separation for landscape screening and amenity for the adjoining residential property.

The proposed structure is not visible from the Pittwater Road frontage. The separation from the Gannet Street frontage and proposed screen planting reduces the visual bulk of the proposal and ensures no adverse impacts on the streetscape.

The proposal is to enclose a part of the existing raised terrace. The addition will have a height of 6.59 metres for a length of 21.4 metres and does not result in a significant change to the bulk and scale of the existing building. The proposal is unlikely to have material impacts on adjoining properties.

It is agreed that the proposal achieves this objective.

4.4(b) to allow appropriate levels of development for specific areas

The minor alterations and additions to the existing three-storey mixed-used development remain in line with the B1 Neighbourhood Centre zone.

ITEM 1 (continued)

The extent of additional floor space enhances the viability and level of service to the existing neighbourhood centre whilst remaining below the 1000sqm GFA restriction under the LEP.

As such, the proposed retail expansion aligns with the zones objectives in providing commercial and employment opportunities to the community.

The extent of non-residential floor space associated with the neighbourhood supermarket is consistent with that envisaged by the LEP whilst the FSR variation is not responsible for any adverse or unreasonable impacts. On this basis, the proposed extent of FSR on the site is appropriate, notwithstanding the numeric variation.

Assessment Officer's Comments: The proposed extension is in line with the objectives of the B1 Neighbourhood Centre Zone. The proposal provides a small-scale retail use that serves the needs of people who live or work in the surrounding neighbourhood and encourages employment opportunities in an accessible location. The additional floor area (139m²) results in the neighbourhood supermarket having a total gross floor area of 999m² and complies with Clause 5.4(7AA) which requires neighbourhood supermarkets must not exceed 1000m². It is noted the existing building has a floor space ratio of 0.864:1 (1,903m²) and exceeds the maximum FSR of 0.8:1. The existing building was approved prior to commencement of RLEP 2014. The proposal will also not have unreasonable and inappropriate impacts on this specific area of Ryde

4.4(c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.

N/A

Assessment Officer's Comments: It is agreed this objective is not relevant as the site is not land identified as forming part of a Centre on the Centres Map within RLEP 2014.

The submission has demonstrated that the objectives of the development standard Clause 4.4(1) are achieved, despite the non-compliance and the proposal satisfies Clause 4.6(3)(a) and 4.6(4)(a)(i).

Environmental planning grounds to justify contravening the development standard

The submitted request provides the following in response to addressing what the environmental planning grounds are for the variation.

Assessment: It is considered that there are sufficient environmental planning grounds to justify varying the FSR development standard, which includes:

- *The addition beyond the existing built form on the site and that primarily responsible for the FSR variation enables an assessment of the particular component of the*

ITEM 1 (continued)

built form. The above justification and assessment provided under 'unreasonable or unnecessary' and against the FSR standard and zone objectives is also considered to constitute sufficient environmental grounds.

- The minor extension to the site's western elevation means the variation will not be visible from the public domain to the primary street frontage of Pittwater Rd whilst having minimal visibility from Gannet Street. On this basis, it can be confirmed that the site's footprint will not significantly change as it will be internally confined. Therefore, the proposed enclosure to part of the existing raised terrace will not be responsible for any unreasonable streetscape impacts, thereby justifying the additional FSR variation.*
- As indicated in Figure 7, the proposed extension/FSR variation will not result in unreasonable overshadowing impacts. The proposal retains appropriate solar access to the adjacent western neighbour's private open space and principal living areas of No. 2 Gannet Street. It is reiterated that the removal of built form to the north-western corner ensures that there is no additional shadow impact associated with the FSR variation.*
- The proposal mitigates existing privacy impacts by partially enclosing the open terrace area, which is open to use by staff. The existing outdoor terrace on the western side of the retail space provides for potential overlooking and acoustic impacts being unenclosed and providing direct sightlines to the adjoining internal and external areas of 2 Gannet Street. In contrast, the enclosure of such an area removes these impacts whilst the proposed landscaping suitably softens the visual impact of the proposed addition. It is noted that access to the terrace will now be restricted to servicing of plant areas which confirms the reduction in potential for privacy and acoustic impacts.*
- The proposed enclosure of the outdoor terrace area improves the outlook of the subject site as the additions have been designed and sited to match that the existing retail component. On this basis, the additional FSR associated with the extension and responsible for the variation to the FSR standard will not generate any adverse visual bulk impacts.*
- A revised high-quality landscaping plan seeks to create a buffer between the subject site and the adjoining residential dwelling by screening out views. This further enhances the aesthetic outlook between the subject site's boundaries and No. 2 Gannet Street. Additional maintenance details provide assurance as to the effective measures of the proposed landscaping and is effective in softening the appearance of the non-compliant FSR component (i.e. primarily the single-storey extension).*
- The proposed additional retail space of 139m² generates a total gross floor area of 999m², thereby complying with Clause 5.4 (7AA) provisions for neighbourhood supermarkets, in accordance with Ryde LEP 2014.*
- There are ample on-site parking spaces to accommodate the additional GFA of the retail area. As such, the proposal will not congest available parking spaces within the local street networks nor within the existing basement parking levels.*

It is considered that the combination of the points of justification which demonstrate:

- No additional shadow impact*

ITEM 1 (continued)

- Improved visual and acoustic impacts
- No adverse streetscape impacts
- No adverse visual bulk impacts
- Improved landscape outcomes
- Improved viability of the existing neighbourhood supermarkets
- Sufficient parking to accommodate the additional FSR beyond the standard constitutes sufficient environmental grounds.

These points and the assessment throughout this Clause 4.6 variation demonstrate that there are particular circumstances relating to the additional built form associated with the FSR variation on this site.

Based on the above points, it is considered that there are sufficient environmental planning grounds to permit the FSR variation in this instance.

Assessment Officer's Comments: The submission has established there are sufficient environmental planning grounds to justify contravening the standard in accordance with (Clause 4.6(3)(b) and 4.6(4)(a)(i)). The sufficient environmental planning grounds include:

- The proposal is to enclose a part of the existing raised terrace. The addition will have a height of 6.59 metres for a length of 21.4 metres and does not result in a significant change to the bulk and scale of the existing building. The proposal is unlikely to have material impacts on adjoining properties.
- The proposal is not visible from the Pittwater Road frontage. The separation from the Gannet Street frontage ensures the proposed structure is not a prominent feature and will not have unreasonable streetscape impacts.
- The proposal does not result in unreasonable amenity and visual privacy impacts on neighbouring properties. The shadow diagrams show from 12pm to 3pm the proposed structure self shadows and does not overshadow adjoining properties. The proposal mitigates existing visual privacy impacts. The existing open terrace results in overlooking into the neighbouring dual occupancy development windows and private open space areas. The proposed enclosed extension contains highlight windows on the western elevation with a sill height of 2.4 metres and does not result in visual privacy impacts.
- Screen planting is proposed along the western boundary to create a buffer between the subject site and adjoining residential dwelling and softens the appearance of the structure.
- The additional floor area of 139m² results in the neighbourhood supermarket having a total gross floor area of 999m² and complies with Clause 5.4(7AA) which requires neighbourhood supermarkets must not exceed 1000m².

ITEM 1 (continued)***Public interest – Development consistent with the zone objectives and objectives of the development standard***

Clause 4.6 (4)(a)(ii) requires that the consent authority is satisfied that the development is in the public interest because it is consistent with the objectives of the standard and the objectives for development within the zone.

As detailed in the discussion of whether compliance with the standard is unreasonable or unnecessary, the development is consistent with the objectives of the standard and this has been demonstrated in the submitted variation request. Council is satisfied that the development is consistent with the objectives of the development standard Clause 4.4(1).

The development must also be consistent with the objectives of the zone. As already discussed in this report, the development is consistent with the B1 Neighbourhood Centre zone objectives.

Therefore, the proposal is considered to be in the public interest. The development has demonstrated consistency with Clause 4.6(4)(a)(ii).

Matters required to be taken into consideration by the Director-General before granting the concurrence

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.

Conclusion

The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. It is considered that the non-compliance with the FSR can be supported in the circumstance of the case, as there are sufficient environmental planning grounds for contravening the development standard. The proposal is to enclose a part of the existing raised terrace. The addition will have a height of 6.59 metres for a length of 21.4 metres and does not result in a significant change to the bulk and scale of the existing building. The proposal is unlikely to have material impacts on adjoining properties. The proposal is consistent with the objectives of the development standard and the B1 Neighbourhood Centre zone.

Accordingly, development consent may be granted to the proposal, despite the contravention of the FSR development standard.

Clause 5.4 Controls relating to miscellaneous permissible uses

Clause 5.4(7AA) requires the following:

(7AA) Neighbourhood supermarkets *If development for the purposes of a*

ITEM 1 (continued)

neighbourhood supermarket is permitted under this Plan, the gross floor area must not exceed 1,000 square metres.

The existing neighbourhood supermarket has a gross floor area of 860m². The proposed enclosed terrace area results in 139m² of additional gross floor area. The additional floor area results in the neighbourhood supermarket having a total gross floor area of 999m² and complies with Clause 5.4(7AA).

Clause 5.10 Heritage conservation

The Objectives of Clause 5.10 are as follows:

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

The site is located within 100m of one (1) heritage item being:

- Item name: "Towalla" (house); Address: 120 Pittwater Road

The item is of local significance, as outline in Schedule 5 of RLEP 2014. The location of the subject site from the heritage item is shown in **Figure 17** below. The proposal has been considered acceptable by Council's Heritage Advisor who is satisfied the proposal does not adversely impact the item. Despite being within 100m of the heritage item, the proposal is considered to satisfy the objectives of Clause 5.10 of RLEP 2014 by conserving the heritage significance of the heritage item, including associated fabric, settings and views. The proposal does not result in any significant adverse impacts upon the environmental heritage of Ryde.

