

Item 1
8 Ethel Street Eastwood - LDA2021/0204

Demolition of the existing building, construction of a 5 storey mixed use development comprising a ground floor commercial tenancy, 12 residential apartments and 2 levels of basement carparking and strata subdivision (13 lots)

Report prepared by: Senior Town Planner

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

**City of Ryde
 Local Planning Panel Report**

DA Number	LDA2021/0204
Site Address & Ward	8 Ethel Street, Eastwood Lots 1, 2, 3, 4 & CP in SP 18447 West Ward
Zoning	B4 Mixed Use
Proposal	Demolition of the existing building, construction of a 5 storey mixed use development comprising a ground floor commercial tenancy, 12 residential apartments and 2 levels of basement carparking and strata subdivision (13 lots).
Property Owners	The Owners - Strata Plan No. 18447
Applicant	Andrew Grieve
Report Author	Holly Charalambous, Senior Town Planner
Lodgement Date	18 June 2021
No. of Submissions	14 submissions objecting to the development during the first notification period. 8 submissions objecting to the development during the second notification period.
Cost of Works	\$5,800,630.00
Reason for Referral to Local Planning Panel	Contentious Development – More than 10 unique submissions objecting to the proposal have been received as a result of public notification of the application.

	Sensitive Development – SEPP No. 65 – Design Quality of Residential Apartment Development applies.
Recommendation	Approval
Attachments	<ol style="list-style-type: none"> 1. Proposed plans 2. Clause 4.6 request to vary C4.3(2) Height of buildings 3. Compliance Table ADG and Ryde DCP 4. Overshadowing Study 5. Future Potential Redevelopment of No. 6 Ethel Street 6. Draft conditions of consent

1. Executive Summary

The proposal is for the demolition of the existing building, construction of a 5 storey mixed use development comprising a ground floor commercial tenancy, 12 residential apartments and 2 levels of basement carparking and strata subdivision (13 lots) at 8 Ethel Street, Eastwood.

This application is reported to the Ryde Local Planning Panel (RLPP) for determination in accordance with the *Environmental Planning and Assessment Act 1979* ('the Act'), Section 9.1 - Directions by the Minister for the following reasons:

- The proposal is a 'Contentious development' to which more than 10 unique submissions objecting to the proposal have been received as a result of public notification of the application.
- The proposal is a 'Sensitive development' to which *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* applies.

The proposal results in an 8% departure from the maximum height of buildings development standard prescribed under cl.4.3(2) of Ryde LEP 2014. Clause 4.3(2) of the *Ryde Local Environmental Plan* (LEP) 2014 permits a maximum building height of 15.5m. The proposed development has a building height of up to 16.67m, being a variation of 1.17m or 8% to this development standard.

The proposal is supported by a Clause 4.6 written variation request from the applicant which satisfactorily addresses the jurisdictional prerequisites required to satisfy the consent authority. The variation sought to the standard is considered to be satisfactory.

The key issues that need to be considered by the Panel in respect of this application are:

- Departures from the Apartment Design Guide with regard to a lack of deep soil area, visual privacy impacts relating to building separation, natural ventilation due to some cross-through apartments exceeding the maximum depth permitted and lack of ventilation to some lobby spaces.

- The roofline of the southern building element exceeds the maximum permitted height of buildings of 15.5m under the Ryde LEP 2014 by 1.17m or 8%. The applicant's Clause 4.6 variation request is considered reasonable and well founded and is supported to allow flexibility in the application of the development standards.
- The side and rear setbacks at the upper levels of the development do not comply with the setback requirements under the Ryde DCP 2014.
- Two residential visitor car parking spaces are proposed, being a shortfall of 1 space under the Ryde DCP 2014.
- The extent of additional overshadowing of neighbouring apartments is minimal and is mitigated by the centrally located break in the proposed building.
- The applicant has undertaken the necessary steps regarding the potential site isolation of adjoining site No. 6 Ethel Street and has demonstrated that it is capable of being developed to its highest and best use.

Each of these non-compliances or key issues have been addressed in the report and can be supported on their merits.

The application is accompanied by a Preliminary Site Investigation and subsequent addendum prepared by AssetGeoEnviro / Reditus. This report confirms that the site can be made suitable for residential and commercial use as proposed in this application in accordance with clause 4.6 in Chapter 4 Remediation of Land of State Environmental Planning Policy (Resilience and Hazards) 2021.

The application has been reviewed by the Ryde Urban Design Review Panel, and their recommendations have been incorporated into the proposal, as amended. The Panel have provided their general support of this application in accordance with clause 30 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

NSW Police have provided their concurrence in support of the proposal, as amended, subject to conditions.

The development application was advertised on two separate occasions. During the first period, 14 submissions objecting to the development were received. In response to concerns raised by Council and the issues raised in the submissions, the applicant submitted amended plans on 18 November 2021. These plans were renotified from 18 November to 16 December 2021. In response, 8 further submissions were received (from the same submitters who objected during the first notification period). The issues raised in these submissions are not considered sufficient to warrant the refusal of the application.

Assessment of the application against the relevant planning framework and consideration of matters by our technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent.

The proposal does not result in any significant adverse impacts upon neighbouring properties or the streetscape, which cannot be suitably managed by conditions of consent. The site is considered to be suitable for the proposed development. The application is therefore satisfactory when evaluated against section 4.15 of the *Environmental Planning and Assessment Act 1979*.

This report concludes that in its context, this development proposal is able to be supported in terms of the development's broader strategic context, function and overall public benefits.

This report recommends that the Panel approve the application subject to the recommended conditions at **Attachment 6**.

2. The Site & Locality

The site is legally described as Lots 1, 2, 3, 4 and CP in SP 18447 and has a street address of 8 Ethel Street, Eastwood. The site has an area of 649.06m² and is rectangular in shape. The site's primary street frontage is 12.19m wide and is oriented south to Ethel Street. The site's vehicular access point is along its 12.8m wide rear boundary which fronts a curved part of Ethel Lane. The northern side boundary of the site is 53.17m in length. The southern side boundary of the site is 54.55m in length. The site slopes downwards by 2.72m towards the rear boundary at Ethel Lane.

The site currently accommodates an apartment building which presents as 2 storeys in scale as viewed from Ethel Street. As viewed from the rear, the building presents as 3 storeys in scale. The front setback area consists of trees which screen the building from view. The rear portion of the site consists of hardstand which is used as an open car parking area. An aerial photo of the site is at **Figure 1**. Photos of the site are at **Figure 2 to 5**.

The adjoining property to the west, No. 6 Ethel Street, is 5.9m in width and is bound by the street on its northern, southern and western boundaries. The site has an area of 281.69m² and accommodates a 2 storey building with 2 retail spaces on the ground floor and 2 residential apartments above. The rear portion of the site is used for car parking.

The adjoining property to the east, Nos. 10-12 Ethel Street, is 24.38m in width with a site area of 1,218m². This site accommodates a mixed use development which presents as a 2 storey building at the primary frontage to Ethel Street with 2 retail tenancies on the ground floor and 2 residential apartments above. A 5 storey component of the development is set further back and accommodates at-grade parking and 16 further residential apartments. Vehicular access and parking is provided via Ethel Lane to the rear.



Figure 1: Aerial photo of the site (outlined in orange) and surrounds.



Figure 2: Photo of the subject site as viewed from Ethel Street (Source: Google maps).



Figure 3: Photo of the rear of the subject site as viewed from Ethel Lane.



Figure 4: Photo of the rear of the subject site as viewed from Ethel Lane.



Figure 5: Photo of the surrounds taken from Ethel Lane looking towards the north-east.

3. The Proposal

The proposal is for demolition of the existing building, construction of a 5 storey mixed use development comprising a ground floor commercial tenancy, 12 residential apartments and 2 levels of basement carparking and strata subdivision to create 13 lots.

The proposed plans are provided at **Attachment 1**. Extracts of the Elevation Plans of the proposal are provided at **Figures 6 and 7** below.

The site currently slopes from the rear boundary to the street frontage and drainage is connected to Council’s stormwater collection infrastructure. This connection is proposed to be maintained for the proposed lots.

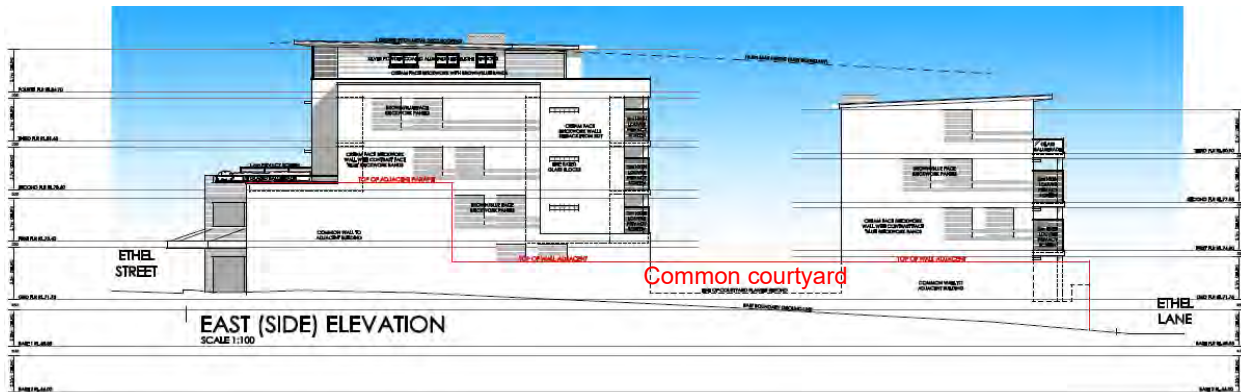


Figure 6: Extract from the East (Side) Elevation Plan showing that the proposed 5 storey development comprises 2 building forms which are separated by a central courtyard.



Figure 7: Extract from South Elevation Plan as viewed from Ethel St showing proposed development, existing adjoining developments, and outline of an ‘anticipated future development’ of 6 Ethel St (left)

Proposed Yield

The proposal comprises a commercial tenancy with a floor area of 150m² and 12 residential apartments comprising:

- 3 x 1 bedroom dwellings;
- 3 x 2 bedroom dwellings; and
- 6 x 3 bedroom dwellings.

Building Layout and Design

The proposed development comprises a 5 storey southern building element which addresses the primary street frontage to Ethel Street. The ground level is activated by a commercial space, with residential apartments above. A communal terrace is provided at part of the uppermost level as part of the communal open space available for the use of residents.

The central part of the site comprises a connected internal common room and communal outdoor courtyard for the use of residents at ground level. This area comprises hard and soft landscaping features including an open turfed area and a waterfall feature.

The proposed development comprises a 5 storey northern building element which addresses the secondary street frontage at the rear of the site to Ethel Lane. The ground level comprises parking and services, as explained below. The upper levels comprise residential apartments.

The site slopes downwards up to 2.81m to the rear of the site, which enables vehicular access and parking to be provided at-grade and access from Ethel Lane. The Basement Level comprises commercial and residential waste storage rooms, an on-site stormwater detention tank, 6 commercial car parking spaces, 2 visitor car parking spaces (including 1 disabled space), 1 resident parking space and a vehicle hoist mechanism which provides access to the Lower Basement Level.

The Lower basement level comprises 12 resident car parking spaces (including 1 disabled space and 4 stacked spaces), 3 bicycle spaces, 1 motorbike space, storage and mechanical plant.

Vehicular access to the development site is proposed via a 6m wide combined ingress/egress driveway connecting with Ethel Lane at the north-eastern part of the site. A 300mm wide median is proposed approximately 5m inside the property which is to support an intercom to control vehicular access into the basement parking area.

The building design features a strong podium form in brown/blue face brickwork which is framed by landscaping. The upper storeys are further setback and feature recessed balconies and are treated in a cream face brickwork. The overall facades are articulated to break up the scale of the building and create a distinct character for this site in the context of the Eastwood Town Centre.

The western façade of the building will be highly visible considering the adjoining development at No. 6 Ethel Street features a scale of 2 storeys and open car parking towards the rear of the site. This façade features embellishment to add visual interest, including a mix of glass blocks, banding and brown/blue face brickwork.

Services and Utilities

Fire pump services are provided at the rear of the site.

Mechanical plant is provided within the basement levels and are connected to a vertical duct which vents at the roofline.

As advised by Ausgrid, an electrical substation is not required.

Other Matters

The proposal includes strata subdivision to create 13 lots (1 commercial and 12 residential apartments). The draft Strata Plans are provided at **Attachment 1**.

No signage is proposed.

4. Application History

30 January 2020	The applicant held a meeting with the 4 owners of No. 6 Ethel Street informing them of their intention to redevelop the subject site and their options to redevelop the sites separately, sell their units to the applicant or redevelop together.
February 2020	First Urban Design Review Panel (UDRP) meeting held in association with a pre-lodgement review of proposed plans. The Panel suggested that the design is amended to a 2-part building with a central courtyard located to enable outlook from adjacent balconies.
3 June 2020	The applicant sent letters to the 4 owners of No. 6 Ethel Street offering to purchase their units at market value (based on a valuation by Estate Valuations dated 20 May 2020). No responses were received.
16 June 2020	The applicant sent letters to the 4 owners of No. 6 Ethel Street offering to purchase their units at market value plus 10%. No responses were received.
24 September 2020	Second UDRP meeting held in association with a pre-lodgement review of proposed plans. Extensive pre-lodgement advice provided in terms of design, planning, potential site isolation, building height, street wall height, solar access, privacy, traffic, access and parking, public domain, stormwater management and waste.
18 June 2021	Subject Development Application (DA) was lodged.
22 June 2021	The DA was publicly exhibited from 22 June to 20 July 2021.
13 July 2021	Letter sent to the applicant requesting additional information demonstrating the impact on Ethel Lane regarding swept paths and sight lanes to oncoming street traffic, enlarging the waste storage room.
26 July 2021	Letter sent to the applicant identifying the issues raised in the public submissions.
8 August 2021	Additional traffic report submitted by the applicant.

12 August 2021	UDRP meeting held with Council and representatives of the applicant. The Panel recommended that the proposal be amended and resubmitted for review by Council's internal Urban Designer.
9 September 2021	Letter sent to the applicant requesting additional information in response to comments raised by the UDRP, improving visual privacy to Nos. 10-12 Ethel Street, satisfying the rear setback in the DCP, improving the link between the internal common room and courtyard, clarifying details regarding privacy screens and landscaping treatments, and further documentation to support the potential site isolation of No. 6 Ethel Street including responses to offers of purchase, consideration of the relevant planning principles and concept plans for the redevelopment of No. 6 Ethel Street.
12 October 2021	<p>Letter sent to the applicant advising that Council's Transport Development section are in the process of submitting the applicant's signage and line marking plan to the Ryde Traffic Committee for endorsement for the purpose to facilitate one-way southbound traffic along Ethel Lane.</p> <p>Note: No response was received from Transport for NSW (a key member of the Ryde Traffic Committee) regarding this approach. Considering the potential impact to surrounding businesses and residents, this approach is no longer being pursued as confirmed by Council's Traffic and Development Engineer.</p> <p>Council's Development Engineer also required the applicant to provide a design which ensures vehicles drivers can access the intercom without blocking vehicles exiting the site, revise the layout and headroom clearance at the parking levels and provide further stormwater management details.</p>
16 November 2021	Amended plans and response to issues raised submitted by the applicant.
18 November 2021	The amended plans were publicly exhibited from 18 November to 16 December 2021.
1 February 2022	<p>Letter sent to the applicant requesting additional information in respect to the potential site isolation of No. 6 Ethel Street (outstanding), providing comments regarding a desktop review of the amended plans by Council's Urban Designer regarding clarification of the proposed overshadowing, provision of a further communal open space area which achieves solar access, improvements to the western elevation, direct access from Unit 1 to its private courtyard and relocation of the street number ('8') to the ground level entry.</p> <p>The applicant was also provided with the issues raised in submissions as a result of the re-notification of the amended plans.</p>

10 February 2022	Email correspondence received from the owner of 4/6 Ethel Street confirming that they received the offers to purchase their unit and do not intend to sell.
14 February 2022	Email correspondence received from the property manager representing the owner of 1/6 Ethel Street confirming that they received the offers to purchase their unit and do not intend to sell. Note: The offers to sell were posted to the correct postal addresses of Units 2 and 3 at No. 6 Ethel Street and they did not provide a response indicating that they wish to sell.
2 March 2022	Amended plans and response to issues raised submitted by the applicant.
31 March 2022	Email correspondence sent to the applicant requesting clarification and updated plans.
3 May 2022	Amended plans and clarification of the proposal submitted by the applicant including updated Strata Plans, Clause 4.6 request, NatHERs and BASIX Certificate. The applicant clarified the proposed floor area, the intended location of the basement ventilation duct and highlight windows on the elevation plans and floor areas. The applicant also confirmed that an electrical substation is not required.

5. Planning Assessment

This section provides an assessment of the DA against section 4.15(1) matters for consideration of the *Environmental Planning and Assessment Act 1979*.

5.1 State Environmental Planning Instruments

State Environmental Planning Policy (Building Sustainability Index BASIX) 2004

The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP, including BASIX certification.

A revised BASIX Certificate was submitted with the final plans for the DA in line with the provisions of this SEPP. This BASIX Certificate demonstrates that the proposal complies with the relevant sustainability targets and will implement those measures required by the certificate. See **Conditions 3 & 101**.

State Environmental Planning Policy (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

SEPP (Resilience and Hazards) 2021 (formerly SEPP No. 55 – Remediation of Land) aims to 'provide a State-wide planning approach to the remediation of contaminated land'. Clause 4.6 of Chapter 4 Remediation of Land of this SEPP requires Council to consider whether the site is contaminated, and if so whether it is suitable for the proposed development purpose.

The application is accompanied by a Preliminary Site Investigation (PSI) prepared by Asset Geo Enviro / Reditus and dated January 2021 which states that:

- *“A review of available historical records indicates that the Site has been used for residential purposes. Extensions and renovations to the dwelling have occurred at the site since its original construction.*
- *The site has no history of commercial/industrial land uses.*
- *Surrounding areas and properties consisted primarily of residential and commercial land uses.*
- *The site and immediately neighbouring properties were free of statutory notices and licensing agreements issued under the Contaminated Land Management Act 1997 and Protection of the Environment Operations Act 1997. The site was not included on the list of NSW Contaminated Sites notified to the EPA.*
- *The potential for groundwater and soil contamination at the site is considered to be low.*
- *Soil removed during any excavation works during site development must be classified by an appropriately qualified Environmental Consultant in accordance with the NSW EPA (2014) Waste Classification Guidelines: Part 1 – Classifying Waste prior to off-site disposal at a landfill licenced by the NSW EPA.*

Based on the key findings of the PSI, we consider that there is a Low Risk of Contamination relevant to the proposed development. We conclude that from a contamination standpoint the site is suitable for the proposed development.

Given soils will be excavated as part of the proposed development and potential asbestos containing material was observed in the roofing eaves, we recommend the following:

- *A hazardous materials survey of the building should be undertaken to assess the potential for hazardous materials being present in on-site structures. Should asbestos be present on the site, an Asbestos Management Plan (AMP) should be prepared.*
- *Completion of a targeted soil assessment with the footprint of excavation works within the proposed development to assess if contaminants of potential concern are present as well as to facilitate a waste classification assessment for soils within the proposed development footprint intended for removal and off-site disposal. Reditus notes that all surplus soil materials must be classified in accordance with NSW Environmental Protection Authority (EPA) (2014) guidelines by a suitably qualified Environmental Consultant prior to off-site disposal at an appropriately licenced landfill.”*

The report states that subject to the implementation of the above recommendations, the site can be made suitable for the proposed commercial and residential use. Council’s Environmental Health Officer supports the proposal, subject to **Condition 27 & 47**.

The proposal is considered to satisfy the requirements of the SEPP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 10 Sydney Harbour Catchment

This SEPP (formerly Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005) applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal. The objective of improved water quality is satisfied as the Proposed Stormwater Plans that accompany the DA demonstrate compliance with Part 8.2 Stormwater Management of Ryde DCP 2014.

SEPP No. 65 – Design Quality of Residential Apartment Development

SEPP 65 applies to the assessment of DAs for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings.

Clause 30 of SEPP 65 requires a consent authority to take into consideration:

- advice (if any) obtained from the design review panel
- design quality of the residential flat development when evaluated in accordance with the design quality principles
- the Apartment Design Guide (ADG).

The proposed development was presented to the Ryde Urban Design Review Panel ('the Panel') on 12 August 2021. As explained in the Application History section of this report above, this was the third review by the Panel. The Panel advised in their first and second reviews that the design should be amended to a 2 part building with a central courtyard located to enable outlook from the balconies on the adjacent site at Nos. 10-12 Ethel Street. Extensive pre-lodgement advice was also provided.

The Panel indicated general support of the proposal, subject to recommended design improvements (refer to the table below). The Panel recommended that the proposal be amended and resubmitted for review by Council's internal Urban Designer. In response, the applicant submitted amended plans and as directed by the Panel the documentation was reviewed by Council's Urban Design Officer. The recommended design improvements have been assessed and are considered to be satisfactorily addressed, as explained in the table below.

The table below contains comments from the Panel and Council with regard to the 9 design quality principles.

Design Quality Principles

Principle & Control	UDRP Comments (based on plans originally submitted with the DA)	Council Comments
Design quality principles The development satisfies the 9 design quality principles.		
<p>1. Context & neighbourhood character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The site is located in the north-east sector of the Eastwood Town Centre and has a 12.1m frontage to Ethel Street. The site has a secondary frontage to Ethel Lane at the rear. The site is 51m deep with a fall between 1.5m to 2.6m from the front boundary to the rear.</p> <p>To the east of the site is an existing mixed-use building with ground floor shops and a two storey street wall on Ethel Street and a 4 storey residential wing to the rear. The ground floor podium accommodates parking and extends to the common side boundary. Car park ventilation grills are located along the western wall facing the subject site. Balconies to residential apartments are located mid-way along the side boundary with an approximate set back of 3m (estimated from survey). Other windows also face the site.</p> <p>To the west of the site is an existing 2 storey mixed-use building with a ground floor commercial tenancy at Ethel Street and residential apartments to the rear and above. The building has a party wall for approximately 13m of the front portion of the site with a 1m setback for the remaining building length. The setback façade facing the side boundary includes</p>	<p>The applicant addressed the concerns of the Panel as follows:</p> <ul style="list-style-type: none"> - Concept plans for the redevelopment of No. 6 Ethel Street are provided at Attachment 6. These plans demonstrate that No. 6 is capable of being developed to its highest and best use. - The amended submission provided by the applicant corrected any potential errors or misinformation. With regard to the survey information for the adjoining properties, the applicant's surveyor has verified that the survey is based on structures and features visible from the street and the information included is correct. - The applicant submitted further view from the sun analysis (Attachment 1) and an Overshadowing Study (Attachment 4) which demonstrate that the adjoining apartment continue to meet ADG requirements for solar access. (Refer to further discussion below). - The applicant submitted further view from the sun analysis (Attachment 1) which demonstrate that the proposed development

	<p>windows. This site has an approximate site width of 6m. The site width and existing buildings on adjacent properties are significant constraints to the redevelopment of this site in isolation and limits the development form and capacity on the site. The applicant noted in the previous meeting that they have attempted to purchase the adjoining property at 6 Ethel Street. The Panel continues to strongly encourage amalgamation with the adjoining site at 6 Ethel Street.</p> <p>The following were raised in the previous meeting and continue to be of concern:</p> <ul style="list-style-type: none"> - how 6 Ethel Street can be redeveloped in the future within the planning controls. - setback, separations dimensions for adjacent properties and the proposal and survey information on window and room types on adjacent buildings. - overshadowing impacts on adjacent properties using sun's eye view analysis. Existing apartments should meet ADG requirements for solar access. - Solar access on subject site within context of 6 Ethel Street redevelopment potential. 	<p>achieves suitable solar access in the context of the potential redevelopment of No. 6 Ethel Street.</p> <p>Overall, the applicant has demonstrated a good design which is responsive to the constraints of this site.</p>
<p>2. Built form & scale Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a</p>	<p>The proposal was amended for the last meeting to a 2 part building with a central courtyard located to enable outlook from adjacent balconies. This approach is supported by the Panel as it has the potential to reduce direct overlooking between</p>	<p>The applicant addressed the concerns of the Panel as follows:</p> <ul style="list-style-type: none"> - The applicant submitted further view from the sun analysis (Attachment 1) and an Overshadowing Study (Attachment 4)

<p>site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>properties and to improve outlook and solar access for the development and neighbours.</p> <p>More documentation is required to demonstrate the impacts of the proposal on existing dwellings on adjoining properties. Solar access modelling is not clear. A sun's eye view analysis is required to confirm that each dwelling continues to receive adequate sunlight consistent with the ADG.</p> <p>The survey information is not sufficient to explain window and room types at 10-12 Ethel Street. Based on the information, it is not yet possible to ascertain if impacts on neighbours is acceptable.</p> <p>The previous meeting requested more information on adjacent windows and rooms adjacent to the proposed party walls for the southern building. This information remains outstanding. Depending on the adjacent uses, the proposed form may need to be adjusted to reduce the extent of party wall in the southern buildings to match the adjacent building party wall and to increase separation between the proposal and its neighbours.</p> <p>The fire stair from the basement to the street has been moved from eastern boundary of the building to adjacent the building entry. The stair combined with the internal access ramp in the commercial tenancy significantly reduces the commercial frontage along the street. This is likely to limit</p>	<p>which demonstrate that the adjoining apartment continue to meet ADG requirements for solar access. (Refer to further discussion below).</p> <ul style="list-style-type: none"> - The amended submission provided by the applicant corrected any potential errors or misinformation. With regard to the survey information for the adjoining properties, the applicant's surveyor has verified that the survey is based on structures and features visible from the street and the information included is correct. - The applicant submitted an Overshadowing Study (Attachment 4) which provides further details of the windows and rooms of the adjacent property. The proposal was also amended to reduce the depth of the party wall for the southern building element to match the adjoining property. - The layout of the stair and lobby access has been revised to improve the street frontage and internal layout of the commercial unit. - The setback of the ground floor to the rear lane has been increased to improve sight lines for vehicles exiting the site. Also refer to the discussion from Council's Traffic section below. - The external facades of the development have been
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	<p>the range of commercial uses for the space and constrain its street address and commercial value. The design should be amended to reduce the impact on the building façade and maximise the tenancy exposure to the street. This may require adjustment to the car park layout and relocation of car space C9. DDA access should be integrated to support greater functionality of the space rather than create an obstruction in the centre of the space.</p> <p>The street wall and planters on Level 2 facing the street have been amended and are acceptable.</p> <p>The apartment plans in the northern buildings have been amended in response to the Panel's previous comments and are supported in principle.</p> <p>The proximity of the building to the laneway is problematic. The laneway is curved and lacks a formed kerb. The corner of the northern extent of the western wall meets boundary line and presents a risk for vehicle collision. The Panel recommends a ground floor setback along the lane. While the proposed façade pattern for the party walls has been amended, the Panel recommended further design development. A more refined pattern that mitigates the scale of the walls and provides a more sensitive backdrop to 6 Ethel Street is required. 6 Ethel Street is likely to remain a smaller building for some time and the walls will be highly visible within the town centre.</p>	<p>further refined to provide a more cohesive overall design, which includes embellishing the western facing walls to add visual interest, including with a mix of glass blocks, banding and brown/blue face brickwork.</p> <ul style="list-style-type: none"> - As discussed in the assessment of the Applicant's Clause 4.6 request to vary the height of buildings development standard, the height breach relates to the roofline and lift overrun of the southern building only. No objection is raised. - The amended plans demonstrate sufficient floor to floor heights to accommodate suitable floor to ceiling heights and services. - The amended plans demonstrate that sufficient space is provided to enable occupants to move their furniture through the corridors and lifts. The clearance between the lift and wall in the southern building has been increased from 1.63m to 1.77m. - Concept plans for the redevelopment of No. 6 Ethel Street (in the form suggested by the Panel) are provided at Attachment 6. Detailed consideration of the potential site isolation of No. 6 Ethel Street is provided below.
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	<p>The proposal exceeds the permissible height of 15.5m marginally. The design has been amended to reduce the habitable internal space and has utilised a lightweight structure (pergola) to improve compliance. Exceedance of the height controls appears to be limited to the lift overrun and eaves.</p> <p>The applicant should demonstrate that floor to floor heights are sufficient to achieve minimum ceiling heights as the proposed 3.05m may not facilitated compliance where wet areas are not stacked.</p> <p>The applicant should also demonstrate how people can move large furniture items into and out of the apartments. The lift for the front building in the car park faces the wall with a very small 'lobby' area. It would be challenging to move bed or couch into the building.</p> <p>In response to site isolation, the proponent has provided an indicative future building form solution for 6 Ethel Street. The plans show that a development is possible but highly constrained in dimension particularly for parking. The discussion in meeting noted that it is more likely that an addition to the existing buildings would be more feasible than a full redevelopment. It would be useful to provide plans and 3d massing for this scenario as it could have negative impacts on the subject sites communal open space and solar access to units. This comment remains from the last meeting.</p>	<p>Overall, the applicant has demonstrated a good design which is in keeping with the existing and desired future character of in the immediate vicinity of the site. The changes were supported by Council's Urban Designer.</p>
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	<i>Note: The recommended changes are incorporated into these final plans.</i>	
<p>3. Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>Overshadowing analysis of adjacent property at 12 Ethel Street is required to demonstrate existing dwellings maintain 2 hours of solar access under the ADG, using a sun's eye view analysis.</p>	<p>The applicant submitted further view from the sun analysis (Attachment 1) and an Overshadowing Study (Attachment 4) which demonstrate that the adjoining apartment continue to meet ADG requirements for solar access. (Refer to the detailed discussion below).</p> <p>Overall, the applicant has demonstrated a good design which achieves a high level of amenity which demonstrates that the site is suitable for this level of density.</p>
<p>4. Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>Not addressed in the meeting. The Panel encourages the proposal to adopt and potentially exceed acknowledged sustainability rating targets.</p>	<p>The proposal utilises sustainable design techniques to achieve natural cross ventilation and access to sunlight to support the amenity of occupants.</p> <p>The accompanying BASIX Certificate demonstrates that the targets for sustainability are achieved through the efficient use of energy and water resources which are incorporated into the design of the building.</p> <p>The proposal demonstrates appropriate waste management during the demolition, construction and ongoing use phases.</p>
<p>5. Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape</p>	<p>Compliance of solar access requirements of the ADG should be confirmed for the communal open space.</p> <p>The common room has become more generous with an improved relationship to the courtyard. The paved area to the south of Unit 1 could be allocated to Unit 1 and incorporate a private gate</p>	<p>The applicant addressed the concerns of the Panel as follows:</p> <ul style="list-style-type: none"> - The applicant submitted a sun's eye view analysis which confirmed that the central courtyard Communal Open Space area does not satisfy the

<p>character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>adjacent the lobby entry. Otherwise, the location of private windows adjacent a common path is a safety issue.</p>	<p>direct sunlight requirements of the ADG.</p> <p>Council's Urban Design Officer recommended that an additional 'rooftop' communal area is provided on the rooftop.</p> <p>In response, the applicant submitted amended plans reducing the size of Unit 12 on the top floor of the southern building element, and dedicating part of the rooftop as a communal terrace area which receives full sunlight.</p> <p>As amended, the proposal satisfies the solar access requirements of the ADG.</p> <ul style="list-style-type: none"> - The applicant revised the layout of the central courtyard to allocate the paved area to the south of Unit 1 as a private area for Unit 1. This arrangement protects the privacy and safety of Unit 1, which also providing casual surveillance of the courtyard. <p>Overall, the applicant has demonstrated a good design which is positively supported by landscaping.</p>
<p>6. Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient</p>	<p>Unit plans in the northern buildings and for Unit 12 have been amended and improved.</p> <p>There is no light and air to internal residential lobbies in the front building, but the Panel acknowledges the constrained site and the two dwelling per floor arrangement.</p> <p>The entry and width of the corridor on the ground floor has been improved. An entry to the commercial tenancy</p>	<p>The design of the proposal is considered to provide a suitable level of amenity through a carefully considered spatial arrangement and layout.</p>

<p>layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>from the corridor has been provided.</p>	
<p>7. Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>Acceptable subject to confirmation by Council traffic engineer that basement layout is acceptable.</p>	<p>The proposal reflects good design that optimises safety and security.</p>
<p>8. Housing diversity & social interaction Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>Acceptable.</p>	<p>The proposed apartment mix caters to the anticipated market and demographic demand in the area. The communal open space areas within the site are easily accessible by residents and provides opportunities residents and visitors to socialise.</p>
<p>9. Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout</p>	<p>The architecture has not evolved from pre-DA. The proponent is encouraged to further refine the architectural expression and materiality of the building. Coloured</p>	<p>The applicant addressed the concerns of the Panel as follows: - The external facades of the development have been</p>

<p>and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>elevations and an Ethel Street view that includes adjacent buildings are needed. The design of the party walls should assist the reading of the building as a cohesive whole rather than a front as one character and side boundary walls as another.</p> <p>At formal DA stage, the Panel would expect to see 1:50 detailed sections and elevations for each primary facade and balcony type in order to address materials, junctions and integration of services such as drainage.</p>	<p>further refined to provide a more cohesive overall design, which includes embellishing the western facing walls to add visual interest, including with a mix of glass blocks, banding and brown/blue face brickwork.</p> <ul style="list-style-type: none"> - The applicant submitted amended plans which more appropriately demonstrate the presentation of the proposed development on the subject site and the existing buildings on the adjoining sites. Refer to the coloured Elevation Plans at Attachment 1. - The applicant submitted amended/additional plans demonstrating a greater level of detail. Refer to the coloured Elevation, Section and Balcony Detail Plans at Attachment 1. <p>Overall, the applicant has demonstrated a good design which reflects distinct and contemporary architecture assists in setting a high quality standard for the transitioning character of this locality and creates a desirable streetscape.</p>
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Council's assessment of the proposal against the Apartment Design Guide is provided in detail at **Attachment 3**. The table below identifies where the proposal does not fully comply with the numerical guidelines of the Apartment Design Guide.

Compliance with the Apartment Design Guide (ADG)

ADG Requirement	Proposal	Compliance
<p>The application has been assessed against the relevant provisions of the ADG and the table below only identifies where compliance is not fully achieved.</p> <p>It is compliant with all other matters under the ADG. Attachment 3 includes a complete ADG compliance table.</p>		
<p>3E Deep soil zones</p> <p>Minimum area is 7% of the site area.</p> <p>Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"> • The location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres). • There is 100% site coverage or non-residential uses at ground floor level. <p>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.</p>	<p>Site area: 649.06m².</p> <p>Minimum required 7% = 45.43m².</p> <p>Provided: Nil.</p>	<p>No. However, the design guidance states that achieving deep soil area may not be possible on sites where the location and building typology has limited space for deep soil at ground level, where there is 100% site coverage and non-residential uses at ground level.</p> <p>The proposal meets this design criteria, being in the Eastwood Town Centre, on a constrained site, in a medium density area, consists of 100% site coverage and comprises non-residential uses at the ground level.</p> <p>On this basis, this variation to deep soil area is supported.</p>
<p>3F Visual Privacy</p> <p>Separation distances from buildings to the side boundaries are as follows:</p> <p>5 to 8 storeys/up to 25m:</p> <p>9 m to habitable rooms/balconies</p> <p>4.5 m to non-habitable rooms</p>	<p>To the adjoining sites (southern building element only):</p> <p>Level 4 is setback 1.37m to 1.78m to the western boundary. A blank wall effect is proposed, with the exception of 1 highlight window. Level 4 is above the roofline of the existing development at No. 6 Ethel Street.</p>	<p>No. However, acceptable in this instance as the side facades are provided with a 'blank wall effect' and the highlight windows are above the rooflines of the adjoining developments and avoids adverse visual and acoustic amenity impacts.</p> <p>It is also noted that full compliance is not capable of being achieved at Level 4 due to the width of the site</p>

	<p>Level 4 is setback 1.8m to the eastern boundary. A blank wall effect is proposed, with the exception of 3 highlight windows. Level 4 is above the roofline of the existing development at Nos. 10-12 Ethel Street.</p> <p>The relationship with the existing mixed use development to the side boundaries is shown in Figure 8 below.</p>	<p>being only 11.5m (where the separation distance required is 18m, being wider than the site).</p> <p>This design ensures that the proposal satisfies Objective 3F-1 of the ADG which requires that <i>“adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy.”</i></p> <p>Council’s Urban Designer is supportive of the proposed separation distance which is considered acceptable on merit.</p>
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Figure 8: Extract from the South Elevation Plan as viewed from Ethel Street showing the proposed development (centre), existing adjoining developments (left and right), and the outline of an ‘anticipated future development’ of No. 6 Ethel Street (left).

<p>4B Natural ventilation Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.</p>	<p>Units 6 & 7 on Level 2 and Units 9 & 10 on Level 3 have a cross over depth of 21.2m (being a variation of 3.2m or 18%).</p>	<p>No. Minor variation sought.</p> <p>Despite not meeting this numerical design criteria, Units 6, 7, 9 and 10 are considered to satisfy the Design Guidance as follows:</p> <ul style="list-style-type: none"> • These are cross through apartments. • Window outlets on opposite sides of the apartment are significant in size and support air flow. • Appropriate apartment depth and ceiling heights (2.7m) are provided to maximise cross ventilation and airflow. <p>This design ensures that the proposal satisfies Objective 4B-3 of the ADG: <i>“The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents.”</i></p>
<p>4F Common circulation and spaces Daylight and natural ventilation should be provided to all common circulation spaces that are above ground.</p>	<p>Achieved for the lobbies of the northern building element. Not achieved for the lobbies of the southern building element on Levels 1, 2 & 3.</p>	<p>No. Minor variation sought.</p> <p>Due to the narrow dimensions of the site, the proposed lift and stair lobbies are internally located at the centre of the floorplan of the southern building, and service 2 or 3 apartments on each level.</p> <p>Although daylight and natural ventilation is not afforded to these spaces, these lobbies service only 2 or 3 apartments on each level and suitable circulation and amenity is achieved.</p>

		<p>The proposal demonstrates that the Objective 4F-1 of the ADG is satisfied: <i>“Common circulation spaces achieve good amenity and properly service the number of apartments.”</i></p>
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5.2 Draft Environmental Planning Instruments

Draft Remediation of Land State Environmental Planning Policy (SEPP)

The Draft Remediation of Land SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of DAs. As discussed within the SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land (formerly SEPP No. 55 – Remediation of Land) assessment above, this application is accompanied by a Preliminary Site Investigation (PSI) prepared by Asset Geo Enviro / Reditus and dated January 2021 which concludes that there is a low risk of contamination and that the site is suitable for the proposed development.