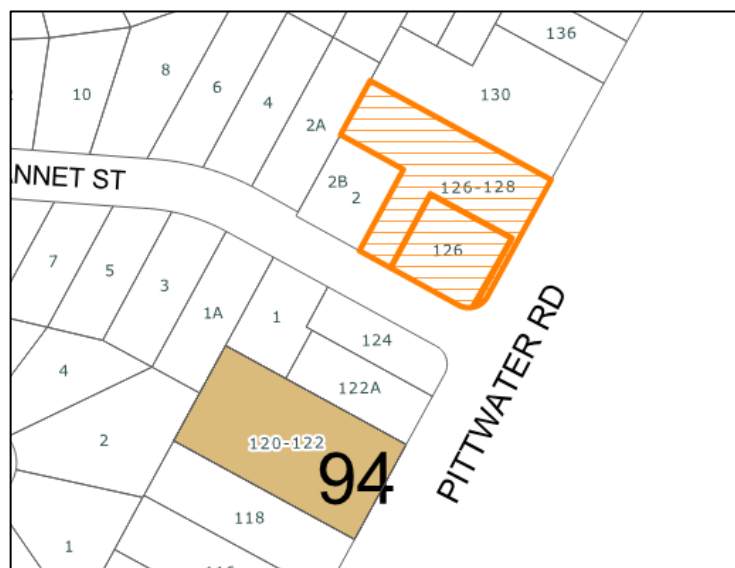


Figure 17 – Location of the subject site from the heritage item (subject site shaded in orange)

ITEM 1 (continued)**Clause 6.4 Stormwater management**

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 proposal does not result in an increase in impervious areas. The proposal has been considered satisfactory by Council's Senior Development Engineer subject to a condition of consent (see **Condition 22**). The proposal is consistent with the provisions of Clause 6.4(3). The proposal is consistent with objectives of Clause 6.4(1).

5.3 Draft Environmental Planning Instruments**Draft Remediation of Land State Environmental Planning Policy**

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:

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.

The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of development applications. The subject site has been historically used for residential and commercial purposes. As such, it is unlikely to contain any contamination and further investigation is not warranted in this case.

Draft Environment SEPP

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:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is not inconsistent with the provisions of the draft SEPP.

ITEM 1 (continued)

5.4 Development Control Plans

Ryde Development Control Plan 2014 (RDCP 2014)

There are no specific requirements in RDCP 2014 for mixed use developments. However, given the interface of the subject site with land zoned R2 Low Density Residential, consideration of the built form controls in relation to setbacks, overshadowing and visual privacy has been given when assessing the impact of the proposed development on the adjoining properties. The relevant section of the RDCP 2014 that dictates built form for dwellings and dual occupancy development is Part 3.3 – Dwelling Houses and Dual Occupancy.

The subject site is adjoined to the west by 2 Gannet Street which contains a two storey dual occupancy development approved under Local Development Application No. LDA2015/0268.

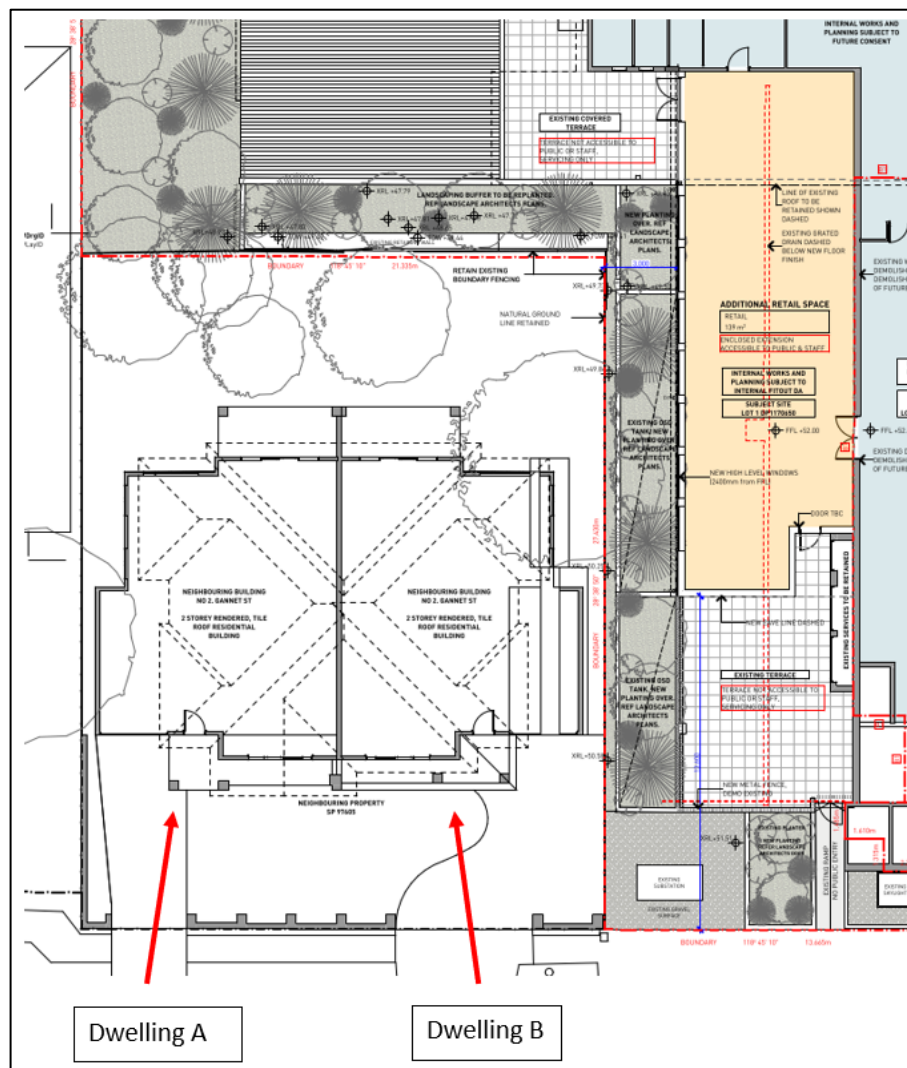


Figure 18 – Dual occupancy development located adjacent to the subject site

ITEM 1 (continued)

The proposed development will not be visible from the Pittwater Road frontage. The proposed enclosed extension is setback 13.6 metres from the Gannet Street frontage. The separation from the southern boundary prevents the proposed structure being a prominent feature. The setbacks of the existing building are unchanged. The proposed structure maintains a 3 metre setback from the western boundary. It is noted that the RDCP 2014 requires a 1.5m side setback for two storey dwellings/dual occupancy developments. The existing setback to the terrace, which appears as a two storey structure once enclosed, doubles the 1.5m side setback. This allows for adequate separation for landscape screening and amenity for the adjoining residential property.

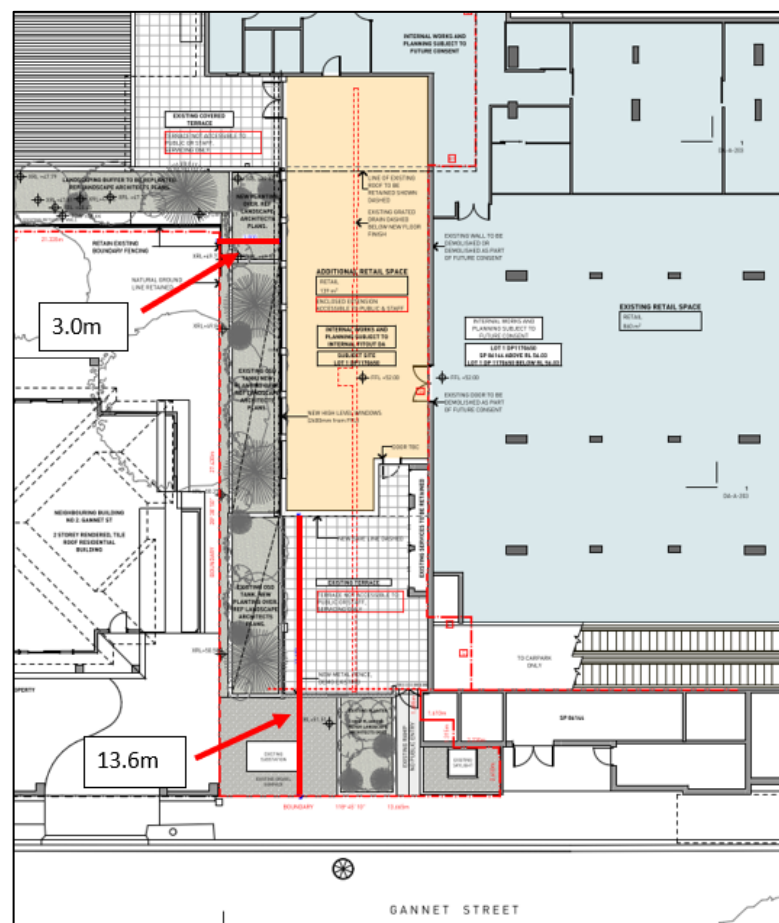


Figure 19 – Setbacks notated on ground floor plan

RDCP 2014 requires living room and kitchen windows, terraces and balconies are not to allow a direct view into neighbouring dwellings or neighbouring private open space for dwellings/dual occupancy developments. The western elevation of the proposed structure contains highlight windows with a sill height of 2.4 metres. The terrace areas to the west and south of the proposed structure are not accessible to customers or staff and contain existing condensers and services. **Condition 23** is recommended requiring internal wayfinding signage shall be provided to restrict customers from accessing the terrace areas. The proposal does not result in visual privacy impacts to adjacent properties.