The report states that subject to the implementation of the recommendations in the PSI, the site can be made suitable for the proposed commercial and residential use. Council’s Environmental Health Officer supports the proposal, subject to conditions as discussed below.

The proposal is considered to satisfy the requirements of this draft SEPP.

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 SEPPs, which include:

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

The proposal is consistent with the provisions of the draft SEPP.

5.3 Ryde Local Environmental Plan (LEP) 2014

This section provides a detailed assessment of the Ryde LEP 2014 and its relevant development standards.

Zoning and Permissibility of Ryde LEP 2014

The site is zoned B4 Mixed Use as shown in **Figure 9** below.

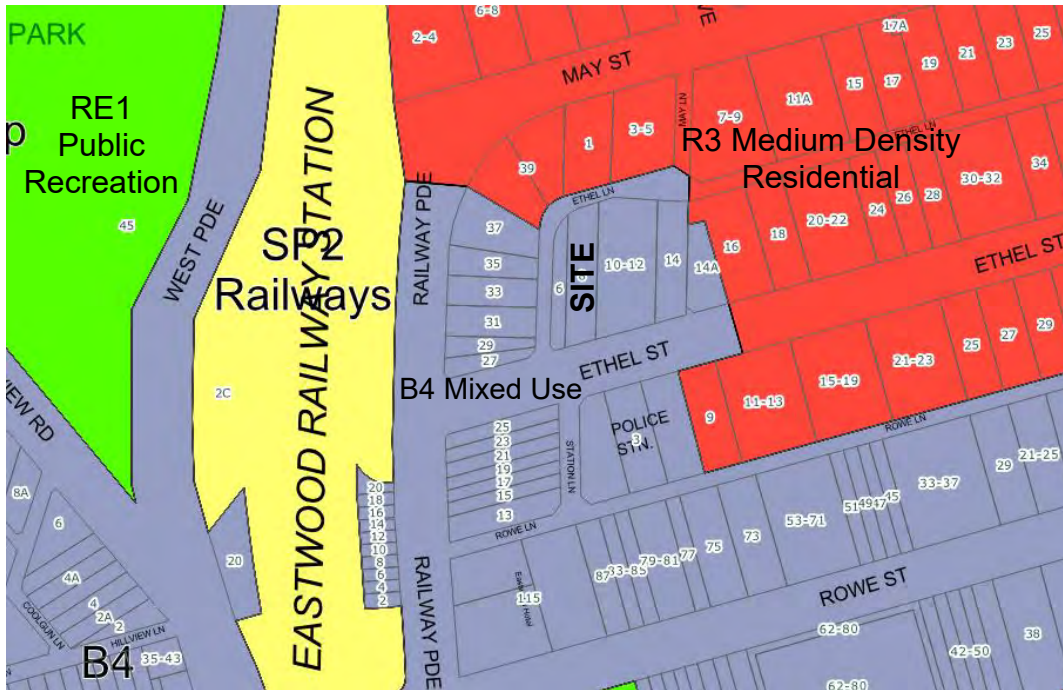


Figure 9: Extract from Ryde Maps indicating the zoning of the site and surrounds.

The proposal achieves the objectives of the zoning, as discussed in the following table.

Objectives of the B4 Mixed Use zone	How the proposal achieves the objective
a. To provide a mixture of compatible uses.	The proposal creates 12 apartments and a commercial use which are considered to be compatible uses in the immediate locality.
b. To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	The proposal offers a mix of land uses which are accessible by walking and cycling to the town centre, Eastwood Train Station and bus stops.
c. To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.	Not applicable.
d. To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.	Not applicable.

The B4 Mixed Use zoning of the site includes the following proposed land uses, which are permissible with consent:

Shop top housing means ‘one or more dwellings located above the ground floor of a building, where at least the ground floor is used for commercial premises or health services facilities.’

Commercial premises means ‘any of the following—
(a) business premises,
(b) office premises,
(c) retail premises.’

Note: The applicant states in the SEE that the ground floor commercial premises is likely to be used for business premises or retail premises, not office premises.

The proposal includes the strata subdivision of the proposed building, which is permitted with consent under clause 2.6 ‘Subdivision – consent requirements.’

This application seeks approval for the demolition of all structures on the site and satisfies clause 2.7 ‘Demolition requires development consent.’

Principal Development Standards of Ryde LEP 2014

Clause 4.3 Height of buildings: The maximum height of buildings permitted on the site is 15.5m in accordance with clause 4.3 Building height, as shown in **Figure 10** below. The maximum height of the proposed building is 16.67m for the southern portion of the building, which exceeds this development standard by 1.17m or 8%.

The proposal is accompanied by a Clause 4.6 Request to vary this Development Standard, which is discussed below.

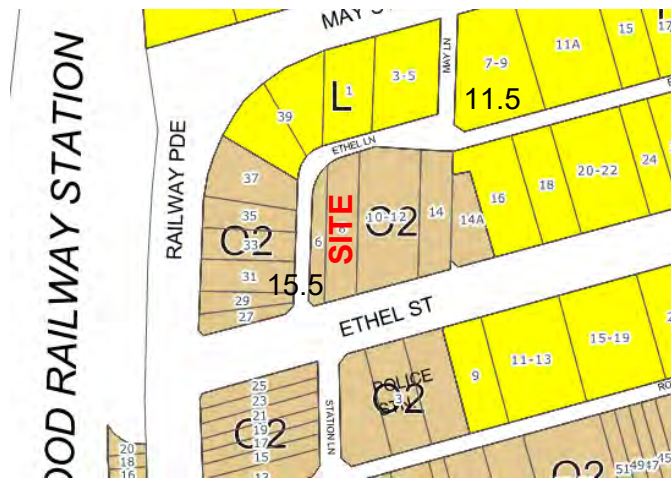


Figure 10: Extract from the Ryde LEP 2014 indicating the maximum permitted height of buildings of the site and surrounds.

Clause 4.4 Floor space ratio: The site is not subject to a maximum floor space as shown in **Figure 11** below. This development standard is not applicable.

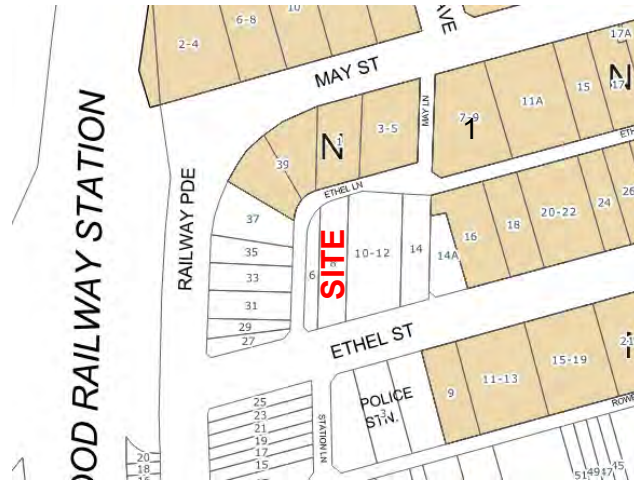


Figure 11: Extract from the Ryde LEP 2014 indicating that the site is not subject to a maximum permitted floor space ratio development standard.

Miscellaneous Provisions of Ryde LEP 2014

Clause 5.10 Heritage conservation: The site is not identified as a heritage item or within a heritage conservation area. As shown in **Figure 12** below, Local Heritage Item 100 is located to the south of the site, being Shops at 15, 17, 19, 21, 23 and 25 Railway Parade. Council’s Heritage Consultant, has undertaken an independent heritage review of the proposal with particular regard to Local Heritage Item 100 (shops) and concludes that the proposed development is not considered to have any adverse impact on the heritage items. Further details are provided in the Referrals section below.

Local Heritage Items 161, 162 and 163 are also located 150m to the west of the site and comprise Eastwood Park including sports fields, gates, grandstand, croquet club and grounds, mature Phoenix palms and other significant trees. Due to the significant distance to these Heritage Items, which are screened from view by the Railway Station structure, street trees and 3 storey developments along Railway Parade; the proposed development is not considered to have any adverse impact on the heritage items.



Figure 12: Extract from the Ryde LEP 2014 indicating the local heritage items in the locality.

Clause 5.21 Flood planning: The site is not identified as at risk of flooding, as shown in **Figure 13** below.

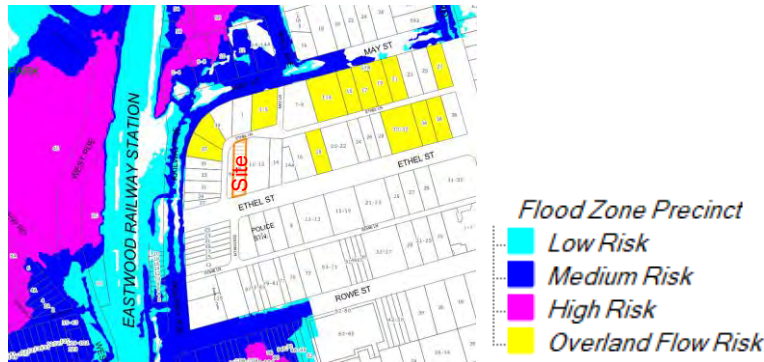


Figure 13: Extract of Council's Flood risk map.

Additional Local Provisions of Ryde LEP 2014

Clause 6.2 Earthworks: The proposal includes earthworks and excavation associated with construction of the basement car parking levels, level building footprints and landscaping works throughout the site. The proposed earthworks are reasonable given they are responsive to the topography of the site and take into consideration flooding affectation. The proposal satisfies this clause given the potential impacts of the earthworks are able to be managed by **Conditions 4, 28 & 60**.

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 is consistent with this clause in that the proposal has been designed to maximise the use of permeable surfaces allowing for on-site infiltration of water and avoids adverse impacts of stormwater runoff on adjoining properties and receiving waters.

Council's Senior Development Engineer supports the proposal, subject to conditions requiring some design changes to the on-site flood storage tank. See **Condition 1 & 55**.

Clause 4.6 – Exceptions to Development Standards

The applicant seeks to vary the following Development Standard:

Development Standard	Maximum building height	Proposed building height	Variation
Clause 4.3(2) Height of buildings	15.5m	Southern building element: 16.67m	1.17m or 8%

The portion of the proposed development which exceeds the maximum building height is the roofline and lift overrun of the southern building form as shown in **Figure 14** below.

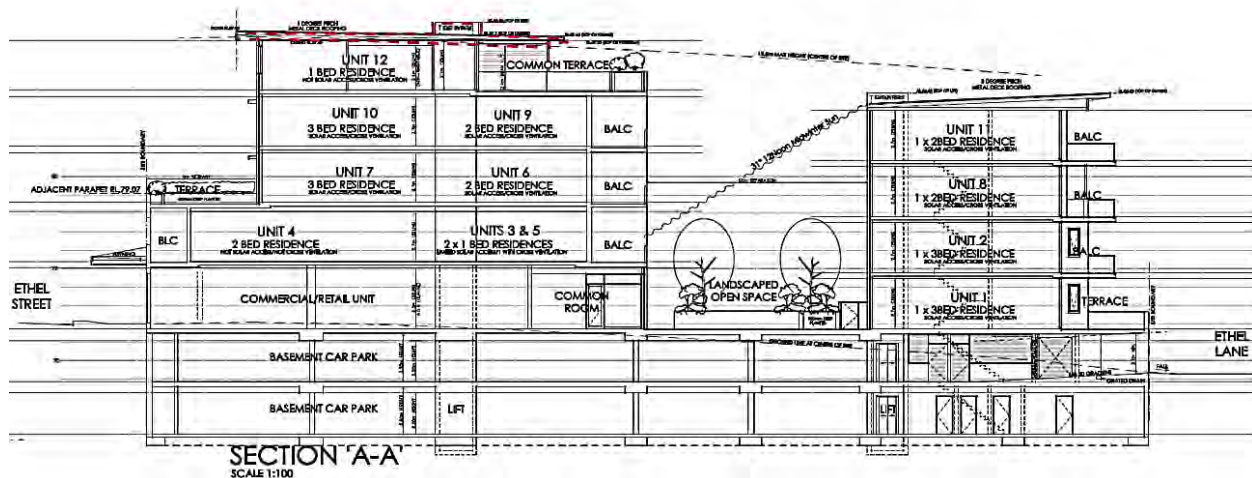


Figure 14: Extract of the Section Plan showing the portion of the roofline of the southern building (outlined in red) which exceeds the maximum permitted building height of 15.5m.

Clause 4.6 of the Ryde LEP 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 NSW Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion.

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

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

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* 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 is 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:

- 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); and
- 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.

This application is accompanied by a written Clause 4.6 justification seeking an exception from the maximum height of buildings development standard, prepared by Andrew Martin from Andrew Martin Planning and provided at **Attachment 2**.

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

Clause 4.6(3)(a) – Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case, and

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

The applicant's request provides reasons why compliance with the standard is unreasonable and/or unnecessary, with relevant excerpts shown below:

- *The overall height is compatible with the desired future scale and character in the precinct which is in transition having not as yet reached its development potential established under the current planning controls.*
- *Variation occurs, in part, as a result of needing to increase floor levels to accommodate 300mm freeboard above the 100 year average recurrence interval (ARI) level.*
- *The development incorporates a roof form which appropriately transitions from the site and street boundaries so as to mitigate impacts of bulk and scale and overshadowing to the adjoining residential properties.*
- *The roof form and the overall scale of the proposed development offers a reasonable level of transition and interface to adjoining properties, in particular that of No. 6 Ethel Street to the west which may ultimately be redeveloped to achieve commensurate scale and height.*
- *The building height breaches are observed to the uppermost sections of the fifth level wall and proposed metal deck roof over the building occupying the southern part of the site. These breaches are very minor and on average extend between 300mm and 800mm above the height line. The highest extent of the non-compliance relates to the lift head overrun at 1.17m which cannot be viewed from either street frontage as it is positioned in the centre of the development.*
- *The 5 storey form is consistent with that of the neighbouring development at Nos. 10-12 Ethel Street and is envisaged by the height development standard for level sites with flat roofs. The subject site has a varied natural ground level which falls by 2.7m from the south east corner to the north west at Ethel Lane which contributes to the design challenges. Due to the varying natural topography, a 5 storey form with any degree of roof pitch will present minor breaches to the maximum height limit.*
- *The additional building height does not exacerbate adverse impacts to privacy, solar access or overshadowing to neighbouring residential dwellings, inappropriate building form or appearance within the streetscape or loss of views.*
- *Provides a high standard of urban renewal having positive environmental, social and economic impacts for the locality. Lost opportunity to provide gross floor area without any corresponding adverse impact.*
- *The proposed variation is acceptable as per the NSW Department of Planning and Environment's guidelines and relevant case law. The extent of the variation is minor in that it represents a 9% departure (or breach) in respect of the overall height at its highest point above the natural ground level and the maximum breach cited is for the lift overrun being a very minor component.*
- *Similar breaches to the building height standards have been sought and supported by Council in the following recent examples:*
 - LDA2018/0017 – 744 Victoria Road, 2A & 2-4 Eagle Street, Ryde: 55% variation.*
 - LDA2019/0228 – 10 Linsley Street, Gladesville: 15.2% variation.*

Assessing Officer's comments:

The above examples of similar breaches provided by the applicant are not considered to be relevant in the circumstances of this application. The examples are not located in the same suburb as the subject site and were considered under different contexts. These examples do not demonstrate that Council has abandoned the height control.

In this particular circumstance, the site is capable of being redeveloped to accommodate a new mixed use development with basement parking and communal open space at the ground level and rooftop. The resulting development is consistent with the form of urban renewal anticipated for the Eastwood Town Centre.

Despite the variation to the height of buildings development standard, the proposal provides a built form which steps down with the slope of the site, achieves suitable amenity for future occupants including provision of a rooftop communal open space area (including access), and protects the existing amenity of neighbouring properties.

Permitting the variation will more effectively utilise the site in a manner which is cohesive with the desired future character of this part of the Eastwood Town Centre.

The applicant's request provides reasons why there are sufficient environmental planning grounds to justify contravening the development standards, with selected excerpts shown below:

- *Variation occurs, in part, as a result of needing to increase floor levels to accommodate 300mm freeboard above the 100 year average recurrence interval (ARI) level.*
- *The variation enables the provision of roof top communal space which improves the available amenity to the future residents of the building.*
- *Provision of rooftop communal space achieves ADG objectives which supports the use of roof top spaces.*
- *The variation enables disabled access to the roof top communal areas.*
- *The overall height is compatible with the desired future scale and character in the precinct which is in transition having not as yet reached its development potential established under the current planning controls.*
- *The development incorporates a roof form which appropriately transitions from the site and street boundaries so as to mitigate impacts of bulk and scale and overshadowing to the adjoining residential properties.*
- *The roof form and the overall scale of the proposed development offers a reasonable level of transition and interface to adjoining properties, particularly that of No. 6 Ethel Street to the west which may ultimately be redeveloped to achieve commensurate scale and height.*

- *The proposed height and overall bulk and scale of the development does not result in excessive or unreasonable overshadowing, privacy or obstruction of views given its location, siting, design and orientation.*
- *The additional building height does not exacerbate adverse impacts to privacy, solar access or overshadowing to neighbouring residential dwellings, inappropriate building form or appearance within the streetscape or loss of views.*
- *Demonstrates consistency and general compliance with all other provisions, standards and controls in the relevant environmental planning instruments and DCPs.*
- *Provides a high standard of urban renewal having positive environmental, social and economic impacts for the locality.*

The applicant's written request has been carefully reviewed and is considered to satisfy the matters required by Clause 4.6(3). In light of the particular circumstances of this case, the proposed mixed use development is a compatible form of development in this context, and it reflects the intended progression for urban renewal of the Eastwood Town Centre in a manner which is consistent with the applicable development standards and controls.

Is the proposal in the public interest?

A development is generally seen to be in the public interest if it is consistent with the objectives of the development standard and the zone in which the particular development is carried out. A response to each of the objectives is as follows:

Ryde Local Environmental Plan 2014	
Objectives of the B4 Mixed Use zone	How the proposal achieves the objective
a. To provide a mixture of compatible uses.	The proposal creates 12 apartments and a commercial use which are considered to be compatible uses in the immediate locality.
b. To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	The proposal offers a mix of land uses which are accessible by walking and cycling to the Eastwood Town Centre, Eastwood Train Station and bus stops.
c. To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.	Not applicable.
d. To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.	Not applicable.