ITEM 1 (continued)

RDCP 2014 requires sunlight to at least 50% of the principal area of ground level private open space of adjacent properties is not reduced to less than two hours between 9 am and 3 pm on June 21. RDCP 2014 also requires windows to north-facing living areas of neighbouring dwellings receive at least 3 hours of sunlight between 9 am and 3 pm on 21 June over a portion of their surface. The submitted shadow diagrams show the proposed structure self shadows between 12pm and 3pm and does not result in overshadowing impacts to adjacent properties.



Figure 20 – Shadow diagrams showing the proposed structure self shadows between 12pm and 3pm

The proposed structure will be visible from the internal areas and private open space areas of the dual occupancy development. Given the proposed structure, which appears as a two storey structure once enclosed, maintains a 3 metre setback from the western boundary and allows for adequate separation for landscape screening, the amenity for the adjoining residential property is maintained.

The proposed schedule of materials and finishes is consistent with the existing mixed use development and is compatible with the streetscape.

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

- Part 7.2: Waste Minimisation and Management;
- Part 9.2: Access for People with Disabilities; and
- Part 9.3: Parking Controls

ITEM 1 (continued)

Part 7.2: Waste Minimisation and Management

A Site Waste Minimisation and Management Plan was submitted in accordance with Part 7.2 of RDCP 2014. There will be no ongoing additional waste from the proposed development. The existing waste storage, processing and collection from the Basement 1 level are unchanged. The proposal is considered acceptable in regard to waste minimisation and management.

Part 9.2: Access for People with Disabilities

The proposal does not alter the existing access arrangements to the site. The existing ground floor level is RL 52.00 and the floor level of the proposed extension is RL 52.00. A continuous path of travel is provided from the existing retail space to the proposed retail space.

Part 9.3: Parking Controls

Local Development Application No. LDA2009/0192 for fitout and use of ground floor retail space for food (fruit & vegetable) market was approved on 9 October 2009. Consent was also issued for increasing the number of car parking spaces from 53 to 89 spaces comprising:

- 69 retail spaces; and
- 20 residential spaces, including:
 - 16 resident spaces;
 - 3 residential visitor spaces; and
 - 1 car wash bay

It is noted the application was assessed under Ryde Development Control Plan 2006 (RDCP 2006). The following is an assessment of the application under the parking requirements contained within Ryde Development Control Plan 2006:

DCP 9.3 Control	Requirement
Residential Component (for the approved residential units above the retail space – unchanged in this application)	
6 x 2br units @ 1.4 spaces each	8.4 spaces
2 x 3br units @ 1.6 spaces each	3.2 spaces
Visitor Parking @ 1 space per 4 units	2 spaces
SUB-TOTAL	14 spaces
Retail Component	
960m ² net usable floor area @ 1 space per 25m ²	38.4 spaces
TOTAL	52.4 (53) spaces required

ITEM 1 (continued)

The provision of 69 retail car parking spaces exceeded the RDCP 2006 minimum of 39 spaces for the retail component as per the above table.

The proposal seeks to maintain the existing number of car parking spaces. The proposed use is defined as a Retail Premises. Under the RDCP 2014, Part 9.3, Section 2.3 – Non-residential land uses states that Retail Premises and Industrial Retail Outlet are to provide one (1) car parking space per 25m² GFA. The proposal results in 139m² of additional retail space and therefore six (6) additional car parking spaces are required from the minimum requirement of 53 spaces identified in the assessment of the original development application.

A total of 45 car parking spaces for the retail component is required. The retention of the approved 69 retail car parking spaces therefore exceeds the minimum parking requirement. The proposal is considered acceptable in this regard.

5.6 Section 7.12 Contributions

From 1 July 2020, the City of Ryde Fixed Rate Levy (Section 7.12) Development Contributions Plan 2020 (Fixed Rate Plan) applies to non-residential development outside of the Macquarie Park precinct that propose an increase in GFA. The Fixed Rate Plan imposes a 1% levy on the construction value of all non-residential development consents for developments over a \$350,000 construction value threshold.

The cost of works of the proposal is \$468,506.50. The required contributions have been calculated as follows:

A – Contribution Type	B – Contribution Amount
Section 7.12 Contribution	\$4,770.81

Section 7.12 contributions as calculated above have been included in **Condition 13** in **Attachment 1**.

6. The likely impacts of the development

The likely impacts of the development have been considered within this report and the assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see RDCP 2014). The development is considered satisfactory in terms of environmental impacts.

ITEM 1 (continued)**7. Suitability of the site for the development**

The site is zoned B1 Neighbourhood Centre. The proposal seeks consent for alterations and additions to the existing 3-storey mixed use development.

The site is located within 100m of one (1) heritage item being:

- Item name: "Towalla" (house); Address: 120 Pittwater Road

The item is of local significance, as outlined in Schedule 5 of RLEP 2014. Despite being within 100m of the item, the proposal is considered to satisfy the objectives of Clause 5.10 of RLEP 2014 by conserving the heritage significance of the heritage item, including associated fabric, settings and views.

A review of Council's map of Environmentally Sensitive Areas (held on file) identifies the site has no constraints in terms of urban bushland, landslip, bushfire, flooding or any other particular hazards.

The proposal exceeds the floor space ratio development standard. The submitted Clause 4.6 variation to Clause 4.4 has met the jurisdiction prerequisites to enable the consent authority to support the proposed departure from the development standard. The proposal is an appropriate development and this has been demonstrated in this report. The proposal is considered to be suitable for the site.

8. The Public Interest

The public interest is best served by the consistent application of the requirements of relevant Environmental Planning Instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised.

The proposal has been assessed against the relevant planning instruments and is considered to be acceptable. The proposal is non-compliant with Clause 4.4 Floor Space Ratio, but has been supported by a satisfactory Clause 4.6 variation request. The proposal does not result in any unacceptable impacts upon adjoining properties or the streetscape. On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

9. Submissions

In accordance with RDCP 2014 Part 2: Community Participation Plan and Procedure, the owners of surrounding properties were given notice of the application between 10 May 2021 and 31 May 2021. Five (5) submissions were received objecting to the development from the adjoining residential property owners.

ITEM 1 (continued)

The amended plans received on 27 August 2021 were renotified between 30 August 2021 and 20 September 2021. One (1) submission was received objecting to the development.

The owners and residents within the subject site were notified between 4 November 2021 and 23 November 2021 and no submissions were received.

The amended plans received on 19 September 2021 were not required to be renotified as the amendments do not increase the impact on adjoining or neighbouring land or cause material impact on the environment.

Public Exhibition No. 1

Five (5) submissions were received objecting to the development. The submissions raised the following concerns:

1. Views and overshadowing

Concern is raised the previously proposed enclosed extension located to the north west will affect views from 2 Gannet Street Gladesville and result in overshadowing impacts.

Assessment Officer's Comments: The enclosed extension to the north west has been deleted from the proposal. The views from 2 Gannet Street are unchanged and the proposal does not result in overshadowing impacts to 2 Gannet Street.

2. Solar access

Concern is raised the proposed development will minimise solar access to Gannet Street, the footpath and the dwelling at 124 Pittwater Road.

Assessment Officer's Comments: The shadow diagrams show the proposed structure self shadows from 12pm to 3pm and does not cast shadow on the footpath, Gannet Street or 124 Pittwater Road. The proposal is considered acceptable in regard to solar access.

3. Reduction in buffer zone between residential and commercial precincts

Concern is raised the proposed development will significantly reduce the buffer zone between the commercial and residential precincts adjacent to each other.

Assessment Officer's Comments: The proposal is to enclose a part of the existing terrace. The existing 3 metre setback to the western boundary is maintained and the proposal is considered acceptable in this regard.

ITEM 1 (continued)**4. *Setback of proposed wall***

Concern is raised with the setback of the previously proposed enclosed extension located to the north west.

Assessment Officer's Comments: The enclosed extension to the north west has been deleted from the proposal. This issue was addressed by the amended plans.

5. *Noise impact of condensers*

Concern is raised regarding the noise impacts of the condenser units which were previously proposed to be relocated closer to the residential property at 2A Gannet Street.

Assessment Officer's Comments: The amended plans show the location of the existing condenser units are unchanged.

6. *Impacts of proposal on car parking/storage facilities and additional noise impacts*

Concern is raised how the operation of the new retail spaces will impact the operation of the carparks and storage facilities. Concern is raised if the proposed new retail spaces will result in additional operational noise and car parking noise.

Assessment Officer's Comments: The proposal seeks to maintain the existing number of car parking spaces. The proposed use is defined as a Retail Premises. Section 2.3 – Non-residential land uses of Part 9.3 of RDCP 2014 states that Retail Premises and Industrial Retail Outlet are to provide one (1) car parking space per 25m² GFA. The proposal results in 139m² of additional retail space and therefore six (6) additional car parking spaces are required. A total of 45 spaces for the retail component is required. The retention of the approved retail parking spaces of 69 spaces therefore exceeds the minimum parking requirements. The proposal is considered acceptable in this regard. The proposal does not seek to change the existing storage facilities and the proposal will not impact on the function of the existing storage facilities.

The proposed extension is enclosed and given the retail use will not result in adverse noise impacts. The proposal does not alter the existing car parking arrangements and will not result in additional car parking noise.

7. *Noise and visual impacts of removal of trees and new planting which could fail*

Concern is raised that trees are proposed to be removed from the landscape buffer between the subject site and 2A Gannet Street. Concern is raised the removal of these trees will create a significant visual impact and also allow construction and operational noise to impact the residential property.

Concern is raised the existing landscape buffers adjacent to 2 and 2B Gannet Street have failed and no attempt has been made to rectify/remediate these buffer zones.

ITEM 1 (continued)

Concern is also raised new planting could also fail, resulting in significant visual and noise impacts.

Assessment Officer's Comments: The amended landscape plan shows no trees are proposed to be removed from the landscape buffer between the subject site and 2A Gannet Street.

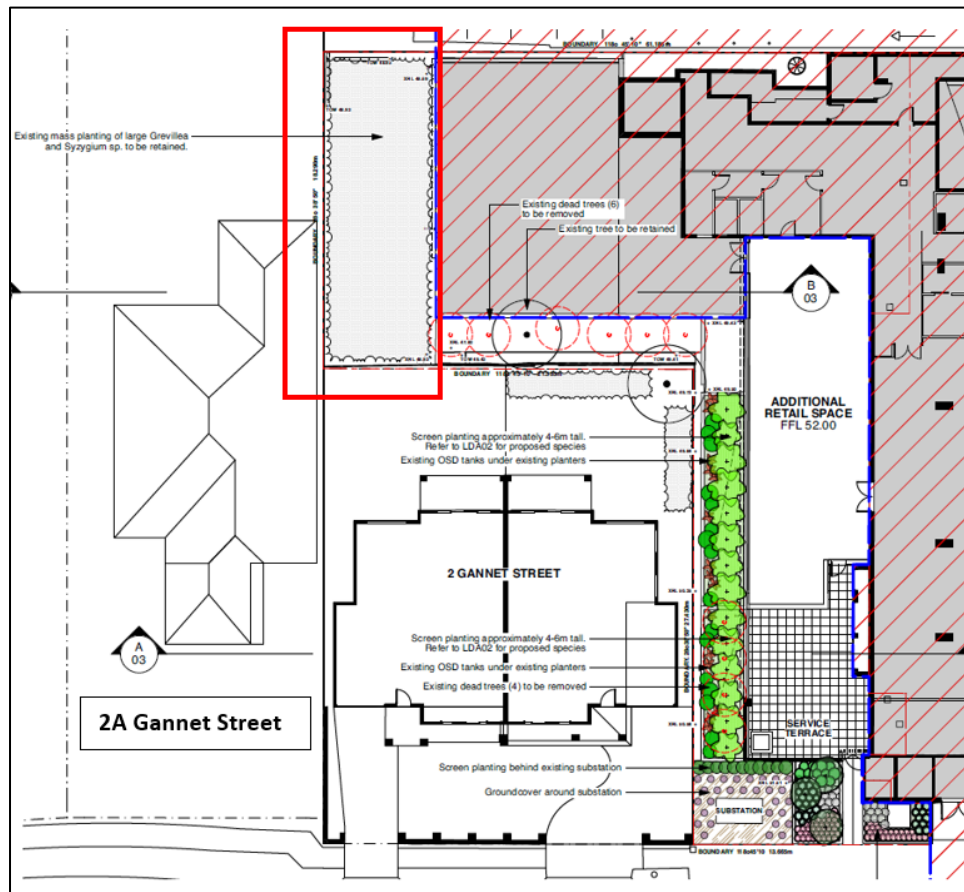


Figure 21 – Amended landscape plan showing landscape buffer between the subject site at 2A Gannet street is being retained

The proposal seeks to remove the existing dead trees and provide screen planting along the western boundary. A landscape maintenance program and ongoing maintenance regime is proposed to ensure the maintenance of the proposed landscaping. **Condition 36** is recommended requiring the landscape maintenance program and ongoing maintenance regime identified on the landscape plan Dwg No. LDA-01 Issue 03 dated 23/08/2021 shall be adhered to.

8. *Lack of transition between the subject site building and operations and adjacent residential property*

Concern is raised regarding the lack of an acceptable transition between the subject site building and operations and the adjacent residential properties.

ITEM 1 (continued)

Assessment Officer's Comments: The proposal is to enclose a part of the existing raised terrace. The existing 3 metre setback to the western boundary is maintained. The proposed enclosed extension has a height of 6.59 metres and is an acceptable transition from the existing three 3-storey mixed use development to the adjacent two storey dual occupancy development.

9. Credibility of proposed landscaping

Concern is raised given the current landscaping on the subject site is a failure, why would any credibility be given to a newly proposed landscape plan.

Assessment Officer's Comments: The proposal seeks to remove the existing dead trees and provide screen planting along the western boundary. A landscape maintenance program and ongoing maintenance regime is proposed to ensure the maintenance of the proposed landscaping. **Condition 36** is recommended requiring the landscape maintenance program and ongoing maintenance regime identified on the landscape plan Dwg No. LDA-01 Issue 03 dated 23/08/2021 shall be adhered to.

10. Zone boundary interface

The submission states Council is requested to consider the planning principle Seaside Property Developments Pty Ltd v Wyong Shire Council [2004] NSWLEC 117 due to the zone boundary interface. This concern was also raised in Public Exhibition No. 2. This concern is addressed in detail later in this report under Public Exhibition No. 2.

11. Incompatibility between uses and overshadowing from landscaping

Concern is raised the proposed landscaping will result in overshadowing impacts to 2 Gannet Street. The submission raises the uses are incompatible between the subject site and adjacent residential property. This concern was also raised in Public Exhibition No. 2. This concern is addressed in detail later in this report under Public Exhibition No. 2.

12. Clause 4.4 and Clause 4.6 objectives have not been met

Concern is raised objective (a) of Clause 4.4 and objective (b) of Clause 4.6 has not been achieved. Concern is raised total reliance upon landscape screening of a breaching development is not considered to be a satisfactory solution to providing a satisfactory increase in retail floorspace at a zone boundary.

Assessment Officer's Comments: The proposed single storey extension maintains the existing setback from the western boundary which enables an appropriate buffer between the B1 Neighbourhood Centre Zone and R2 Low Density Residential Zone. The proposed structure is not visible from the Pittwater Road frontage. The separation from the Gannet Street frontage and proposed screen planting reduces the visual bulk of the proposal and ensures no adverse impacts on the streetscape. The proposal is

ITEM 1 (continued)

to enclose a part of the existing raised terrace. The addition will have a height of 6.59 metres for a length of 21.4 metres and does not result in a significant change to the bulk and scale of the existing building. The proposal is unlikely to have material impacts on adjoining properties. The proposal does not result in unreasonable amenity and visual privacy impacts on neighbouring properties. The shadow diagrams show from 12pm to 3pm the proposed structure self shadows and does not overshadow adjoining properties. The proposed enclosed extension contains highlight windows on the western elevation with a sill height of 2.4 metres and does not result in visual privacy impacts.

The proposal meets objective (a) of Clause 4.4. The applicant has adequately addressed why compliance with the development standard is unreasonable or unnecessary under Clause 4.6(3)(a) of RLEP 2014. It is considered that the non-compliance with the FSR can be supported in the circumstance of the case, as there are sufficient environmental planning grounds for contravening the development standard.

13. Impact on neighbouring properties

The submission states Council is requested to consider the planning principle *Davies v Penrith City Council* [2013] NSWLEC 1141 when assessing impact on neighbouring properties. The following questions are relevant to the assessment of impacts on neighbouring properties:

- How does the impact change the amenity of the affected property? How much sunlight, view or privacy is lost as well as how much is retained?
- How reasonable is the proposal causing the impact?
- How vulnerable to the impact is the property receiving the impact? Would it require the loss of reasonable development potential to avoid the impact?
- Does the impact arise out of poor design? Could the same amount of floor space and amenity be achieved for the proponent while reducing the impact on neighbours?
- Does the proposal comply with the planning controls? If not, how much of the impact is due to the non-complying elements of the proposal?

Assessment Officer's Comments: The proposed development will not be visible from the Pittwater Road frontage. The proposed enclosed extension is setback 13.6 metres from the Gannet Street frontage. The separation from the southern boundary prevents the proposed structure being a prominent feature. The setbacks of the existing building are unchanged. The proposed structure maintains a 3 metre setback from the western boundary.

The western elevation of the proposed structure contains highlight windows with a sill height of 2.4 metres. The proposal does not result in visual privacy impacts to adjacent properties. The proposal does not impact on existing views. The submitted shadow diagrams show the proposed structure self shadows between 12pm and 3pm and does not result in overshadowing impacts to adjacent properties.

ITEM 1 (continued)

The proposal does not alter the amenity of the adjacent property. The existing sunlight, views and privacy of the neighbouring property is retained. The proposal does not result in further overshadowing, privacy impacts or view loss.

The likely impacts of the development have been considered and the assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development.