The proposal is consistent with the zone objectives. The following table addresses the objectives of the height control.

Ryde Local Environmental Plan 2014	
Objectives of Clause 4.3 Height of buildings	How the proposal achieves the objective
<p>a. To ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.</p>	<p>The proposed development seeks to frame the street edge for its lower levels, which is in keeping with the character and scale of nearby development. The upper levels are setback from the street frontage, which is consistent with the character of the adjoining development to the east, Nos. 10-12 Ethel Street.</p> <p>The adjoining site to the west, No. 6 Ethel Street, consists of a 2 storey scale development only. However, it is capable of redevelopment to a similar scale, as depicted in the Street Elevation Plan in Figure 7 above.</p> <p>The proportion of the development is consistent with the desired future character of the Eastwood Town Centre.</p>
<p>b. To minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area.</p>	<p>The height of the proposed building minimises overshadowing by stepping the building away from the street and side boundaries at the upper levels and providing a central courtyard to minimise overshadowing to the adjoining properties.</p> <p>The proposal enables the redevelopment of the site by providing a modern design form which improves the appearance of the Eastwood Town Centre.</p>
<p>c. To encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure.</p>	<p>The redevelopment of the site is considered to be highly constrained due to its width and buildings on the adjoining sites. Council and the UDRP strongly encourage the amalgamation of the site and No. 6 Ethel Street.</p> <p>The applicant has demonstrated that they have satisfied the 'site isolation' planning principles (refer to discussion below). Therefore, it is not possible to amalgamate the site with No. 6 Ethel Street.</p> <p>The proposed land use is compatible with the surrounding properties and is supported by the existing public transport services.</p>
<p>d. To minimise the impact of development on the amenity of surrounding properties.</p>	<p>The proposal is considered to minimise the impact of the development on the amenity of surrounding properties by providing a design which orientates its window and door openings towards the front and rear of the site.</p>

	The interface with the adjoining properties consists of either a blank wall or privacy screens which assists with protecting the visual and acoustic amenity of surrounding properties. The centrally located courtyard also creates the opportunity for sunlight access to surrounding properties to be maintained.
e. To emphasise road frontages along road corridors.	Not applicable. The site is not located along a road corridor.

Therefore, the proposal is in the public interest because the development is consistent with the objectives of this particular development standard.

Clause 4.6(5) Considerations in deciding whether to grant concurrence

There is no identified outcome which would raise any matter of significance to planning matters of State or regional environmental planning that cannot be dealt with by the Sydney North Planning Panel as a result of varying the development standards as proposed under this application.

When compared to providing a development which strictly complies with the maximum height of buildings development standard, this application offers a public benefit because it provides additional housing opportunities that is consistent with the existing and desired future character and scale in the Eastwood Town Centre locality. The proposal offers improved outcomes for and from development by allowing flexibility in this particular circumstance. Therefore, there is no public benefit in maintaining strict compliance with the development standard in this instance. On this basis, Concurrence of the Planning Secretary is assumed by the Panel in accordance with Clause 4.6(4)(b) and 4.6(5).

Summary

Based on the above assessment, the Clause 4.6 variation request is considered reasonable and well founded. It is recommended for support to allow flexibility in the application of the development standards.

5.4 Ryde Development Control Plan 2014 (RDCP 2014)

The proposal has been assessed against the following relevant sections of the Ryde DCP 2014:

- Part 4.1 – Eastwood Town Centre;
- Part 7.1 – Energy Smart, Water Wise;
- Part 7.2 – Waste Minimisation and Management;
- Part 8.1 – Construction Activities;
- Part 8.2 – Stormwater and Floodplain Management;
- Part 8.3 – Driveways;

- Part 9.2 – Access for People with Disabilities;
- Part 9.3 – Parking Controls; and
- Part 9.5 – Tree Preservation.

The detailed assessment is provided at **Attachment 3** and demonstrates that the proposal complies with Ryde DCP 2014, with the exception of setbacks to the upper levels of the development and the provision of visitor parking spaces, as discussed below.

Side and rear setbacks under Part 4.1 Eastwood Town Centre

Part 3.3.1 Setbacks of this part of the DCP permits buildings to be constructed to the side and rear boundaries for up to 9.5m from street level. However, buildings (including balconies) must be setback a minimum of 3m from all boundaries above 9.5m from street level. The proposal is consistent with these setbacks, with the exception of the side and rear setbacks as shown in the following table and **Figures 15, 16 & 17** below:

Building & level	Side/rear setback permitted	Side setback proposed	Compliance	Rear setback proposed	Compliance
Southern Building					
Ground (commercial)	Nil	Nil	Yes	-	-
First	Nil	Nil	Yes	-	-
Second	Nil	Nil	Yes	-	-
Third	3m	Nil to 1.7m	No	-	-
Fourth	3m	1.37m to 1.8m	No	-	-
Northern Building					
Basement (parking)	Nil	Nil	Yes	Nil to 1.8m	Yes
Ground	Nil	Nil	Yes	Nil to 2.2m	Yes
First	Nil	Nil	No	Nil to 5.24m	Yes
Second	3m	Nil	No	Nil to 5.24m	No
Third	3m	1.37m to 1.8m	No	1.8m to 5.24m	No



Figure 15: Extract of the South (front) Elevation Plan showing the portions of the upper levels which do not satisfy the minimum 3m side setbacks in the DCP (shaded in red).



Figure 16: Extract of the North (rear) Elevation Plan showing the portions of the upper levels which do not satisfy the minimum 3m side setbacks in the DCP (shaded in red).



Figure 17: Extracts from the Second (left) and Third (right) floor plans showing the portions of these upper levels which do not satisfy the minimum 3m rear setback in the DCP (shaded in red).

The proposed side setback variation to the western boundary is supported because any future redevelopment to the adjoining site at No. 6 Ethel Street is also likely to comprise a nil setback to this common boundary as No. 6 is also very narrow and constrained.

The proposed variation to the DCP control for both sides boundary is also considered to be the result of the application of this design form; to provide 2 distinct building forms which address each of the street frontages and are separated by a central courtyard. The benefits of this courtyard arrangement allows for sunlight and a sense of space to be retained for the adjacent apartments at Nos. 10-12 Ethel Street. Strict compliance with this DCP control would likely result in a single building form without the benefit of a central courtyard and a lower amenity outcome for both sites.

With regard to the rear setback variation, part of the balcony encroaches into the 3m setback area on Second Level. Given this balcony reflects the roof line of the level below, it is considered to reinforce the streetscape presentation of the building and is supported. A minor part of the balcony on the Third Level also encroaches into the 3m rear setback. This balcony also reflects the roof line of the balconies on the levels below and is supported. The resulting building form reinforces the address to the public domain and is considered to be consistent with the objectives of the DCP.

Residential visitor parking spaces under Part 9.3 Parking Controls

Clause 2.2 of this part of the DCP requires resident visitor spaces to be provided at the rate of 1 space per 5 dwellings. The proposal is for 12 residential apartments and required 2.4 (rounded up to 3) visitor spaces to be required. The proposal is for 2 visitor spaces, being a shortfall of 1 space. The application is accompanied by a Parking and Traffic Impact Assessment prepared by Stanbury Traffic Planning justifies this shortfall and considers that this minor numerical visitor parking shortfall is considered reasonable due to *“the proximity of the development to the Eastwood Railway Station and various bus routes, thereby increasing the propensity that visitors utilise public transport when accessing the site.”*

As considered by Council's Development Engineer, the shortfall is supported given such an arrangement is still deemed satisfactory given the justification provided above.

The provision of 2 residential visitor spaces is consistent with the objectives of the DCP, with particular regard to satisfactorily providing adequate car parking for building users and visitors in a location in close proximity to public transport.

5.5 Development Contributions: City of Ryde Section 7.11 Development Contributions Plan 2020

Council's current Section 7.11 Development Contributions Plan 2020 (effective 1 July 2020) requires a monetary contribution where a DA results in a net increase in residents on the land. The purpose of this is to fund a range of urban improvement and economic infrastructure projects.

The proposal seeks to increase the number of dwellings from 4 to 12, and for additional non-residential floor space.

The contributions that are payable with respect to the additional house lot (being for residential development and retail floor space outside the Macquarie Park Area) are as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural	\$ 35,684.57
Open Space & Recreation	\$ 61,447.15
Transport Facilities	\$ 18,864.06
Plan Administration	\$ 1,739.94
The total contribution is	\$ 117,735.72

This contribution is included in the recommended conditions of consent at **Attachment 6**. See **Condition 34**.

5.6 Any Planning Agreement

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

5.7 Any Matters Prescribed by the Regulations

The proposal is consistent with the *Environmental Planning and Assessment Regulation 2000*. Standard conditions are recommended regarding demolition and compliance with the Building Code of Australia and Australian Standards.

6. The likely impacts of the development

The likely impacts of the proposed development are discussed throughout this report including in the Submissions and Referrals sections below. Further consideration of the likely impacts associated with the development are discussed below.

i. Solar Analysis

The proposal generates additional overshadowing to the adjoining properties to the east (Nos. 10-12 Ethel Street) and the west (No. 6 Ethel Street) as shown in the shadow diagrams at **Attachments 1 and 4**.

The relevant ADG controls relating to solar access are as follows:

Environmental Planning Instrument	Control
Apartment Design Guide Part 3B Orientation	Objective 3B-2: Overshadowing of neighbouring properties is minimised during mid winter. Design guidance: <ul style="list-style-type: none"> • Solar access to living rooms, balconies and private open spaces of neighbours should be considered. • Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%. • If the proposal will significantly reduce the solar access of neighbours, building separation should be increased beyond minimums contained in section 3F Visual privacy.
Apartment Design Guide Part 4A Solar and daylight access	Objective 4A-1: To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space. Design Criteria: Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.

The application is supported by a detailed analysis of a 3D model of the proposed development and verification of solar access and overshadowing in the accompanying Overshadowing Study prepared by Walsh Analysis provided at **Attachment 4**.

With regard to No. 6 Ethel Street, this Overshadowing Study confirms that the existing 2 storey building, and the potential 4 storey redevelopment of No. 6 Ethel Street (see plans at **Attachment 5**), are both capable of achieving full compliance with Objective 4A-1 of the ADG (above).

With regard to Nos. 10-12 Ethel Street, this Overshadowing Study establishes that the 4 storey mixed use development currently has 8 out of 18 (44.4%) of units receiving 2 hours of solar access to their living room and private open space between 9am-3pm in mid winter.

This Overshadowing Study confirms that the 5 storey development proposed in this subject application results in a 0% reduction in the number of apartments which receive at least 2 hours of solar access, which is compliant with Objective 3B-2 of the ADG.

It is noted that this Overshadowing Study has been prepared strictly in accordance with planning principles accepted by the NSW Land and Environment Court. Apartments are acknowledged as receiving solar access only if sunlight is directly received to at least 1m² of the windows of living rooms **and** private open spaces. That is, sunlight which is received only to bedrooms or only to terraces/balconies is regarded as non-compliant.

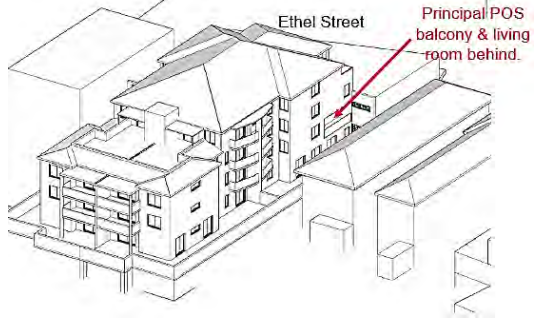
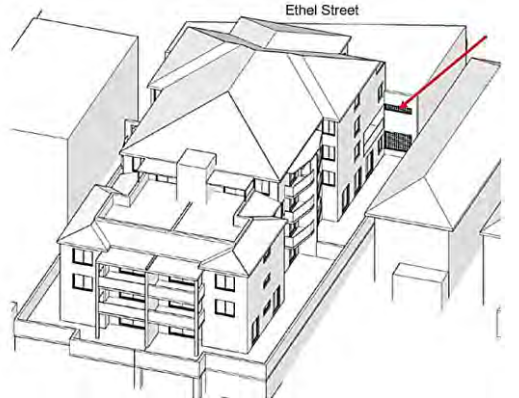


Nos. 10-12 Ethel Street maintains its access to sunlight until after midday at mid-winter, as shown in **Figure 18** below.



Figure 18: Extract from the Overshadowing Study showing 'Views from the Sub' at mid-winter. The proposed development (right) starts to block sunlight to the adjoining site Nos. 10-12 Ethel Street (left) from midday onwards.

The Overshadowing Study recognises that from midday onwards there is some additional overshadowing to various apartments on the western side of Nos. 10-12 Ethel Street, as follows:

10-12 Ethel St	Changes to solar access	
<p>Unit 1</p> <p>Living area: overshadowed from 2pm. Courtyard: overshadowed. However, maintains 2.5 hours of solar access. Bedrooms: solar access is maintained.</p> <p>An indicative floor plan layout of Unit 1 is shown on the right.</p> <p>An extract from the Views from the Sun from the Overshadowing Study is also provided on the right, showing the location of the principal private open space (terrace) of Unit 1 highlighted in yellow in its existing form (top) and as a result of the proposed development on the subject site (bottom).</p>		
<p>Unit 5</p> <p>Living room: this area is recessed and does not currently received sunlight until 3pm. The proposed building overshadows this living area window at 3pm. However, there is still sun to the bedrooms at this time. Balcony: overshadowed from 2pm, meaning it loses 1 out of the 2.5 hours of solar access.</p>		

		 <p>3D model showing the location of the balcony of Unit 5 which will be overshadowed from 2pm.</p>
<p>Unit 9</p>	<p>Bedroom: This apartment mainly faces Ethel Street to the south but there is a bedroom which has a non-operable window facing north (see red arrow). This window is overshadowed from 1pm-3pm which is considered reasonable given the apartment is not relying on it for complying solar access.</p>	
<p>Unit 11</p>	<p>This is the most effected apartment in the whole building from a complying solar access point of view.</p> <p>Living room: the living areas and balcony face south, there is a small window on the western side of the living room (highlighted in yellow). This window currently received sun from 1pm-3pm which will be reduced significantly under this proposal. Whilst the living room may not receive sun, bedrooms of that apartment will continue to receive sun until 3pm (highlighted in green).</p>	
<p>Unit 15</p>	<p>Balcony: The balcony Private Open Space (POS) of this unit runs along the full southern frontage. There is a small part of this POS which received sun from 1:30pm-3pm (highlighted in yellow). That solar access is all but removed from the apartment. It is not considered reasonable to maintain that small amount of sun.</p>	

Despite this additional overshadowing, the Overshadowing Study confirms that the development proposed in this subject application results in a 0% reduction in the number of apartments at Nos. 10-12 Ethel Street which receive at least 2 hours of solar access (as shown in the table in **Figure 19** below), which is compliant with Objective 3B-2 of the ADG.

	EXISTING	PROJECTED	CHANGE
>2 hrs 9-3 Living	8 / 18 = 44.4%	8 / 18 = 44.4%	0%
No sun	0 / 18 = 0%	0 / 18 = 0%	0%

Figure 19: Extract from the Overshadowing Analysis showing the overshadowing impact on Nos. 10-12 Ethel Street.

It is also noted that the issues raised in the submissions included loss of access to sunlight from residents at Nos. 10-12 Ethel Street (identified in the submission section of this report below).

The Overshadowing Study concludes the overshadowing to be reasonable given the apartment layouts and that there is still good amenity provided to those units at Nos. 10-12 Ethel Street.

The applicant has demonstrated that the development is carefully designed to maintain suitable solar access to the apartments of the adjoining properties. This is achieved by providing a break in the building at the centre of the site and increasing the side boundary setback from nil to 1.38m for part of the southern building.

ii. Potential Site Isolation

There is a general expectation that site amalgamation will occur for sites to develop to their highest and best use. Where amalgamation is not possible, it is the onus of the applicant to adequately address the potential for "*site isolation*" so that the remaining site (No. 6 Ethel Street) will not be unduly disadvantaged in terms of development potential. This is to include consideration of the principles established by the NSW Land and Environment Court in proceedings of *Melissa Grech vs. Auburn Council [2004] NSWLEC 40*.

It is Council's opinion that the applicant has addressed this requirement with regard to No. 6 Ethel Street.

Prior to the lodgement of this DA, the applicant made 2 offers to purchase the adjoining property to the west, No. 6 Ethel Street, which is 5.9m in width and is bound by the street on its northern, southern and western boundaries. The site has an area of 281.69m² and accommodates a 2 storey building with 2 retail spaces on the ground

floor and 2 residential apartments above. The rear portion of the site is used for car parking.

As summarised in the Application History section of this report above, Council has undertaken a detailed review of the DA documentation and agrees that reasonable efforts have been undertaken to engage with and contact the owners of No. 6 Ethel Street and to negotiate the purchase of the property at market value. It has been demonstrated that the owners of No. 6 Ethel Street are not interested in selling their properties.

The applicant also submitted a plan demonstrating the Future Potential Development of No. 6 Ethel Street, which is provided at **Attachment 5**. This plan proposes a suitable redevelopment of the site comprising the renovation of the existing ground level to retain 2 commercial units with at-grade parking retained at the rear of the site, renovation of the existing First Floor to retain 2 residential apartments, and the addition of 2 storeys accommodating a further 4 residential apartments. Council has reviewed these concept plans and agrees that the orderly and economic use and development of No. 6 Ethel Street can be achieved.

Therefore, the applicant has undertaken the necessary steps to address the potential site isolation of No. 6 Ethel Street.

Consideration of the proposal against the planning principles for site isolation is as follows:

Planning Principles for site isolation	Has the applicant addressed this principle?
<p><i>Grech:</i> Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an early stage and prior to the lodgement of the DA.</p>	<p>Yes.</p> <p>On 3 June 2020 the applicant sent letters to the 4 owners of No. 6 Ethel Street offering to purchase their units at market value (based on a valuation by Estate Valuations dated 20 May 2020).</p> <p>On 16 June 2020 the applicant sent letters to the 4 owners of No. 6 Ethel Street offering to purchase their units at market value plus 10%. No responses were received.</p> <p>On 24 September 2020 the applicant held a meeting with the 4 owners of No. 6 Ethel Street informing them of their intention to redevelop the subject site and their options to redevelop the sites separately, sell their units to the applicant or redevelop together.</p> <p>This DA was subsequently lodged on 18 June 2021.</p>
<p>Secondly, and where no satisfactory result is achieved from the</p>	<p>Yes.</p>

<p>negotiations, the development application should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the development application and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.</p>	<p>The documentation submitted with this DA demonstrate that negotiations with the owners of No. 6 Ethel Street were undertaken.</p> <p>The offers to purchase are considered to be reasonable offers (including other reasonable expenses) based on a valuation by Estate Valuations dated 20 May 2020.</p>
<p>Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or unreasonable, any relevant planning requirements and the provisions of s79C of the Act.</p>	<p>No. The applicant's efforts to negotiate the purchase No. 6 Ethel Street is considered to be sufficient, involving an in-person meeting held on 30 January 2020 with the 4 owners of No. 6 Ethel Street informing them of their intention to redevelop the subject site and their options to redevelop the sites separately, sell their units to the applicant or redevelop together, followed by 2 offers to purchase (the first offer was at market value and the second offer was increased by 10%).</p> <p>The owners of No. 6 Ethel Street have not entered into negotiations in response to the offers to purchase. In fact, Council has received a response from the owners of Units 1 and 4 that they do not wish to sell.</p> <p>Therefore, this is not considered to be a key issue in the assessment of this DA.</p>
<p><i>Cornerstone:</i> Can orderly and economic use and development of the separate site be achieved if amalgamation is not feasible?</p>	<p>Yes.</p> <p>The applicant submitted a plan demonstrating the Future Potential Development of No. 6 Ethel Street, which is provided at Attachment 5. This plan proposes a suitable redevelopment of the site comprising the renovation of the existing ground level to retain 2 commercial units with at-grade parking retained at the rear of the site, renovation of the existing First Floor to retain 2 residential apartments, and the addition of 2 storeys accommodating a further 4 residential apartments.</p> <p>Council has reviewed these concept plans and agrees that the orderly and economic use and development of No. 6 Ethel Street can be achieved.</p>

iii. Other matters

Also refer to further discussion below in response to issues raised in public submissions, with particular regard to setbacks and building separation, amenity, privacy, streetscape presentation, acoustic impacts and potential damage to neighbouring properties during works. It is considered that the likely impacts of the proposed development have been satisfactorily addressed.

In view of the above, the proposed development will not have any significant adverse environmental, social and economic impacts in the locality.

Subject to conditions, the proposal is unlikely to result in any adverse impacts on the streetscape, the character of the local area or surrounding properties. The development will not result in any significant or adverse visual privacy or overshadowing impacts on adjoining sites, and the visual appearance of the development from the public domain is consistent with the *Planning Ryde Local Strategic Planning Statement 2020* to encourage urban renewal for older buildings stock and diverse housing opportunities.

7. Suitability of the site for the development

The site is within the Eastwood Town Centre and is zoned B4 Mixed Use. The proposal is for the redevelopment of an existing apartment building to provide a commercial premises with a shopfront to Ethel Street and residential apartments above, which is consistent with the existing land uses on the adjoining sites. While the proposal does not meet the maximum height of buildings requirement. The applicant's clause 4.6 request to vary the height of buildings development standard is considered to meet the jurisdictional prerequisites to enable the consent authority to support the proposed departure from the development standard.

The proposal will deliver additional non-residential floor space (business or retail premises) and housing within the Eastwood Town Centre and in close proximity to the Railway Station which will support the development of a sustainable and connected Centre.

The assessment demonstrates the proposal will not result in any significant adverse impacts upon adjoining properties or the streetscape. The proposed demolition, excavation and construction of a mixed use development is therefore considered to be suitable for the site.

8. Submissions

In accordance with the Ryde Community Participation Plan, owners and occupants of surrounding properties were notified from 22 June 21 until 20 July 2021. In response, 14 submissions objecting to the development were received.

The submitters objected to the nil setbacks and insufficient building separation and resulting loss of amenity, sunlight and ventilation, poor streetscape presentation, and privacy issues for residents within the proposed building and neighbouring buildings.

Issues were raised regarding the nil rear setback causing a traffic hazard, traffic congestion, traffic conflict with waste collection vehicles, noise pollution, damage to the existing buildings on the adjoining properties from excavation and construction works, lack of geotechnical assessment of the site, the structural adequacy of the foundations, disruption to water mains, gas mains and power cables, and adverse construction impacts (noise, dust, debris and pedestrian safety).

Submitters also raised concern regarding excessive height and scale, insufficient site frontage, poor amenity for the proposed apartments, that the addition of more residents will worsen the current problem with littering, that the proposed 5 storey building is inconsistent with the 2 storey and 4 storey developments on either side and will create an inconsistent street character, and errors on the DA documentation.

Objection was raised from the perspective of Nos. 10-12 Ethel Street that the development would block 5 ventilation grates along their shared side boundary, and that fire access is blocked.

Objection was raised from the perspective of No. 6 Ethel Street that the proposal would restrict any future development at No. 6 Ethel Street.

In response to concerns raised by Council and the issues raised in the submissions, the applicant submitted amended plans and additional information. These amended plans were re-notified from 18 November to 16 December 2021. In response, 8 of the submitters who objected during the first notification objected to the amended proposal.

With consideration to the amended plans and additional information provided by the applicant, the issues raised and Council's response to each issue is provided below.

A. Nil setbacks and insufficient building separation and resulting loss of amenity; privacy, sunlight and ventilation; and poor streetscape presentation.

Comment: The proposed mixed use redevelopment is generally consistent with the development standards and controls relevant to this site as discussed above and in the detailed assessment against the Apartment Design Guide (ADG) and Ryde Development Control Plan (DCP) 2014 provided at **Attachment 3**. The proposal is considered to be a form of development which is compatible in this context and reflects the intended progression for urban renewal of older building stock in the Eastwood Town Centre.

As permitted by Part 2F Building Separation and Part 3F Visual Privacy of the ADG, no building separation is necessary where building types incorporate blank party walls, which typically occurs along a main street or at podium levels within centres, as is the case for this site. As viewed from the primary street (Ethel Street) the proposal is consistent with the nil boundary setbacks of the adjoining sites for the podium levels. This assists with creating an active street frontage for the ground level commercial premises and offering casual surveillance of the public domain from the apartments above. As directed by Part 4.1 Eastwood Town Centre of the Ryde DCP 2014, the upper levels of the building (third, fourth and fifth levels) are further setback from the

street boundary to reinforce the accepted streetscape characteristics of Eastwood from the pedestrian perspective.

As directed by the Urban Design Review Panel at the pre-lodgement stage of this application, the Panel suggested that the design be amended to a 2-part building with a centrally located courtyard to enable the adjacent balconies to benefit from an outlook. Following the lodgement of this application, the Panel also directed that the depth of the southern building should be shortened to better reflect the depth of adjoining buildings. These design changes (amongst others discussed above) are incorporated into the amended plans.

The amenity and privacy of the neighbouring properties is protected by orientating the windows and balconies of the proposed apartments towards the front and rear of the site, or directing views within the site (by providing a blank wall effect to the side boundaries and erecting privacy screens).

The impact on access to sunlight to the adjoining apartments is discussed in detail above. As demonstrated in the accompanying Overshadowing Study prepared by Walsh Analysis at **Attachment 4**, additional overshadowing of the adjoining sites is generated by the development. However, Nos. 10-12 Ethel Street currently achieves direct solar access to 44% of its apartments for at least 2 hours in mid-winter, and this level of solar access is retained as a result of this proposal.

The proposal building siting and setbacks do not obstruct the existing window and door openings of the adjoining properties. Therefore, the existing access to natural ventilation is retained as a result of this proposal.

The nil boundary setbacks to the majority of the proposed building is provided as a design response to parts of the adjoining development at Nos. 10-12 Ethel Street having some apartments which are orientated towards the shared boundary, as shown in **Figure 20** below. Whilst it is not possible to replicate the side setbacks at Nos. 10-12 Ethel Street due to the narrow dimensions of the subject site, the introduction of a space at the central part of the building allows for sunlight, ventilation and a sense of outlook to be retained for Unit 1 on the ground level and Unit 5 on Level 1.

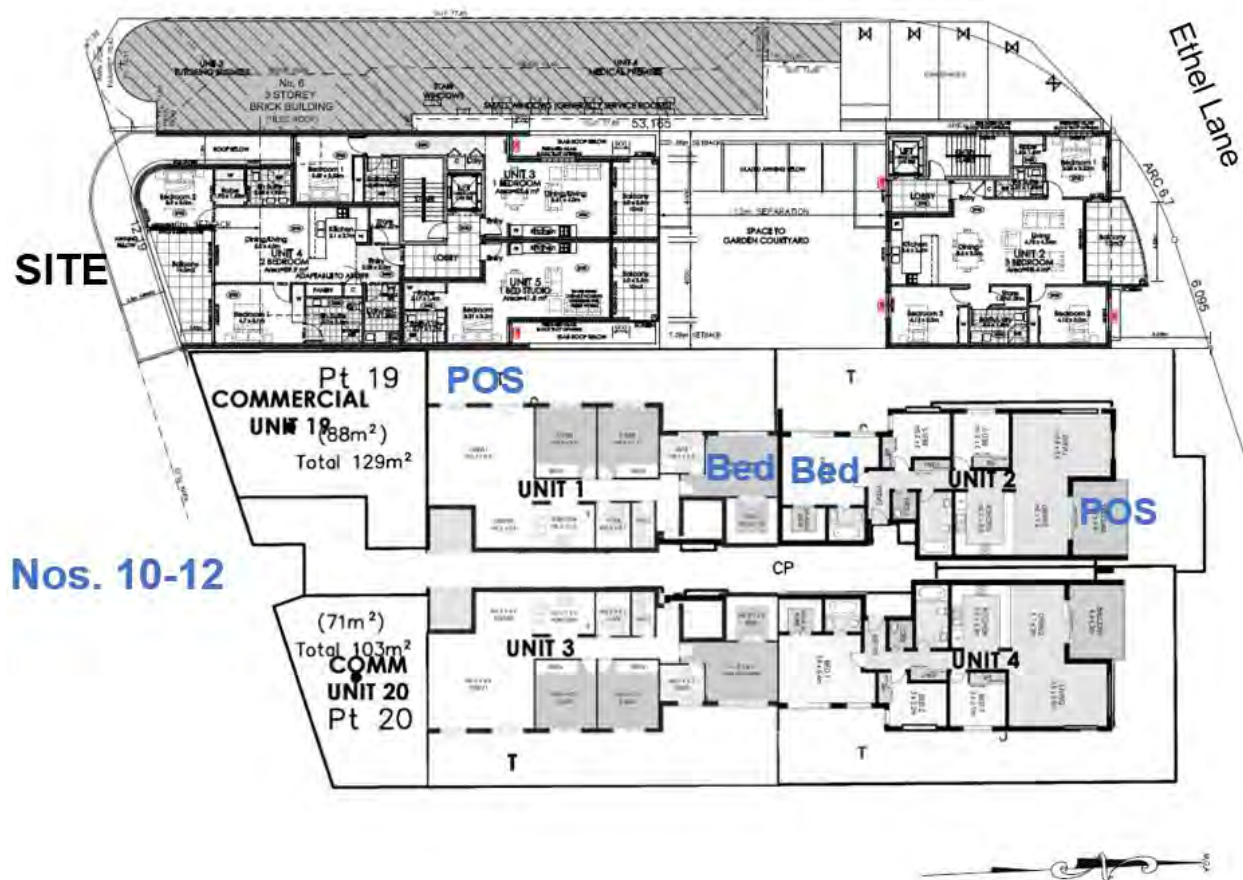


Figure 20: Extract from the First Floor Plan (top) and an indicative layout of the Ground Level of Nos. 10-12 Ethel Street. The main bedrooms of Units 1 and 2 (adjacent to the proposed central courtyard) are shown in blue. The primary private open space area which adjoins their living areas is also shown in blue.

B. Poor amenity for the proposed apartments.

Comment: The proposal has been reviewed in detail by the Urban Design Review Panel and Council’s assessment of the DA. In response to issues raised, the applicant submitted amended plans which improve the quality and amenity of the proposal, such as the addition of a communal rooftop terrace to ensure that residents have access to a communal open space area which receives a high level of sunlight; improving the layout and landscaping to the courtyard and providing access from Unit 1 to their adjoining courtyard area.

The proposal has been prepared with careful consideration to the design quality principles of SEPP No. 65 Design Quality of Residential Apartment Development and the Apartment Design Guide, as discussed in detail above.

The application demonstrates that suitable amenity will be afforded to the future occupants of this development.

C. Overshadowing and loss of sunlight to windows and balconies.

Comment: Detailed consideration of the loss of solar access and supporting Overshadowing Study is discussed in the Likely Impact section of this report above. The applicant has demonstrated that the development is carefully designed to maintain suitable solar access to the apartments of the adjoining properties.

D. The shadow diagrams incorrectly reference the number of hours that apartments on adjoining sites receive direct sunlight.

Comment: The application is supported by a detailed analysis of a 3D model of the proposed development and verification of solar access and overshadowing in the accompanying Overshadowing Study prepared by Walsh Analysis which is provided at **Attachment 4**.

E. Loss of the skyline view

Comment: The subject site currently features at-grade car parking at the rear of the site which enables occupants of the neighbouring apartments to overlook the site. (This relates to Units 1 and 5 only, as these are the only units which are orientated to the shared side boundary. The remainder of the apartments are orientated to the front or rear of the site).

At the rear portion of the subject site, the proposed development is for the construction of a carpark level and 4 levels of apartments above. The break at the central portion of the building enables sightlines to be retained across the subject site. Therefore, part of the outlook from Nos. 10-12 Ethel Street are retained as shown in **Figure 21** below.

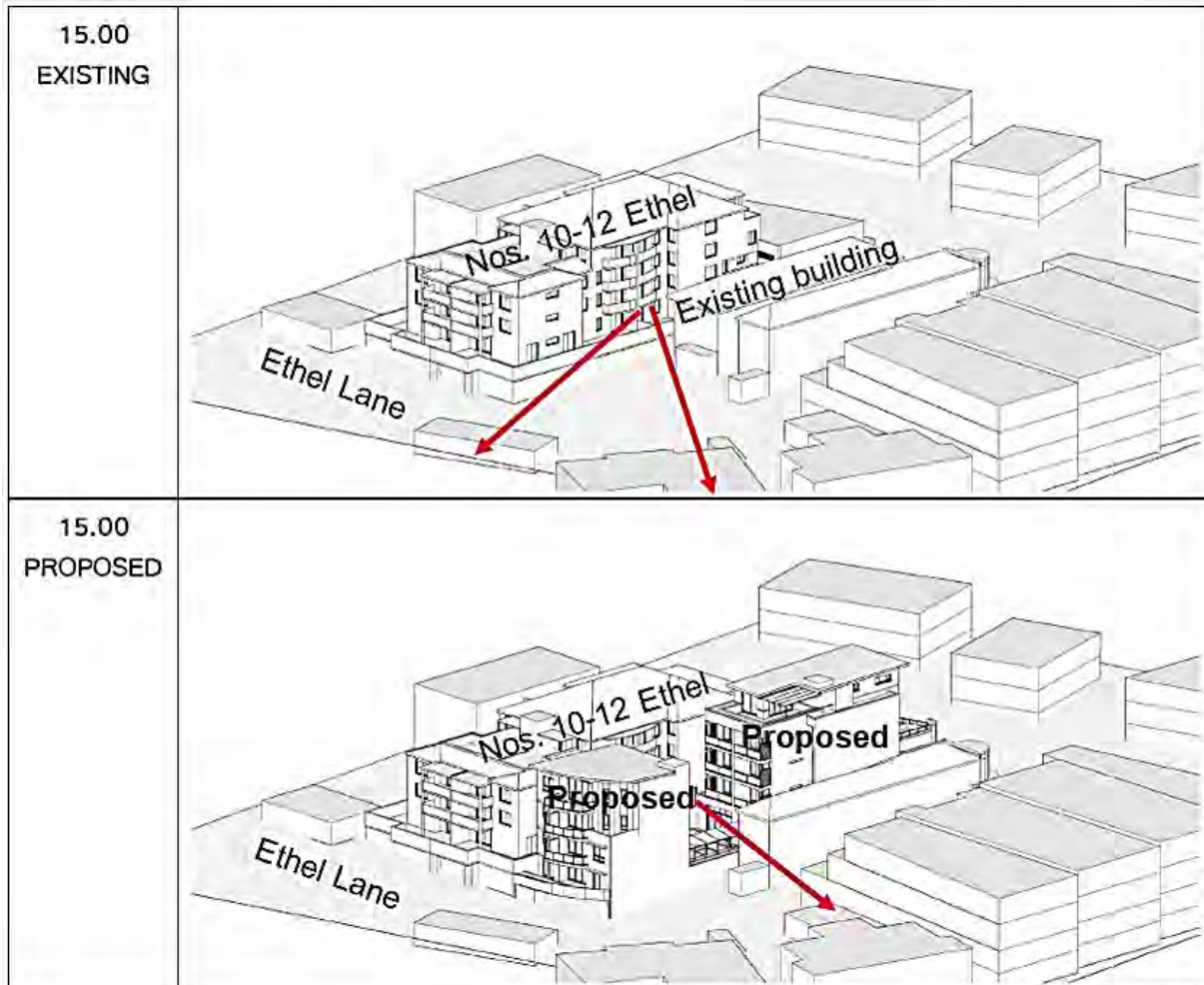


Figure 21: Extract from the Overshadowing Study showing the views from the sun at 3pm. The current views from Nos. 10-12 Ethel Street are shown in the top image. The bottom image shows the views that are obstructed by the northern building element of the proposed development.

F. Insufficient site frontage.

Comment: The width of the site is 12.19m. There are no development controls which limit the permissibility of a mixed use development on this site based on site frontage/width. The applicant has offered to purchase the adjoining site at No. 6 Ethel Street in an attempt to achieve a larger development site. However, these offers to purchase were not accepted. Despite the narrow width of the site, the applicant has demonstrated an appropriate design response for a commercial and residential development in the context of the Eastwood Town Centre.

G. Excessive height and scale. The proposed 5 storey building is inconsistent with the 2 storey and 4 storey developments on either side and will create an inconsistent street character

Comment: The proposed 5 storey mixed use development is considered to be representative of the building height and scale anticipated by the relevant development

standards and controls. The streetscape character of the proposed development as viewed from the primary frontage (Ethel Street) presents as a 5 storey building which satisfies the maximum permitted height of buildings permitted under the Ryde LEP 2014 of 15.5m (the portion of the roofline which exceeds the height is not visible). The podium levels address Ethel Street and the upper levels are further setback from the street boundary to reinforce the accepted streetscape characteristics of Eastwood from the pedestrian perspective as directed by Part 4.1 Eastwood Town Centre of the Ryde DCP 2014. This proposal is also consistent with the vision of the Eastwood Town Centre Structure Plan; including encouraging urban renewal for older buildings stocks.

Overall, the distinct and contemporary architecture assists in setting a high quality standard for the transitioning character of this locality and creates a desirable streetscape.

H. Residents/visitors using the central communal open space will impact on the privacy of existing apartments.

Comment: The communal open space (COS) areas comprise the ground level common room, ground level central courtyard and the terrace on the rooftop of the southern building. Consideration of the acoustic impacts of the COS areas is provided below.

As shown in **Figure 22** below, the residents at Nos. 10-12 Ethel Street retain their visual privacy due to the existing boundary wall screening direct views from residents/visitors using the courtyard on the subject site.