Public Exhibition No. 2

One (1) submission was received objecting to the development. The submission raised the following concerns:

14. Zone boundary interface

The submission states Council is requested to consider the planning principle Seaside Property Developments Pty Ltd v Wyong Shire Council [2004] NSWLEC 117 due to the zone boundary interface. The following extract is relevant to this matter:

“25. As a matter of principle, at a zone interface as exists here, any development proposal in one zone needs to recognise and take into account the form of existing development and/or development likely to occur in an adjoining different zone. In this case residents living in the 2(b) zone must accept that a higher density and larger scale residential development can happen in the adjoining 2(c) or 2(d) zones and whilst impacts must be within reason they can nevertheless occur. Such impacts may well be greater than might be the case if adjacent development were in and complied with the requirements of the same zone. Conversely any development of this site must take into account its relationship to the 2(b) zoned lands to the east, south-east, south and south-west and the likely future character of those lands must be taken into account. Also in considering the likely future character of development on the other side of the interface it may be that the development of sites such as this may not be able to achieve the full potential otherwise indicated by applicable development standards and the like”.

Assessment Officer's Comments: The subject site is adjoined to the south and west by R2 Low Density Residential zoned land. The existing character to the south and west of the site comprises of single and two storey dwelling houses and dual occupancy developments varying diversely in age, scale and architectural style. An objective of the R2 Low Density Residential Zone is to provide for the housing needs of the community within a low density residential environment and the existing residential development in the locality provides an indication of the form of development which is likely to occur in the zone.

The proposed enclosed extension has a height of 6.59 metres and is an acceptable transition from the existing three 3-storey mixed use development to the adjacent residential development.

ITEM 1 (continued)

15. Incompatibility between uses and overshadowing from landscaping

Concern is raised the proposed landscaping will result in overshadowing impacts to 2 Gannet Street. The submission raises the uses are incompatible between the subject site and adjacent residential property.

Assessment Officer's Comments: The amended landscape plan shows screen planting is only proposed on the western boundary. The proposed screen planting will not cast shadow on 2 Gannet Street between 12pm to 3pm and is considered acceptable. The proposal is for the extension of an existing neighbourhood supermarket which is a permissible use with the B1 Neighbourhood Centre Zone.

It is noted the amended landscape plan shows screen planting is only proposed on the western boundary. The architectural plans are inconsistent with the landscape plans. **Condition 1(b)** is recommended requiring the landscaping shown on the architectural plans shall be amended to be consistent with the Landscape Plans (Site Plan Project No. 2105 Dwg No. LDA-01 Issue 03, Landscape Plan Project No. 2105 Dwg No. LDA-02 Issue 03 and Sections Elevations Landscape Details Project No. 2105 Dwg No. LDA-03 Issue 03 dated 23/08/2021).

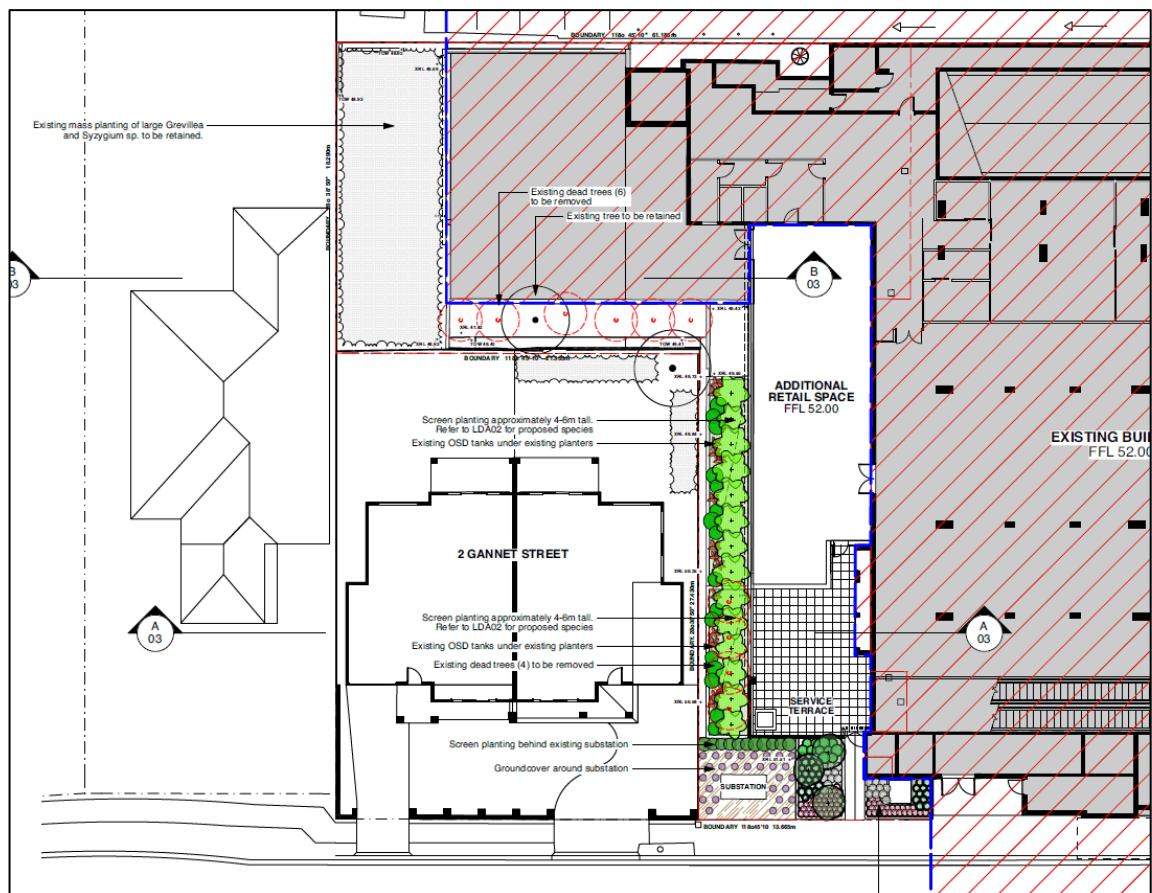


Figure 22 – Amended landscape plan showing screen planting only proposed on the western boundary

ITEM 1 (continued)**16. A comprehensive Landscape Management Plan and overall landscaping management regime should be submitted**

Concern is raised a comprehensive Landscape Management Plan and overall landscaping management regime should be submitted.

Assessment Officer's Comments: An amended landscape plan that lists the proposed species has been submitted and is considered acceptable by Council's Landscape Architect. The amended landscape plan included a landscape maintenance program and ongoing maintenance regime. **Condition 36** is recommended requiring the landscape maintenance program and ongoing maintenance regime identified on the landscape plan Dwg No. LDA-01 Issue 03 dated 23/08/2021 shall be adhered to.

17. Height of landscaping on boundary

Concern is raised any landscaping proposed adjacent to the common boundary with the subject site and 2 and 2B Gannet Street is to be maintained at a height that is no higher than 500mm above the existing boundary fence height at all times.

Assessment Officer's Comments: Screen planting is proposed on the western boundary. The screen planting consists of the following species:

- Golden Cane Palm which have a mature height of 5 metres;
- Red Cordyline which have a mature height of 2 metres; and
- Native Ginger which have a height of 1.5 metres

The height of the screen planting is satisfactory as the screen planting conceals the proposed structure and will not cast shadow on the neighbouring property from 12pm to 3pm. The proposed screen planting is considered acceptable by Council's Landscape Architect.

10. Referrals**Senior Development Engineer**

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

"Stormwater Management"

The proposal is to provide a roof over the existing outdoor terrace area. The existing OSD tank is located within this area. The proposed roof appears to be extending over the OSD tank and up to the edge of the landscape area. The plans submitted and the letter from Eze Drainage Solutions indicated that there was no increase in impervious areas within.

ITEM 1 (continued)**Recommendation**

There are no objections to the proposed development with respect to the engineering components, subject to the application of the following conditions being applied to any development consent being issued for the proposed development.”

Condition 22 has been imposed by Council’s Senior Development Engineer.

Landscape Architect

The application was referred to Council’s Landscape Architect who has raised no objection to the proposed development subject to **Condition 35** and **Condition 36**.

Heritage Advisor

The application was referred to Council’s Heritage Advisor who has raised no objection to the proposed development.

11. Conclusion

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is suitable for the subject site and is not contrary to the public interest. The reasons for the decision are as follows:

1. The proposal is consistent with the objectives for B1 Neighbourhood Centre zoned land.
2. The proposal complies with the statutory provisions set out in the Environmental Planning and Assessment Act 1979.
3. The proposal is considered to be of low impact to adjoining properties and the surrounding environment.
4. The proposal has been supported by a satisfactory Clause 4.6 variation request which demonstrates that compliance with Clause 4.4 Floor Space Ratio is unreasonable and unnecessary in the circumstances and there are sufficient environmental planning grounds to justify contravening the development standards.
5. The proposal is not contrary to the public interest.
6. The submissions received in response to this DA have been considered and addressed in this report. None of the issues raised warrant the refusal of the subject DA.

ITEM 1 (continued)**12. Recommendation**

- A. That the Ryde Local Planning Panel accepts that the cl 4.6 written request to vary the floor space ratio development standard (Clause 4.4(2)) in LEP 2014 has adequately addressed the matters in sub clause (3) and will be in the public interest as it is consistent with the objectives of the development standard in Clause 4.4 and the objectives of the B1 Neighbourhood Centre Zone of Ryde Local Environmental Plan 2014.
- B. That the Ryde Local Planning Panel, as the consent authority, grant consent to LDA2021/0139 for alterations and additions to the existing 3-storey mixed use development at 126-128 Pittwater Road Gladesville, subject to the draft conditions contained in Attachment 1.

ATTACHMENTS

- 1 Draft Conditions of Consent
- 2 Clause 4.6 variation
- 3 Architectural & Landscape Plans - subject to copyright provisions

Report Prepared By:

Niroshini Stephen
Assessment officer

Report Approved By:

Madeline Thomas
Senior Coordinator - Development Assessment

Sandra Bailey
Manager - Development Assessment

Liz Coad
Director - City Planning and Environment

ITEM 1 (continued)

ATTACHMENT 1

GENERAL

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

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

Plan no.	Drawn by	Dated
Architectural Plans		
Notes Dwg No. 19_060 DA-A-001 Revision B	Smith & Tzannes	01/04/2021 Received: 19/09/2021
Site Plan Dwg No. 19_060 DA-A-010 Revision C	Smith & Tzannes	10/09/2021
Proposed Ground Plan Dwg No. 19_060 DA-A-101 Revision D	Smith & Tzannes	24/08/2021 Received: 19/09/2021
Roof Plan Dwg No. 19_060 DA-A-102 Revision C	Smith & Tzannes	1/07/2021 Received: 19/09/2021
Elevations Dwg No. 19_060 DA-A-200 Revision D	Smith & Tzannes	10/09/2021
Elevations Dwg No. 19_060 DA-A-201 Revision D	Smith & Tzannes	10/09/2021
Elevations Dwg No. 19_060 DA-A-202 Revision D	Smith & Tzannes	10/09/2021
Sections Dwg No. 19_060 DA-A-203 Revision E	Smith & Tzannes	10/09/2021
Sections Dwg No. 19_060 DA-A-204 Revision E	Smith & Tzannes	10/09/2021
Landscape Plans		
Site Plan Project No. 2105 Dwg No. LDA-01 Issue 03	Stone Rose Landscapes	23/08/2021
Landscape Plan Project No. 2105 Dwg No. LDA-02 Issue 03	Stone Rose Landscapes	23/08/2021
Sections Elevations Landscape Details Project No. 2105 Dwg No. LDA-03 Issue 03	Stone Rose Landscapes	23/08/2021

Document(s)	Dated
Traffic Report prepared by Stanbury Traffic Planning	5 April 2021

ITEM 1 (continued)

ATTACHMENT 1

BCA Report prepared by Technical Inner Sight Reference No. D2021-007	1 April 2021
Site Waste Minimisation And Management Plan prepared by Jean-Claude Branch	22/02/2021

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

- (a) The notation stating 'new metal fence, demo existing' shall be deleted from the Proposed Ground Floor Plan Dwg No. 19_060 DA-A-101 Revision D dated 24/08/2021 to be consistent with the elevation plans
- (b) The landscaping shown on the architectural plans shall be amended to be consistent with the Landscape Plans (Site Plan Project No. 2105 Dwg No. LDA-01 Issue 03, Landscape Plan Project No. 2105 Dwg No. LDA-02 Issue 03 and Sections Elevations Landscape Details Project No. 2105 Dwg No. LDA-03 Issue 03 dated 23/08/2021)

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

2. **Inconsistency between documents.** In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.
3. **Building Code of Australia.** All building works approved by this consent must be carried out in accordance with the requirements of the Building Code of Australia.
4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.
5. **Site Maintenance.** For the period the site remains vacant of any development the subject of this consent, the site is to be regularly maintained in a tidy manner such that it does not become overgrown with weeds or become a repository for the leaving or dumping of waste.
6. **Hours of work.** Building activities (including demolition) may only be carried out between 7.00am and 7.00pm Monday to Friday (other than public holidays) and

ITEM 1 (continued)

ATTACHMENT 1

between 8.00am and 4.00pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday.

7. Hoardings.

- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
- (b) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

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

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

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

11. Public Utilities. Compliance with the requirements (including financial costs) of any relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council etc) in relation to any connections, works, repairs, relocation, replacements and/or adjustments to public infrastructure or services affected by the development.

12. Roads Act. Any works performed in, on or over a public road pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under section 138 of the Roads Act 1993.

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

ITEM 1 (continued)

ATTACHMENT 1

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

13. **Section 7.12.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council as follows:

A – Contribution Type	B – Contribution Amount
Section 7.12 Contribution	\$4,770.81

These are contributions under the provisions of Section 7.12 of the Environmental Planning and Assessment Act, 1979 as specified in City of Ryde Fixed Rate (Section 7.12) Development Contributions Plan 2020, effective from 1 July 2020.

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

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

A copy of the City of Ryde Fixed Rate (Section 7.12) Development Contributions 2020 Plan may be inspected at the Ryde Customer Service Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

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

ITEM 1 (continued)

ATTACHMENT 1

(b) Enforcement Levy

18. **Long Service Levy.** Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Certifying Authority prior to the issuing of the **Construction Certificate**.
19. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to www.sydneywater.com.au/tapin to apply.
20. **Energy Efficiency.** The fittings, fixtures and materials installed in association with the development (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the **Construction Certificate**.
21. **Reflectivity of materials.** Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Certifying Authority prior to the release of the **Construction Certificate**.
22. **Stormwater Management.** To ensure the management of stormwater runoff from the development is undertaken without impact to the subject site, neighbouring properties or receiving drainage system, stormwater runoff from the development shall be collected and piped by gravity flow to the existing onsite detention system in accordance with the requirements of Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. Accordingly, detailed engineering plans and certification demonstrating compliance with this condition are to be submitted with the application for a Construction Certificate.
23. **Wayfinding signage.** Internal wayfinding signage shall be provided to restrict customers from accessing the terrace areas. The plans are to be updated prior to the issue of the Construction Certificate to provide details of the wayfinding signage. Details of the wayfinding signage are to be provided to Council prior to the issue of the Construction Certificate.
24. **Automatic watering system.** The automatic watering system as referenced in Point 9 of the landscape plan (Dwg No. LDA-01 dated 23/08/2021) shall be shown on the construction certificate plans with verification from a Landscape Architect that this is sufficient.

PRIOR TO COMMENCEMENT OF CONSTRUCTION

ITEM 1 (continued)

ATTACHMENT 1

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

25. Site Sign

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

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

DURING CONSTRUCTION

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

27. **Critical stage inspections.** The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A(4) of the *Environmental Planning and Assessment Regulation 2000*.
28. **Noise from construction work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from construction work.
29. **Survey of footings/walls.** All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.
30. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.
31. **Construction materials.** All materials associated with construction must be retained within the site.

ITEM 1 (continued)

ATTACHMENT 1

32. Site Facilities

The following facilities must be provided on the site:

- (a) toilet facilities in accordance with Safework NSW requirements, at a ratio of one toilet per every 20 employees, and
- (b) a garbage receptacle for food scraps and papers, with a tight fitting lid.

33. Site maintenance

The applicant must ensure that:

- (a) approved sediment and erosion control measures are installed and maintained during the construction period;
- (b) building materials and equipment are stored wholly within the work site unless an approval to store them elsewhere is held;
- (c) the site is clear of waste and debris at the completion of the works.

34. **Work within public road.** At all times work is being undertaken within a public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site. Traffic control devices shall satisfy the minimum standards outlined in Australian Standard No. AS1742.3-1996 "Traffic Control Devices for Work on Roads".

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

35. **Landscaping.** All landscaping works approved by condition 1 are to be completed prior to the issue of any **Occupation Certificate**.

OPERATIONAL CONDITIONS

The conditions in this Part of the consent relate to the on-going operation of the development and shall be complied with at all times.

ITEM 1 (continued)

ATTACHMENT 1

36. Landscape Maintenance. The landscape maintenance program and ongoing maintenance regime identified on the landscape plan Dwg No. LDA-01 Issue 03 dated 23/08/2021 shall be adhered to.

End of consent

ITEM 1 (continued)

ATTACHMENT 2

Clause 4.6 – Floor Space Ratio

126-128 Pittwater Road, Gladesville

UPDATED CLAUSE 4.6 TO CLAUSE 4.4 OF RYDE LEP 2014

EXCEPTIONS TO DEVELOPMENT STANDARDS – FLOOR SPACE RATIO VARIATION

Alterations and additions to the existing three-storey mixed-use development comprising of extension to the existing retail space

126-128 PITTWATER ROAD, GLADESVILLE

PREPARED BY

ABC PLANNING PTY LTD

SEPTEMBER 2021

ITEM 1 (continued)

ATTACHMENT 2

Clause 4.6 – Floor Space Ratio

126-128 Pittwater Road, Gladesville

RYDE LEP 2014 - CLAUSE 4.6 EXCEPTION TO DEVELOPMENT STANDARDS

This updated Clause 4.6 variation request has been prepared to accompany the development application for the alterations and additions to the existing three-storey, mixed-use development at 126-128 Pittwater Road, Gladesville. The proposal involves a single storey extension to the rear/western side of the existing retail space.

Clause 4.4 of the Ryde LEP 2014 allows the consent authority to grant consent for development even though the development contravenes a development standard imposed by the LEP. The clause aims to provide an appropriate degree of flexibility in applying certain development standards.

This Clause 4.6 variation request takes into account the relevant aspects of the Land and Environment Court judgement in *Initial Action Pty Ltd v Woollahra Council [2017] NSWLEC 1734*, as revised by the NSW Court of Appeal in *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 Exceptions to development standards

- (1) The objectives of this clause are as follows:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
- (3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Development consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
 - (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
 - (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.

ITEM 1 (continued)

ATTACHMENT 2

Clause 4.6 – Floor Space Ratio

126-128 Pittwater Road, Gladesville

Development Standard to be Varied

The proposal seeks a variation to the development standard contained within Clause 4.4 of the *Ryde LEP 2014* - maximum floor space ratio of 0.80:1 demonstrated on the LEP map in **Figure 1** below.