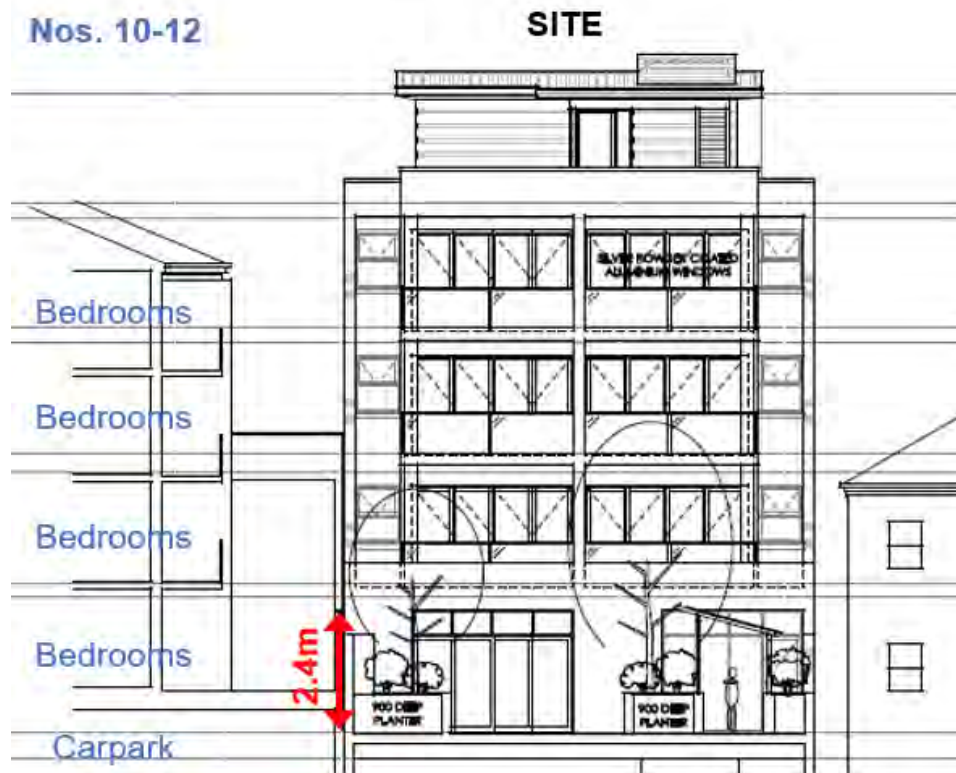


Figure 22: Extract from the North Elevation Section Plan showing the apartments adjoining the site to the east (left, being Nos. 10-12 Ethel Street) which comprise bedrooms and bedroom balconies at this location, and the existing parapet boundary wall (in red) which is a height of 2.4m above the level of the proposed courtyard.

I. Noise pollution.

Comment: It is recommended that conditions are imposed requiring the demolition, excavation and construction works to be undertaken in accordance with the standard hours permitted, being between 7am and 7pm Monday to Friday (other than public holidays) and between 8am and 4pm on Saturday. No building activities are to be carried out at any time on a Sunday or a public holiday (**Condition 8**).

With regard to the impact on the surrounding residents as a result of the occupation of the development, suitable noise attenuation measures are incorporated into the design, as detailed in the accompanying Acoustic Report prepared by Vipac. This includes appropriate treatment to floors, walls/facades, ceilings/roof, window glazing, frames and seals, doors, mechanical plant services and risers. In addition to these measures, the development is designed in a manner which avoids sound being directed towards the adjoining apartments by creating a blank wall treatment to the side boundaries, including semi-enclosing the sides of balconies and installing screens.

It is also noted that the central courtyard is overlooked by the bedroom windows of some apartments at Nos. 10-12 Ethel Street. This central courtyard is designed as a passive recreation space which is bordered by landscaping. It is recommended that a condition is imposed limiting the hours of use of this space from 7am to 9pm daily (**Condition 141**).

The amended proposal introduced a terrace on the rooftop of the southern building, which is a more suitable space to cater for active uses. It is recommended that the BBQ is relocated to this location from the ground level (**Condition 1**).

J. The boundary retaining structures which will be up to 7m below ground level for an extensive length of the side boundaries and are at risk of damaging the adjoining properties. The shoring system should be verified by a suitably qualified structural and geotechnical engineer. Underground structural anchors are not permitted to be installed into Nos. 10-12 Ethel Street. A structural engineering report should verify that the development comprises basement walls which are sufficient in width to accommodate wall piling works that do not encroach into adjoining properties. The applicant should also consider the type and size of machinery to be used and confirm there is clearance from the No. 6 Ethel Street wall to safely operate machinery. The applicant should be required to provide a dilapidation report and rectification proposal report.

Comment: The extent of excavation proposed for the length of the site and ranges from 3.4m (at the southern boundary) to 6.9m (at the northern boundary) as shown in **Figures 23 and 24** below.

The proposed parking levels will require excavation of the site and construction of the basement and associated foundations and supporting structures. This is a common construction approach. However, protection of the adjoining properties as a result of these works is an important consideration.

The applicant has accepted this request and advises that at the construction design phase of the development, the construction certificate documentation will be accompanied by an expert geotechnical consultant report which implements the structural/geotechnical design requirements.

Conditions of consent are recommended to be imposed with regard to demolition, excavation and construction methodologies, certification from a suitably qualified geotechnical engineer with regard to excavation and the basement structure, certification of the proposed building by a suitably qualified structural engineer, pre and post dilapidation reports (to identify any damage caused by works) (see **Conditions 33, 61, 74, 113 & 136**) and a requirement for all works to be undertaken to be within the property boundaries (see **Conditions 11, 23, 77 & 91**).

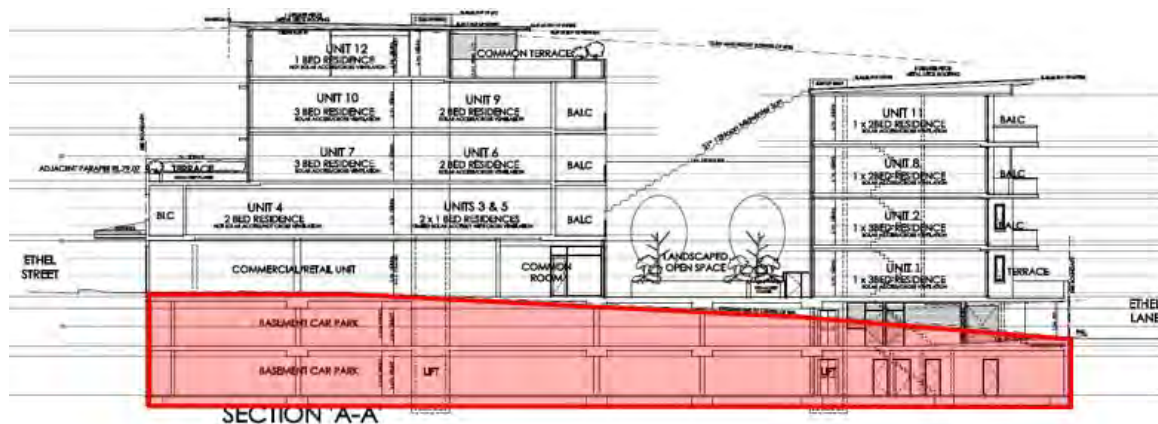


Figure 23: Extract from the Section A-A plan showing the extent of excavation proposed to enable the construction of the basement levels (shaded in red).

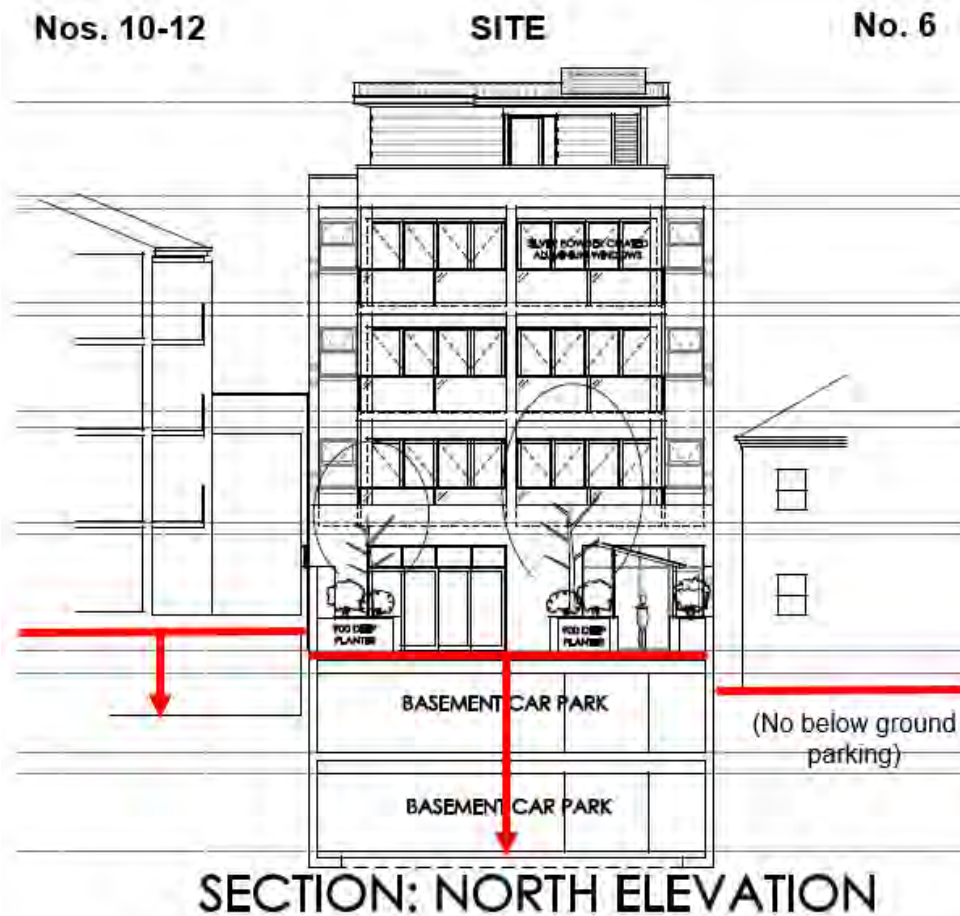


Figure 24: Extract from Section Plan A-A taken along the central courtyard and looking south. The site and adjoining properties slope downwards towards the west.
The ground planes are shown by the red line.
The depth of the parking levels are shown by the red arrows.

K. Disruption to water mains, gas mains and power cables.

Comment: The applicant has provided a copy of early advice from Ausgrid dated 8 February 2021 advising that the redevelopment of this site does not require a substation. This is indicative that the existing power cables and electrical supply to the area is capable of being continued.

However, Council's Public Domain section has reviewed the proposal and requires all of the existing overhead services to be relocated underground. This is required because the site falls within the undergrounding zone as specified by the Eastwood Public Domain Technical Manual.

The proposal will utilise and augment (where necessary) the existing water, gas and power connections in accordance with the requirements of the service providers (see **Condition 16**).

L. Adverse construction impacts (noise, dust, debris and pedestrian safety).

Comment: Standard conditions of consent are recommended to be imposed to ensure that a detailed Construction Management Plan is prepared and implemented by the applicant at all times during work to protect surrounding persons and property (see **Condition 20**).

M. Traffic congestion.

Comment: Council's Traffic and Development Engineer has undertaken a detailed review of the potential traffic implications of the proposed development below. In summary, the proposed development is estimated to generate up to 14 weekday peak hour vehicle trips to and from the site, being 1 vehicle trip every 4 minutes. Ethel Lane currently accommodates two-way traffic flow in the order of 30 vehicle movements. The additional traffic generated by the proposed development is not expected to alter the current operational performance of the surrounding road to any significant extent.

N. Nil rear setback causing a traffic hazard.

Comment: The applicant submitted amended plans which increase the setback to the rear boundary to improve sightlines of vehicles entering and exiting the site, as addressed in the comments provided by Council's Traffic section below.

O. Traffic conflict with waste collection vehicles

Comment: Waste collection for the site and surrounding properties is carried out along Ethel Lane (at the rear of the site). This includes some properties where the bins are permanently stored along Ethel Lane. The proposal is for bins to be stored within the basement level and presented along Ethel Lane for pick-up. This is consistent with the current bin collection procedure for the site and surrounding properties.

In response to concerns raised by Council's Senior Resource Recovery Advisor, the applicant submitted amended plans comprising bins with a capacity of 240 litres (not 660 litres), an access path for bins to be presented for collection which meets Work Health and Safety (WHS) requirements and clarifying that the bins will be presented for collection in a location which is clear of the driveway and neighbouring properties for collection in a manner which will not impede traffic flow.

Council's Senior Resource Recovery Advisor supports the amended proposal, subject to conditions of consent which include signage and line marking restricting parking along the northern side of Ethel Lane between 5am and 11am on Wednesday and Public Holidays to ensure unimpeded access is available for Council's 11m long waste vehicle to undertake kerbside collection on waste collection days.

P. Insufficient parking to service the development.

Comment: The proposal provides 13 resident car parking spaces, 2 resident visitor spaces and 6 commercial parking spaces which is consistent with the range of car

parking rates permitted under the Ryde DCP 2014. In fact, the proposal provides a surplus of 2 resident car parking spaces above the minimum rate. The site is located within the Eastwood Town Centre with ease of access to shops, services and public transport. Therefore, sufficient on-site parking is provided to service the needs of this development.

Q. Insufficient width of the site and resulting non-compliances with the relevant Australian Standards regarding the dimensions of the aisles and parking spaces.

Comment: The applicant has confirmed that the proposed layout and geometry of the parking and access on the basement and lower basement levels has been verified to be consistent with the relevant Australian Standards by their traffic consultant, Stanbury Traffic Planning. Due to the constraints of the site, including a narrow width of only 11.5m, the proposal features a vehicle hoist to provide access to the resident parking spaces on the lower basement level and turning bays as there is insufficient space to accommodate a ramp. The proposal has been reviewed by Council's Senior Development Engineer and no objection is raised (see below).

R. Objection was raised from the perspective of Nos. 10-12 Ethel Street that the development would block 5 ventilation grates along their shared side boundary

Comment: The existing mixed use development at Nos. 10-12 Ethel Street comprises a ground floor car parking level that extends to the side boundaries. Towards the rear of this site there are five grates along the shared boundary, as shown in **Figure 25** below. The proposed development may impact on the ventilation and possible fire safety of the property at 10-12 Ethel Street.

A search of the Strata Plan for 8 Ethel Street has revealed that there is no easement on the title of the land that provides for the right for ventilation over the subject site.

As there is no registered easement which requires these louvres to remain unobstructed, this situation should not burden the proposed development.

The use of louvres for ventilation bordering an adjoining allotment is not permitted by either the Building Code of Australia or the relevant Australian Standard (AS1668.2-2012). The only mechanism to lawfully permit the retention of the louvres would be the establishment of an easement or similar encumbrance upon the subject site for the benefit of the adjoining site.

A condition of consent will be imposed to require this development to comply with the BCA.

It is noted that the basement of Nos. 10-12 Ethel Street also comprises 3 significantly sized ventilation grates to the rear of the site. Should the neighbouring properties fire safety (including ventilation system and fire separation) be detrimentally impacted, it would be possible for 10-12 Ethel Street to investigate an improved/additional ventilation system which legally directs air from their site. Alternatively, Council could issue a Fire Safety Order requiring any non-compliance to be upgraded accordingly.



Figure 25: Photo provided by a submitter taken from within the at-grade car park of Nos. 10-12 Ethel Street showing 5 grates along the boundary shared with the subject site.

S. Fire access is blocked to Nos. 10-12 Ethel Street.

Comment: The subject site currently comprises a pathway along the side boundaries. This pathway provides access for the current occupants of this site and does not serve as a fire access to neighbouring properties. This pathway is removed in this application. However, smoke detectors and fire emergency procedures will be in place for the proposed development and are already in place for the adjoining properties (which does not include evacuation routes via neighbouring properties).

T. Objection was raised from the perspective of No. 6 Ethel Street that the proposal would restrict any future development at No. 6 Ethel Street.

Comment: In response to this concern from the adjoining property to the west, the applicant submitted a plan demonstrating the Future Potential Development of No. 6 Ethel Street, which is provided at **Attachment 5**. This plan proposes a suitable redevelopment of the site comprising the renovation of the existing ground level to retain 2 commercial units with at-grade parking retained at the rear of the site, renovation of the existing first floor to retain 2 residential apartments, and the addition of 2 storeys accommodating a further 4 residential apartments.

The applicant also made 2 offers of purchase to the 4 owners at No. 6 Ethel Street, which were declined. The applicant has undertaken the necessary steps to address the potential site isolation of No. 6 Ethel Street.

U. Safety and security is lacking as intruders can gain access via the subject site to neighbouring apartments.

Comment: The proposal has been designed in accordance with the principles of Crime Prevention through Environmental Design (CPTED) and includes consideration of the adjoining properties in the design by treating the boundaries with blank walls or boundary fencing to the common courtyard. As requested by the Crime Prevention

officer of the NSW Police (and also discussed below), the development is also required to install CCTV security at the entrance to the building and within the car park areas, including the entrance and egress points.

V. The addition of more residents will worsen the current problem with littering.

Comment: The proposed development will improve casual surveillance of the public domain which will assist with deterring people from littering in the immediate area. The proposal comprises appropriate waste storage and collection to ensure that any waste generated by the site is appropriately disposed of.

W. Errors on the DA documentation.

Comment: The amended submission provided by the applicant corrected any potential errors or misinformation. With regard to the survey information for the adjoining properties, the applicant's surveyor has verified that the survey is based on structures and features visible from the street and the information included is correct.

9. The Public Interest

The public interest is best serviced by the consistent application of the requirements of the relevant environmental planning instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised.

Although the proposal seeks to vary to maximum height of buildings development standard, the applicant's Clause 4.6 justification establishes satisfactory environmental planning grounds for the variation, and approval of the variation is consistent with the objectives of the development standard and the B4 Mixed Use zone.

The proposal has been assessed against the relevant planning instruments and is considered to be acceptable. The proposed mixed use development does not significantly or unreasonably affect surrounding sites and is consistent with the development envisaged by the level of development afforded to the site.

The proposal is in line with the urban renewal anticipated for this site to provide a commercial premises which activates the street frontage and residential apartments above which reinforces the availability of diverse housing opportunities in the Eastwood Town Centre.

The overall design of the proposed development offers a high quality development outcome which is in the public interest.

The issues raised in the submissions do not warrant the refusal of the DA.

On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

10. Referrals

10.1 Internal Referrals

City Works – Traffic: Council's Traffic Engineer has provided the following comments in respect of the development.

External Traffic Implications: The proposed development has been estimated to generate up to 14 peak hour vehicle trips to and from the site based on pertinent traffic generation rates specified within the Transport for NSW (TfNSW) Guide to Traffic Generating Developments and its updated surveys (TDT2013/04a). The traffic study indicates that Ethel Lane currently accommodates two-way traffic flow in the order of around 30 vehicle movements during weekday peak hour periods. It is acknowledged that whilst these traffic surveys were undertaken in the midst of COVID-19 restrictions, the identified traffic demands are similar to the pre-COVID survey results contained within the 2019 Traffic and Transport Study for the Eastwood Town Centre.