The proposed FSR of 0.927:1 represents a variation of 0.127:1 from the 0.80:1 FSR standard in the LEP and a variation of 0.063:1 from that existing/approved FSR (0.864:1).

Nature of the variation

Given that the proposal involves additions to an existing building and that the majority of the additional FSR beyond the FSR standard is associated with these additions, it enables an identification/assessment of the majority of the FSR responsible for the variation to be assessed. The remaining component of the FSR variation is contained in the existing built form on the site and thereby has no greater impacts beyond which exists on the site.

The assessment provided in the Clause 4.6 variation focuses on the effect of the additions sought by the proposal. In this regard, this Clause 4.6 demonstrates that the standard is unreasonable or unnecessary in the circumstances, that the variation does not compromise the ability to meet the objectives of the FSR standard nor the zone objectives, whilst also demonstrating that there are sufficient environmental planning grounds to permit the variation in this instance.



Figure 1: FSR Map

ITEM 1 (continued)

ATTACHMENT 2

Clause 4.6 – Floor Space Ratio

126-128 Pittwater Road, Gladesville

Justification for Contravention of the Development Standard

This written request is considered to justify the contravention of the development standard and addresses the matters required to be demonstrated by Clause 4.6(3), of which there are two aspects. Both aspects are addressed below:

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

Assessment: It is considered that strict compliance with the development standard for FSR on the site is unreasonable and unnecessary in the circumstances for the following reasons:

- **Minor extent of the variation-** The existing subject site includes an FSR of 0.864:1 (GFA: 1903sqm) and is non-compliant under the Ryde LEP 2014. The additional GFA of 139 sqm is minor and consists of an increase of 0.063:1 from that existing (Figure 2).
- **Absence of streetscape impacts to Pittwater Rd and Gannett Street-** The proposed floor space ratio variation is reasonable considering the additional area to the rear/west of the existing supermarket (shown in brown below) will be indiscernible from the primary street frontage of Pittwater Road given its confinement to the western end of the site. The diagram below shows that the new addition which is responsible for the FSR variation beyond that existing and further beyond the FSR standard is setback 13.6m from the Gannett Street frontage. The updated landscape plan also shows that supplementary planting within the front setback to Gannett Street and within the western side setback will also screen and soften the appearance of the new built form associated with the FSR variation.

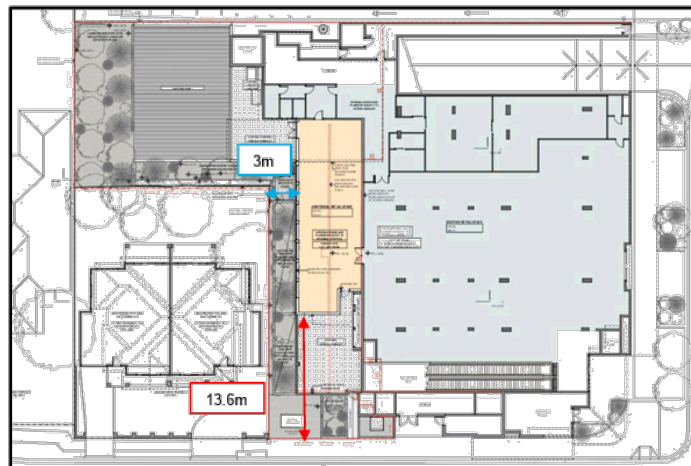


Figure 2: Architectural excerpt indicating the minor and recessed nature of the proposed retail extension associated with the majority of the FSR variation is supported by the setbacks, creating a buffer between the subject site and No. 2 Gannett Street whilst also concealing the addition from the respective street frontages

- As demonstrated in Figure 2, the proposal seeks to enclose part of the existing raised terrace, thereby indicating that the proposal will not significantly change the footprint of the site. On this basis, the additional FSR variation will be wholly contained within the building, and no adverse or unreasonable streetscape impact to either frontage will incur.

ITEM 1 (continued)

ATTACHMENT 2

Clause 4.6 – Floor Space Ratio

126-128 Pittwater Road, Gladesville

- **Internal operation benefits to Harris Farm local supermarket-** The existing retail supermarket which services the local area is at capacity and requires additional retail space to improve the internal layout, circulation and servicing. The additional area (associated with the majority of the variation) is required to maintain the viability of the supermarket on this property which services the local area.
- **Retention/improvement of amenity to neighbouring residential dwellings at 2 Gannet Street -** The proposed additional floor space (which is responsible for the variation) will partially enclose the existing raised open terrace, which is currently utilised by staff, thereby mitigating existing visual and acoustic amenity impacts. It is also confirmed that the remaining outdoor terrace will only be used for servicing of plant equipment situated on the terrace. As such, the proposal incorporates measures to reduce amenity impacts by implementing new landscape species, as shown on the landscape plan by Stone Rose Landscapes, which will also assist in improving the visual relationship from the residential dwelling to the west of the subject site. The siting and scale of the addition associated with the FSR variation has been carefully designed to maintain solar access to the internal living area of 2 Gannet Street and to its rear private open space yard areas.
- The proposed FSR variation generates a better outcome for the adjoining dwelling, given its ability to reduce existing acoustic and overlooking impacts by partially enclosing the outdoor space. As displayed in **Figure 3** and **Figure 4**, the terrace area enables direct sightline to the site's private open space areas and principle living areas, impacting the adjoining neighbour's visual and acoustic privacy. The existing and unmaintained landscaping area fails in mitigating amenity impacts, and as such, a newly proposed landscaping plan is proposed. A maintenance regime is also proposed in order to address the shortcomings associated with the existing landscaping.



Figure 3: Direct sightline and overlooking is available to No. 2 Gannet Street's rear yard

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Figure 4: Direct sightline and overview is permitted to No. 2 Gannet Street's rear yard



Figure 5: Existing un-maintained landscape buffer available between the subject site and the neighbouring dwelling

- **Effective landscape buffer-** An updated high-quality landscaping plan by Stone Rose Landscaping is submitted with this proposal, which seeks to reduce any perceived bulk and scale associated with the FSR variation while simultaneously reducing direct sightlines to the private open space and primary habitable areas of No. 2 Gannet Street. The updated landscape plan includes replacement species as well as retention of existing healthy species whilst also incorporating an updated and detailed maintenance regime.

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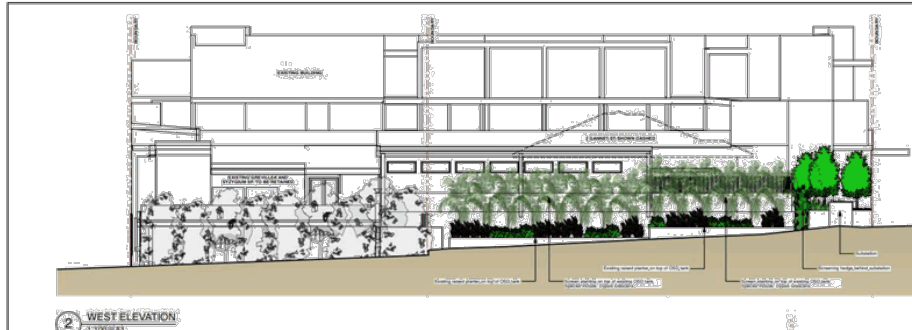


Figure 6: Proposed planting schedule to the western elevation

- **Effective setbacks associated with the additions-** The proposed extension associated with the FSR variation retains appropriate setbacks to the neighbouring dwelling, as indicated in **Figure 2**. This maintains and provides an appropriate buffer between the subject site and adjoining residential dwellings. Hence, it retains solar access to the private open space areas and principal living areas of No. 2 Gannet Street. Such setbacks also ensure that there are no adverse or unreasonable visual bulk impacts associated with the excess floor space.
- **Retention of solar access-** The 3D view from the sun diagrams clearly demonstrate that the careful siting and design of the additional floor space beyond that permitted does not generate any adverse or unreasonable shadow impacts to the rear yard and north-facing living areas of the dwelling at 2 Gannet Street. The proposal has been updated to remove the built form within the north-western portion of the site. The updated shadow analysis demonstrates that there will be no shadow impacts associated with the additional FSR, including that beyond the development standard.

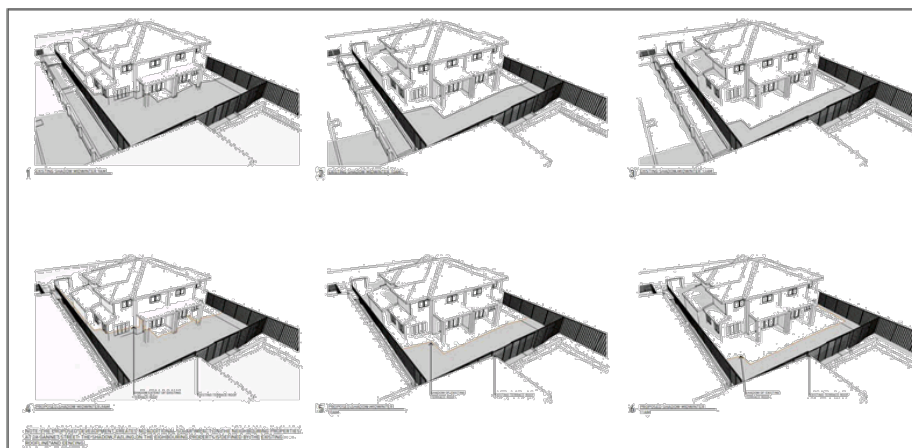


Figure 7: Overshadowing comparison between the proposed retail extension and the existing built form, indicating solar access is retained to the western neighbour (i.e. there is no increased overshadowing generated by the additional/non-compliant FSR)

- **Traffic and parking-** The additional GFA will not generate additional demand for vehicle parking spaces. The subject site includes two (2) basement parking levels and provides 89 parking spaces, which exceeds the required parking provisions under the

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DCP. On this basis, there is more than sufficient parking to accommodate the additional floor space on the site. Refer to the Parking and Traffic Impact Assessment prepared by Stanbury Traffic Planning, dated 12 February 2021.

- Despite the non-compliance, the proposal achieves the objectives of the development standard and the zoning, as demonstrated in the following table:

Consistency with the objectives of the FSR standard in the LEP	
Objectives	Assessment
4.4(a) to provide effective control over the bulk of future development,	<p>The proposed FSR variation associated with the retail extension is suitable for the subject site and fits within the context of the locality.</p> <p>The proposed single-storey extension is setback from the western rear boundary perimeters to enable an appropriate buffer between the B1 Neighbourhood Centre zone and the R2 Low Density zone.</p> <p>The concealed nature of the proposed addition ensures that the minor extension will not be discernible from the public domain of Pittwater Road and therefore continues to reinforce the area's existing and future neighbourhood character. The setback of the additional floor space from the Gannet Street frontage and the minor nature of the extensions combined with landscaped screening also ensures that there are no adverse streetscape impacts when viewed from Gannet Street. Such assessment demonstrates that the FSR variation will not generate any adverse visual bulk impacts to the public domain nor to any private property beyond that of a compliant FSR.</p> <p>The proposed enclosure to part of the existing raised terrace indicates that the proposal will not significantly change the site's existing footprint, thereby indicating that the additional FSR variation will be internally contained. As such, no adverse or unreasonable streetscape impact to either street frontage will incur.</p> <p>More importantly, the proposed FSR variation will not be responsible for any adverse amenity impacts to neighbouring properties in terms of view loss, overshadowing or privacy impacts. Instead, the proposal increases the amenity of the adjoining western neighbour, which is currently compromised by the accessible nature of the unscreened outdoor terrace. The enclosure of built form over the existing terraces removes the potential for overlooking and acoustic impacts. The proposed landscape buffer also softens the effect of the additional bulk when viewed from the residential neighbours.</p> <p>On this basis, it is confirmed that the additional bulk associated with the FSR variation will also have no adverse visual bulk impacts as viewed from its closest residential neighbours at 2 Gannet Street nor to the public domain.</p>
4.4(b) to allow appropriate levels of development for specific areas	<p>The minor alterations and additions to the existing three-storey mixed-used development remain in line with the B1 Neighbourhood Centre zone.</p> <p>The extent of additional floor space enhances the viability and level of service to the existing neighbourhood centre whilst remaining below the 1000sqm GFA restriction under the LEP.</p> <p>As such, the proposed retail expansion aligns with the zones objectives in providing commercial and employment opportunities to the community.</p>

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	The extent of non-residential floor space associated with the neighbourhood supermarket is consistent with that envisaged by the LEP whilst the FSR variation is not responsible for any adverse or unreasonable impacts. On this basis, the proposed extent of FSR on the site is appropriate, notwithstanding the numeric variation.
4.4(c) in relation to land identified as a Centre on the Centres Map—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.	n/a
Consistency with the objectives of the B1 Neighbourhood Centre zone	
Objectives	Assessment
<ul style="list-style-type: none"> To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood To encourage employment opportunities in accessible locations. 	<p>The proposed alterations and additions to the three-storey mixed-use building are permissible in the B1 Neighbourhood Centre zone.</p> <p>The conversion of the outdoor terrace to additional retail space encourages employment opportunities and supports the role and function of the approved neighbourhood retail use. The site is conveniently located to a host of services and is identified as a local centre to surrounding street networks.</p> <p>The proposal increases the existing Harris Farm market's internal performance and will service the workers' day-to-day needs in the area. It is also confirmed that the FSR variation maintains compliance with the numeric restriction that applies to neighbourhood supermarkets which ensures that the variation does not generate any inconsistency with the intensity of business uses sought by the zoning.</p> <p>The proposed FSR variation is, therefore, not considered to generate any inconsistency with the zone objectives.</p>

Based on the above assessment, it is considered that strict compliance with the LEP FSR standard is unreasonable and unnecessary in this instance.

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

Assessment: It is considered that there are sufficient environmental planning grounds to justify varying the FSR development standard, which includes:

- The addition beyond the existing built form on the site and that primarily responsible for the FSR variation enables an assessment of the particular component of the built form. The above justification and assessment provided under 'unreasonable or unnecessary' and against the FSR standard and zone objectives is also considered to constitute sufficient environmental grounds.
- The minor extension to the site's western elevation means the variation will not be visible from the public domain to the primary street frontage of Pittwater Rd whilst having minimal visibility from Gannet Street. On this basis, it can be confirmed that the site's footprint will not significantly change as it will be internally confined. Therefore, the proposed enclosure to part of the existing raised terrace will not be responsible for any unreasonable streetscape impacts, thereby justifying the additional FSR variation.

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- As indicated in **Figure 7**, the proposed extension/FSR variation will not result in unreasonable overshadowing impacts. The proposal retains appropriate solar access to the adjacent western neighbour's private open space and principal living areas of No. 2 Gannet Street. It is reiterated that the removal of built form to the north-western corner ensures that there is no additional shadow impact associated with the FSR variation.
- The proposal mitigates existing privacy impacts by partially enclosing the open terrace area, which is open to use by staff. The existing outdoor terrace on the western side of the retail space provides for potential overlooking and acoustic impacts being unenclosed and providing direct sightlines to the adjoining internal and external areas of 2 Gannet Street. In contrast, the enclosure of such an area removes these impacts whilst the proposed landscaping suitably softens the visual impact of the proposed addition. It is noted that access to the terrace will now be restricted to servicing of plant areas which confirms the reduction in potential for privacy and acoustic impacts.
- The proposed enclosure of the outdoor terrace area improves the outlook of the subject site as the additions have been designed and sited to match that the existing retail component. On this basis, the additional FSR associated with the extension and responsible for the variation to the FSR standard will not generate any adverse visual bulk impacts.
- A revised high-quality landscaping plan seeks to create a buffer between the subject site and the adjoining residential dwelling by screening out views. This further enhances the aesthetic outlook between the subject site's boundaries and No. 2 Gannet Street. Additional maintenance details provide assurance as to the effective measures of the proposed landscaping and is effective in softening the appearance of the non-compliant FSR component (i.e. primarily the single-storey extension).
- The proposed additional retail space of 139m² generates a total gross floor area of 999m², thereby complying with Clause 5.4 (7AA) provisions for neighbourhood supermarkets, in accordance with Ryde LEP 2014.
- There are ample on-site parking spaces to accommodate the additional GFA of the retail area. As such, the proposal will not congest available parking spaces within the local street networks nor within the existing basement parking levels.

It is considered that the combination of the points of justification which demonstrate:

- No additional shadow impact
- Improved visual and acoustic impacts
- No adverse streetscape impacts
- No adverse visual bulk impacts
- Improved landscape outcomes
- Improved viability of the existing neighbourhood supermarkets
- Sufficient parking to accommodate the additional FSR beyond the standard constitutes sufficient environmental grounds.

These points and the assessment throughout this Clause 4.6 variation demonstrate that there are particular circumstances relating to the additional built form associated with the FSR variation on this site.

Based on the above points, it is considered that there are sufficient environmental planning grounds to permit the FSR variation in this instance.

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Other Matters for Consideration

4(a)(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

Assessment: The above assessment demonstrates that the proposed FSR satisfies the objectives of the FSR standard and the B1 Neighbourhood Centre zone.

Furthermore, it is considered that the FSR variation does not raise any matters of public interest as there are no public views or detrimental streetscape outcomes associated with the minor FSR variation.

Given that the proposal is consistent with the desired future character for the area nominated by the specific controls in the LEP and DCP, and that there are no adverse or unreasonable impacts to the broader community, it is considered that there are no public interest matters which would prevent a variation to the FSR control.

(5) In deciding whether to grant concurrence, the Director-General must consider:

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

Assessment: The proposed FSR variation allows for the orderly and economic use of land as envisaged by the *Environmental Planning and Assessment Act, 1979*.

The proposed FSR allows for achievement of a compatible building envelope without creating a development with overbearing height, bulk or scale and without compromising the desired future character of the area.

The proposed FSR is therefore consistent with the State and Regional Policies, particularly urban consolidation principles which seek to provide additional height and density near transport and established services.

(b) the public benefit of maintaining the development standard

Assessment: There is no public benefit in maintaining the FSR standard given the limited amenity impacts associated with the development and the positive streetscape outcome that would arise from the redevelopment of the subject site.

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

Assessment: There are not considered to be any additional matters to consider beyond those discussed above.

Generally as to concurrence, for the reasons outlined above – and particularly having regard to the site specific nature of this clause 4.6 variation request – there is nothing about this proposed FSR variation that raises any matter of significance for State or regional environmental planning, nor is there any broad public benefit in maintaining the development standard on this site. There are no other relevant matters requested to be taken into consideration before granting concurrence.

Conclusion

For reasons mentioned herein, this Clause 4.6 variation is forwarded in support of the development proposal at 126-128 Pittwater Road, Gladesville and is requested to be looked upon favourably by the consent authority.