The additional traffic generated by the proposed development, which represents 1 vehicle trip every 4 minutes is not expected to alter the current operational performance of the surrounding road network is not anticipated to alter the existing traffic conditions within the laneway to any significant extent.

Sight Distance Considerations: The curvature within Ethel Lane to the immediate west of the site restricts the sight distance of a vehicle exiting from the site with respect to identifying an approaching vehicle from Ethel Lane from the west. The default speed limit for Ethel Lane is 50km/h. The addendum traffic statement prepared by Stanbury Traffic Planning dated 5 August 2021 indicates that a maximum travel speed of 20km/h was observed for drivers approaching the site from the west via Ethel Lane. The reduced speed (20k/h) being less than the default speed limit of 50km/h is due to the following reasons:

- 1. The curvature of Ethel Lane to the west of the site;*
- 2. The narrow width of Ethel Lane (in particular the north/south oriented section of Ethel Lane to the west of the site which is too narrow to accommodate two-way traffic); and*
- 3. Access and egress movements to and from the existing driveways servicing existing properties along Ethel Lane to the west of the site.*

*Clause 3.2.4(a) and Figure 3.2 of Australian Standard (AS) 2890.1 does not specify a minimum stopping sight distance requirement (SSD) for speeds of less than 40km/h. In this regard, an extrapolation of the data provided in Figure 3.2 of AS2890.1 has estimated that a SSD of around 15m to 20m would be required for an approaching vehicle travelling at 20km/h, as shown in **Figure 26** below.*



Figure 26: Figure 3.2 of AS2890.1 showing the extrapolated stopping distance of 15-20m for vehicles travelling less than 40km/h.

The addendum Traffic Statement prepared by Stanbury Traffic Planning and dated 5 August 2021 provides a sight distance diagram which demonstrates that a sight distance of 17m is achieved for a driver exiting from the future driveway (at the north-eastern corner of the site) and approaching traffic within Ethel Lane from the west as shown in **Figure 27** below.

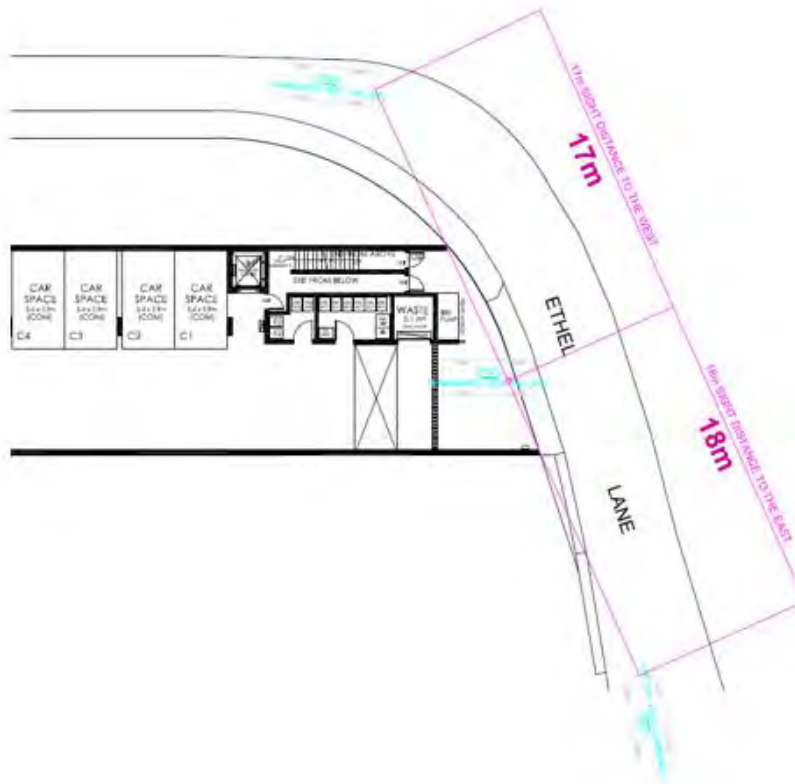


Figure 27: Extract from the accompanying addendum Traffic Statement showing that a sight distance of 17m is achieved for a driver exiting from the proposed driveway and approaching traffic within Ethel Lane from the west.

In addition, the driveway is proposed to be located as far away from the bend as possible to maximise the available sight distance for a vehicle exiting the site. Based on these factors, the safety risk to traffic entering and exiting via Ethel Lane is considered to be minor and does not warrant refusal for the development.

Council's Transport section has no objection to the proposal, subject to conditions of consent (**Conditions 19-23 and 122-123**).

City Works – Public Domain: Council's Civil and Compliance Engineer supports the proposal, subject to conditions of consent which include public domain works as follows:

- Undergrounding of all overhead services.
- Upgrade the existing footway to provide full width granite paving in raven black colour with header course paving at the back of kerb and along the boundary line.
- Planting of Jacaranda *mimosifolia* street trees along the Ethel Street frontage.
- Installation of Multi function poles along the Ethel Street frontage in accordance with the Eastwood Street Lighting Schema.
- Under the DCP, half road pavement and full depth reconstruction can be enforced on both the Ethel Street and Ethel Lane. This condition is required to be imposed, and is subject to Council inspection at the completion of works in order to achieve the most efficient outcome and address the most dilapidated aspects of the road pavement servicing the site.

City Works – Waste: Council's Senior Resource Recovery Advisor supports the proposal, subject to conditions of consent which include signage and line marking restricting parking along the northern side of Ethel Lane between 5am and 11am on Wednesdays and Public Holidays to ensure unimpeded access is available for Council's 11m long waste vehicle to undertake kerbside collection on waste collection days. See **Condition 122**.

Senior Development Engineer: Council's Senior Development Engineer supports the proposal, subject to conditions of consent.

The Stormwater Plans are required to be marked in red to ensure that the stormwater inspection pipes are provided on either side of the building to allow access to the pipe for maintenance and repair works; and relocation of the pump-out system to ensure that access to the riser is convenient and efficient.

The proposed vehicle hoist and waiting bay arrangement is supported.

The Ryde DCP 2014 requires 3 resident visitor spaces to be provided. Two are provided, being a shortfall of 1 space. As discussed above, such an arrangement is deemed satisfactory as the site is within a short walking distance (approximately 100m walking from Ethel Street frontage) to Eastwood Train Station and various bus routes, thereby increasing the propensity that visitors utilise public transport when accessing the site.

Landscape Architecture: Council's Landscape Architect supports the proposal, subject to conditions of consent.

It is noted that Council's Urban Design Officer recommended that the artificial turf area at the ground level is replaced with natural grass. Council's Landscape Architect states that artificial grass is preferred as this central courtyard receives limited sunlight.

Urban Design: As explained in the Application History section above, the proposal was considered by the Urban Design Review Panel (UDRP) at the pre-lodgement stage and following the lodgement of the DA. The applicant submitted amended plans in response to the issues raised by the UDRP. As recommended by the UDRP, the amended proposal was reviewed by Council's internal Urban Designer. The issues raised were addressed in amended plans submitted by the applicant. Further detailed comments are provided in the SEPP 65 Assessment section above.

From an urban design perspective, the amended proposal is considered satisfactory, and no further review is necessary.

10.2 External Referrals

NSW Police: The Crime Prevention Officer from the Ryde Local Area Command has reviewed the proposal and does not have any objection to the application and is satisfied with the Crime Prevention through Environmental Design (CPTED) principles included within the proposal. It is recommended that CCTV is installed at the entrance to the building and within the car park areas, including the entrance and egress points. See **Conditions 52 & 162**.

11. Conclusion

The proposed development has been assessed against all relevant matters and is considered satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is not contrary to the public interest. The site is considered suitable for the proposed development, subject to conditions.

Therefore, it is recommended that the application be approved for the following reasons:

1. The proposed mixed use development and strata subdivision is consistent with the objectives of the relevant provisions of the Ryde Local Environmental Plan (LEP) 2014 and Ryde Development Control Plan (DCP) 2014, with minimal environmental impacts.
2. The proposal results in an appropriate scale of development for the site and generally complies with the relevant provisions of the applicable planning controls.
3. The applicant's Clause 4.6 written request to vary the maximum height of buildings development standard in Clauses 4.3 of the Ryde LEP 2014 is acceptable as the proposal still meets the objectives of the zone, provides commercial space and

residential dwelling in a Town Centre environment and is compatible with the amenity and character of the area. Compliance with this development standard is unreasonable or unnecessary in the circumstances of this specific proposal. There are sufficient environmental planning grounds to justify contravening the development standard.

4. The proposed development does not create unreasonable environmental impacts to existing adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy impacts.
5. The issues raised in the submission do not warrant the refusal of the Development Application and have been addressed in the Assessment report.
6. The proposed development is consistent with the desired future character in the Eastwood Town Centre and will have minimal impact to adjoining properties.
7. The proposal is not contrary to the public interest.
8. The site is considered suitable for the proposed development.

12. Recommendation

- A. That the Ryde Local Planning Panel accepts that the Clause 4.6 written request to vary the height standard (Clause 4.3) in Ryde Local Environmental Plan 2014 has adequately addressed the matters in subclause (4) and would not be contrary to the public interest as it is consistent with the objectives of the development standard in Clause 4.3 and the objectives of the B4 Mixed Use Zone of Ryde Local Environmental Plan 2014.
- B. That the Ryde Local Planning Panel, as the consent authority, grant consent to LDA2021/0204 for demolition of the existing building, construction of a 5 storey mixed use development comprising a ground floor commercial tenancy, 12 residential apartments and 2 levels of basement carparking and strata subdivision (13 lots) at 8 Ethel Street, Eastwood, subject to the recommended conditions in **Attachment 4**.
- C. That the objectors be advised of the decision.

ATTACHMENTS

1. Proposed plans
2. Clause 4.6 written request to vary Clause 4.3(2) maximum height of buildings
3. Compliance Table ADG and Ryde DCP
4. Solar Analysis Report
5. Future Potential Redevelopment of No. 6 Ethel Street
6. Draft conditions of consent

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**A CLAUSE 4.6 VARIATION TO
CLAUSE 4.3 (2) (HEIGHT OF BUILDING) UNDER
RYDE LOCAL ENVIRONMENTAL PLAN 2014
(RLEP 2014)**

8 ETHEL STREET EASTWOOD

25th April 2022

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Section 1 Background

- The site is zoned **B4 Mixed Use** under the Ryde Local Environmental Plan 2014 (**RLEP 2014**) where a residential flat building and commercial uses are permissible with consent in the form of a mixed use development.
- The relevant *development standard* subject of the variation request is the **15.5m** maximum height control under **clause 4.3(2) of RLEP 2014**.
- Clause 4.6(2) confirms that environmental planning instruments (EPIs) are subject to the provisions of Clause 4.6.
- Clause 4.6(8) does not exclude a variation to the provisions of the **15.5m** maximum height *development standard*.
- This written variation forms part of the written material to be considered by the Consent authority in determining the subject development application.

Section 2 Introduction

- This is a written request to vary **Clause 4.3(2)** of the RLEP 2014 being the **15.5m** maximum height *development standard*.
- The variation request is made under **Clause 4.6** of RLEP 2014.
- The subject application proposes a maximum variation to height of **1.17m** measured to the top of the lift overrun.
- This Clause 4.6 variation supports the development application made to Ryde Council.
- Height is a *development standard* for the purposes of the *EP&A Act 1979* as it prescribes a numerical value to an aspect of the permitted development (see Justice McClellans decision in *Georgakis v North Sydney Council* [2004] NSWLEC 123)
- This request to vary the Clause 4.3 of RLEP 2014 has regard to the judgments in:
 - a. *InitialAction Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (“InitialAction”)
 - b. *Wehbe v Pittwater Council* [2007] NSWLEC 827 at [42] (“Wehbe”)
 - c. *SJD DB2 Pty Ltd v Woollahra Council* [2020] NSWLEC 1112 (*SJD DB2*).
- The objective of Clause 4.6(1)(a) is to provide an ‘*appropriate degree of flexibility in applying certain development standards to particular development*’. The intent is ‘*to achieve better outcomes for and from development by allowing flexibility in particular circumstances*’ in accordance with Clause 4.6 1(b).
- The extent of the discretion available to the consent authority is unfettered (see *SJD DB2*) and therefore a variation can be granted to the height variation articulated in Section 3 of this written request.
- The variation in part facilitates the provision of roof top communal spaces which in turn satisfies the ADG objectives and improves intra site amenity for residents
- The relevant plans relied upon are those identified as the plans prepared by Momentum Architects, dated April 2022.

Section 3 Development Standard to be Varied

The relevant *development standard* to be varied is the **15.5m** maximum height control under Clause 4.3(2) of RLEP 2014. Clause 4.3 of the RLEP 2014 relevantly provides:

- (1) *The objectives of this clause are as follows—*
- (a) *to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
 - (b) *to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*
 - (c) *to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*
 - (d) *to minimise the impact of development on the amenity of surrounding properties,*
 - (e) *to emphasise road frontages along road corridors.*

The relevant height of buildings map is identified below:

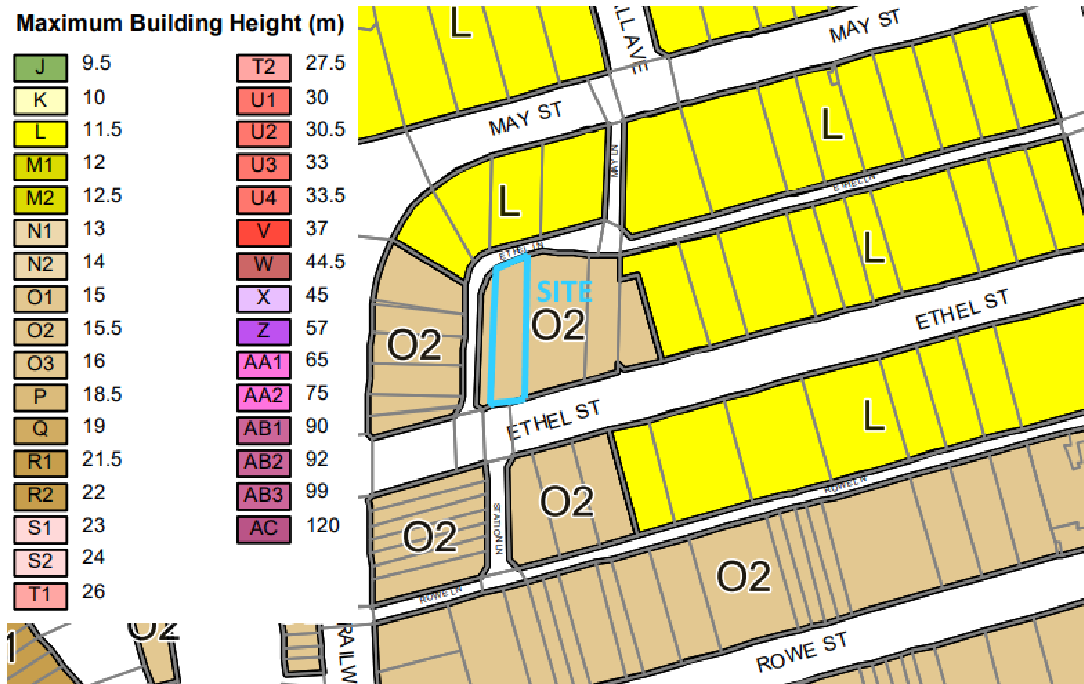


Fig A – HOB Map Ryde LEP 2014 (Height of Buildings Map 002)

The site is subject to a maximum building height of **15.5m**

Section 4 Nature of Variation Sought

The development exceeds the maximum height limit by **1.17m** as measured to the top of the lift overrun as shown in Figures B - D below:

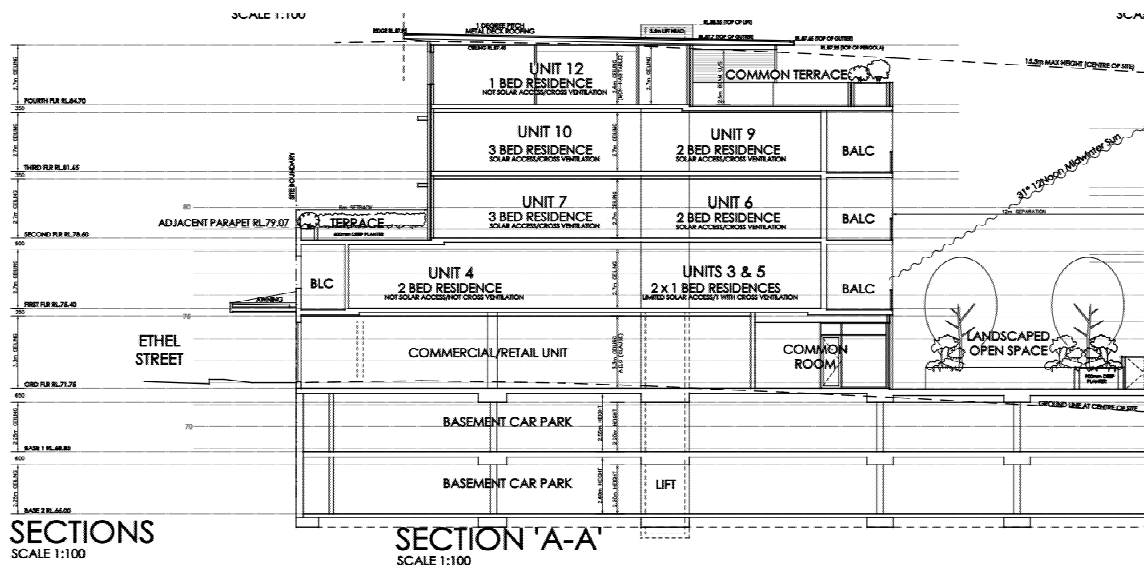


Fig B: Height variation of 1.17m for the lift overrun

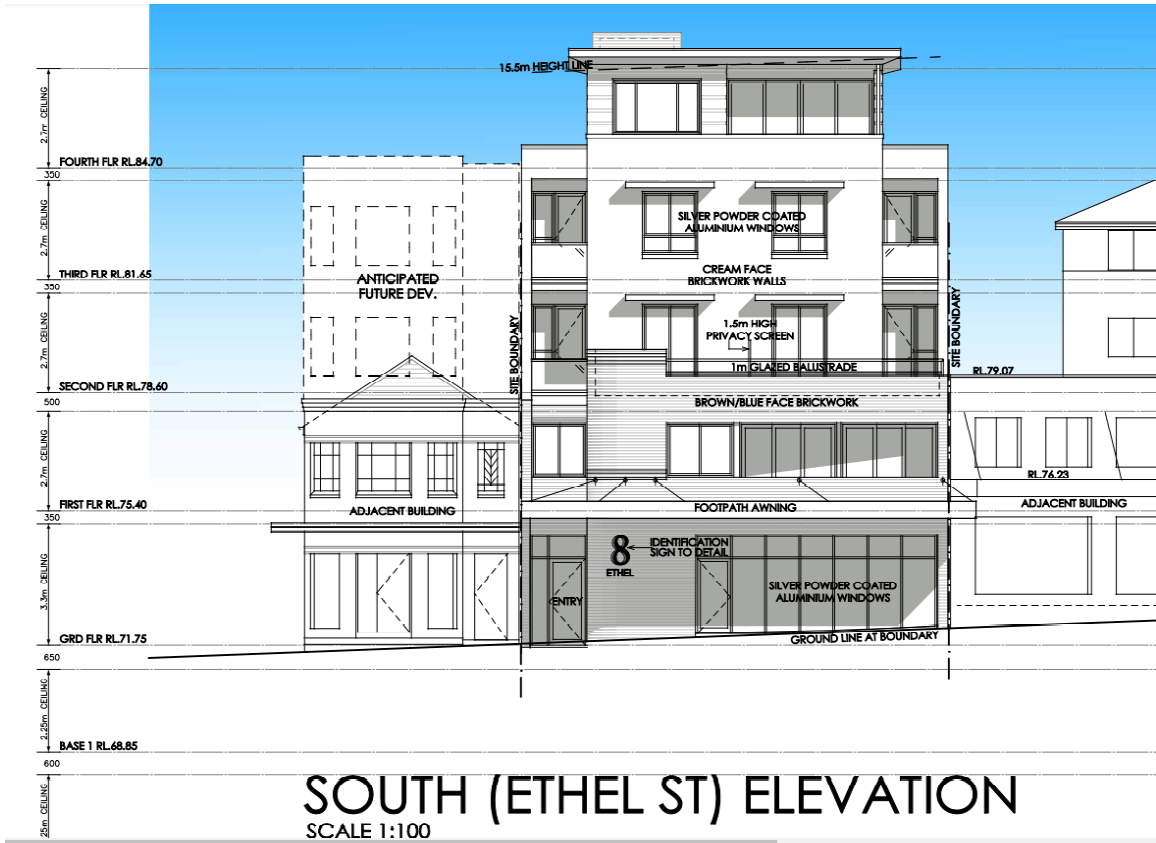


Fig C: Height variation of 1.17m for the lift overrun (South Elevation)

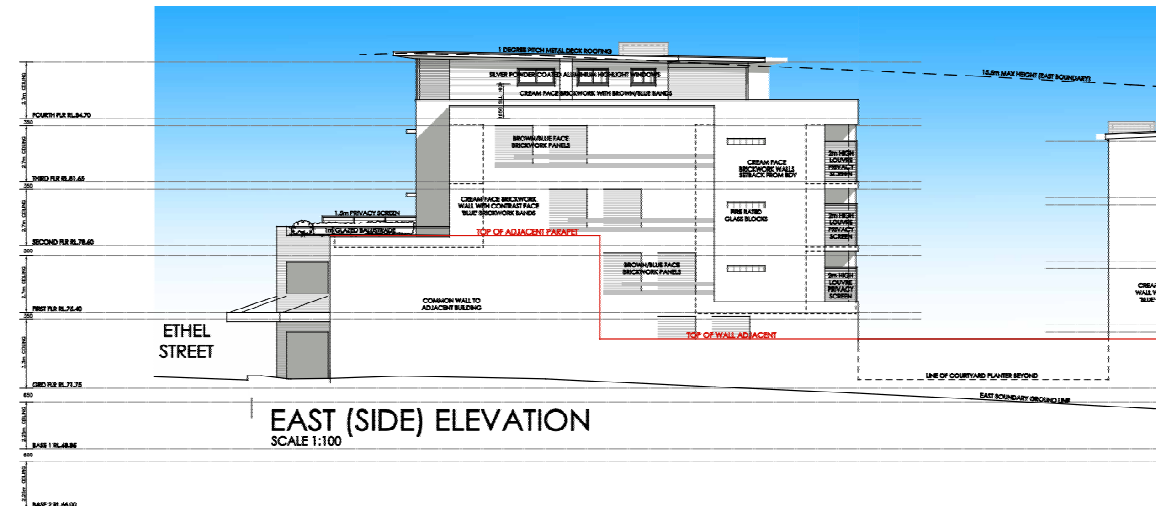


Fig D: Height variation of 1.17m for the lift overrun (Eastern Elevation)

Section 5 Clause 4.3 Height - Development Standard

A *development standard* is defined in S 1.4 of the *Environmental Planning and Assessment Act 1979* (“EPA Act”) to mean:

"provisions of an environmental planning instrument or the regulations in relation to the carrying out of development, being provisions by or under which requirements are specified or standards are fixed in respect of any aspect of that development, including, but without limiting the generality of the foregoing, requirements or standards in respect of:

- (a) the area, shape or frontage of any land, the dimensions of any land, buildings or works, or the distance of any land, building or work from any specified point,*
- (b) the proportion or percentage of the area of a site which a building or work may occupy,*
- (c) the character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of a building or work,*
- (d) the cubic content or floor space of a building,*
- (e) the intensity or density of the use of any land, building or work,*
- (f) the provision of public access, open space, landscaped space, tree planting or other treatment for the conservation, protection or enhancement of the environment,*
- (g) the provision of facilities for the standing, movement, parking, servicing, manoeuvring, loading or unloading of vehicles,*
- (h) the volume, nature and type of traffic generated by the development,*
- (i) road patterns,*
- (j) drainage,*
- (k) the carrying out of earthworks,*
- (l) the effects of development on patterns of wind, sunlight, daylight or shadows,*
- (m) the provision of services, facilities and amenities demanded by development,*
- (n) the emission of pollution and means for its prevention or control or mitigation, and*
- (o) such other matters as may be prescribed.” (our emphasis)*

The **15.5m** maximum height standard is a *development standard* as defined under the *EP&A Act 1979*.

Section 6 Clause 4.6 of Ryde Local Environmental Plan 2014 (RLEP 2014)

Clause 4.6 of the **RLEP 2014** provides a legal pathway by which an applicant can vary a *development standard*. Clause 4.6 of **RLEP 2014** relevantly provides as follows:

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 Planning Secretary has been obtained.*

(5) *In deciding whether to grant concurrence, the Planning Secretary must consider—*

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

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

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

(6) *Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if—*

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

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

Note—

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

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

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

(a) *a development standard for complying development,*

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

(c) *clause 5.4,*

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

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

(cc) *clause 6.9.*

Response to Clause 4.6 of RLEP 2014

The following provides a response to the Clause 4.6 provisions:

1. We deal with **Clause 4.6 (1)(a) and (b)** below:

1) *The objectives of this clause are as follows—*

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

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

The purpose of Clause 4.6 of **RLEP 2014** is to provide flexibility in the application of development standards (see SJD DB2).

The purpose of Clause 4.6 is confirmed in SJD DB2 Pty Ltd v Woollahra Council [2020] NSWLEC 1112 (SJD DB2). Justification within this written request (see **Sections 7 – 9**) demonstrates that an appropriate degree of flexibility should be applied to this particular application notwithstanding the **height variation** articulated in **Section 4** of this written request.

The justification also demonstrates that better outcomes can be achieved by applications that stand outside controls as in this particular case.

A full list of the environmental planning grounds justifying the variation is provided in **Section 8** of this written request.

2. In summary **clause 4.6(2)** is addressed and satisfied because:
 - a. Clause 4.6(2) requires the control to be a *development standard*.
 - b. The **15.5m** height control is a *development standard* as it relates to the height of a building and therefore is capable of being varied by a written request.
 - c. The provisions of Clause 4.3 of **RLEP 2014** are not expressly excluded under Clause 4.6(8) of the **RLEP 2014**.
3. **Clause 4.6 (3)** requires the making of a written request to justify the contravention of a *development standard* and states as follows:

“(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.”

The proposed development does not comply with the **15.5metre** maximum height control under **Clause 4.3** of the RLEP 2014.

Strict compliance with the **15.5m** height *development standard* is considered to be unreasonable and unnecessary in the circumstances of this case as justified in this written request.

The relevant justification dealing with **Clause 4.6 (3)(a)** criteria is contained in **Section 7** of this written variation request.

This written variation demonstrates that strict compliance is unreasonable and unnecessary in the circumstances of this case and sufficient environmental planning grounds exist to justify contravening the development standard as detailed in **Section 8** of this written request.

Clause 4.6(4) provides that consent must not be granted for development that contravenes a *development standard* unless the consent authority is satisfied as to:

Clause 4.6(4)(a)(i)(ii). Clause 4.6(4)(a)(i)(ii) relevantly provides:

“(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 Planning Secretary has been obtained.”

Sections below of this written variation request address the matters required under cl 4.6(4)(a) and cl 4.6(4)(b) of the RLEP 2014. **Section 9** addresses 4.6(4) (a) and (b) criteria.

4. **Clause 4.6(5)** provides that:

“(5) In deciding whether to grant concurrence, the Planning Secretary must consider—
(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
(b) the public benefit of maintaining the development standard, and
(c) any other matters required to be taken into consideration by the Planning Secretary before granting concurrence.”

Section 10 below in this written variation request addresses the matters required under Clause 4.6(5) of the RLEP 2014.

Clauses 4.6(6) and (8) are not relevant to the proposed development and cl 4.6(7) is an administrative clause requiring the consent authority to keep a record of its assessment under this clause after determining a development application.

5. **Clause 4.6(a)(b)** is not relevant to this application
6. **Clause 4.6 (7)** is a matter for the consent authority
7. **Clause 4.6(8)** confirms that the **15.5m** maximum height control is not a matter excluded from clause 4.6.

Section 7 Compliance is Unreasonable or Unnecessary - Clause 4.6(3)(a)

In dealing with the “unreasonable and unnecessary” we refer to Preston CJ where he identifies and validates at least 5 arguments available to an applicant in *Wehbe v Pittwater Council* which can be adopted in dealing with the *unreasonable and unnecessary* test under **Cl. 4.6(3)(a)**.

Preston CJ concluded as follows:

*“As to the first matter required by cl 4.6(3)(a), I summarised the common ways in which an applicant might demonstrate that compliance with a development standard is unreasonable or unnecessary in *Wehbe v Pittwater Council* at [42]-[51]. Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”*

*‘An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the **objectives of the development standard are achieved notwithstanding non-compliance with the standard**’(our emphasis)*

The first way identified in *Wehbe* to justify this written variation (as set out at 42 of the judgment):

“42 An objection under SEPP 1 may be well founded and be consistent with the aims set out in clause 3 of the Policy in a variety of ways. The most commonly invoked way is to establish that compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard”

This written **15.5m** height variation request relies upon the first way demonstrating that compliance is *unreasonable and unnecessary* as the objectives of the development standard are achieved notwithstanding a variation with the development standard.

Clause 4.3 of the RLEP 2014 provides express objectives of the *development standard*.

Clause 4.3 of RLEP 2014 relevantly provides:

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*
- (c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*
- (d) to minimise the impact of development on the amenity of surrounding properties,*
- (e) to emphasise road frontages along road corridors.*

Notwithstanding the proposed non-compliance it is deemed that the overall height and form of the development is consistent with the objectives of the particular standard in that;

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

The 5 storey form is consistent with that of the neighbouring development at 12 Ethel Street and is envisaged by the height development standard for level sites with flat roofs. The subject site has a varied natural ground level which falls by 2.7m from the south east corner to the north west at Ethel Lane which contributes to the design challenges. Due to the varying natural topography, a five storey form with any degree of roof pitch will present minor breaches to the maximum height limit. The roof form and the overall scale of the proposed development offers a reasonable level of transition and interface to adjoining properties, particularly that of 6 Ethel Street to the west which may ultimately be redeveloped to achieve commensurate scale and height.

The proposed height and overall bulk and scale of the development does not result in excessive or unreasonable overshadowing, privacy or obstruction of views given its location, siting, design and orientation. Only the upper most sections of the fifth storey wall and proposed metal deck roof to the front building occupying the southern part of the site exceeds the maximum height limit. This breach is minor and on average extends between 300mm and 800mm above the height line. The highest extent of the non-compliance relates to the lift head overrun at 1.17m which cannot be viewed from either street frontage as it is positioned in the centre of the development. The podium height or parapet height fronting Ethel Street is compatible with the established heights as well as being appropriate for the future heights envisaged by the RLEP. Based on the above the proposal reasonably satisfies the objective (a).

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

The additional building height does not exacerbate adverse impacts to privacy, solar access or overshadowing to neighbouring residential dwellings, inappropriate building form or appearance within the streetscape or loss of views. The application is supported by shadow diagrams confirming adequate solar access having regard to the sites opportunities and constraints. As detailed in this written variation the podium height and overall urban design response was prepared with the assistance of Smith Tzannes to ensure the built form is appropriate for the site and its locational context. The podium or base of the building responds to current and future built form. Overall the built form enhances streetscape. Based on the aforementioned objective (b) is satisfied.

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

There is no potential to amalgamate the site with the corner site as applicants attempts to purchase the adjoining site have not been successful. The applicant has demonstrated that a reasonable form of development can be achieved on the corner site if redeveloped in the future. If the site remains in its present state then the relationships in scale are acceptable given that the proposal establishes a street edge height that is commensurate with the existing corner site. Smith Tzannes assisted with the design of the building to ensure that the scheme provided a positive dialogue with the existing built form but would also provide built form and scale envisaged by the RLEP 2014. The site is located in proximity to public transport and therefore redevelopment of the site should not be sterilised as this would be a lost opportunity to achieve the strategic planning imperatives for Eastwood. Based on the aforementioned objective (c) is satisfied

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

The extent of the height breach will not be discernible from the streetscape given the form of the roof structure and central, setback position of the lift head. The additional height will not result in any significant additional overshadowing, privacy or solar access impacts to neighbouring properties with that of an otherwise fully compliant height. Strict application of the height standard to this element of the building is considered unreasonable and unnecessary and a variation to the height standard is therefore considered worthy of support. Based on the aforementioned objective (d) is satisfied.

(e) to emphasise road frontages along road corridors.

The proposal creates a built form edge to the site that complements the existing development. The design and particularly the height was established in conjunction with Smith Tzannes so that the proposal relates to the existing and future built form and specifically the height of the podium/base. The site is not within a corridor however the principles have been satisfied and the proposal is considered acceptable.

Summary – Compliance with the Development is Unreasonable and unnecessary

The following summary is provided demonstrating strict compliance is unreasonable and unnecessary in the circumstances of this case:

- the overall height is compatible with the desired future scale and character in the precinct which is in transition having not as yet reached its development potential established under the current planning controls.
- Variation occurs, in part, as a result of needing to increase floor levels to accommodate 300mm freeboard above the 100 year ARI level.
- the development incorporates a roof form which appropriately transitions from the site and street boundaries so as to mitigate impacts of bulk and scale and overshadowing to the adjoining residential properties;
- the roof form and the overall scale of the proposed development offers a reasonable level of transition and interface to adjoining properties, particularly that of 6 Ethel Street to the west which may ultimately be redeveloped to achieve commensurate scale and height;
- the proposed height and overall bulk and scale of the development does not result in excessive or unreasonable overshadowing, privacy or obstruction of views given its location, siting, design and orientation.
- The building height breaches are observed to the uppermost sections of the fifth level wall and proposed metal deck roof over the building occupying the southern part of the site. These breaches are very minor and on average extend between 300mm and 800mm above the height line. The highest extent of the non-compliance relates to the lift head overrun at 1.17m which cannot be viewed from either street frontage as it is positioned in the centre of the development.
- The 5-storey form is consistent with that of the neighbouring development at 12 Ethel Street and is envisaged by the height development standard for level sites with flat roofs. The subject site has a varied natural ground level which falls by 2.7m from the south east corner to the north west at Ethel Lane which contributes to the design challenges. Due to the varying natural topography, a five storey form with any degree of roof pitch will present minor breaches to the maximum height limit.
- The additional building height does not exacerbate adverse impacts to privacy, solar access or overshadowing to neighbouring residential dwellings, inappropriate building form or appearance within the streetscape or loss of views.
- Demonstrates consistency and general compliance with all other provisions, standards and controls in the relevant environmental planning instruments and DCPs.
- Provides a high standard of urban renewal having positive environmental, social and economic impacts for the locality. Lost opportunity to provide GFA without any corresponding adverse impact
- The proposed variation is acceptable as per DPIE's guidelines and relevant case law. The extent of the variation is minor in that it represents a 7.5% departure (or breach) in respect of the overall height at its highest point above the natural ground level and the maximum breach cited is for the lift overrun being a very minor component.
- Similar breaches to the building height standards have been sought and supported by Council in the following recent examples:
 - LDA2018/0017 – 744 Victoria Road, 2A & 2-4 Eagle Street Ryde: 55%,
 - LDA2019/0228 – 10 Linsley Street, Gladesville: 15.2% variation.

Section 8 Sufficient Environmental Planning Grounds – Clause 4.6(3)(b)

Clause 4.6 (3)(b) prescribes the following:

*“(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.”*

The proposal whilst exceeding the height development standard provides an appropriate planning outcome based on the provision of:

- The variation enables the provision of roof top communal space which improves the available amenity to the future residents of the building
- Provision of rooftop communal space achieves ADG objectives which supports the use of roof top spaces
- The variation enables disabled access to the roof top communal areas
- The overall height is compatible with the desired future scale and character in the precinct which is in transition having not as yet reached its development potential established under the current planning controls.
- Variation occurs, in part, as a result of needing to increase floor levels to accommodate 300mm freeboard above the 100 year ARI level.
- the development incorporates a roof form which appropriately transitions from the site and street boundaries so as to mitigate impacts of bulk and scale and overshadowing to the adjoining residential properties;
- the roof form and the overall scale of the proposed development offers a reasonable level of transition and interface to adjoining properties, particularly that of 6 Ethel Street to the west which may ultimately be redeveloped to achieve commensurate scale and height;
- the proposed height and overall bulk and scale of the development does not result in excessive or unreasonable overshadowing, privacy or obstruction of views given its location, siting, design and orientation.
- The breaches relate to very minor portions of the upper parts of the fifth storey wall and roof to the front building which on average extends between 300mm and 800mm above the height line. The highest extent of the non-compliance relates to the lift head overrun at 1.17m which cannot be viewed from either street frontage as it is positioned in the centre of the development site.
- The 5 storey form is consistent with that of the neighbouring development at 12 Ethel Street and is envisaged by the height development standard for level sites with flat roofs. The subject site has a varied natural ground level which falls by 2.7m from the south east corner to the north west at Ethel Lane which contributes to the design challenges. Due to the varying natural topography, a five storey form with any degree of roof pitch will present minor breaches to the maximum height limit.
- The additional building height does not exacerbate adverse impacts to privacy, solar access or overshadowing to neighbouring residential dwellings, inappropriate building form or appearance within the streetscape or loss of views.
- Demonstrates consistency and general compliance with all other provisions, standards and controls in the relevant environmental planning instruments and DCPs.

- Provides a high standard of urban renewal having positive environmental, social and economic impacts for the locality.

The additional height contained within the roof form of the front building does not create the appearance of an unreasonable streetscape element. The proposal provides a consistent setback and alignment to the upper three floors ensuring a compatible streetscape presentation.

In the majority, the extent of the non-compliant upper level external walls and roof area typically represents an exceedance of between 300mm – 800mm with the **1.17m** maximum breach being identified as the highest point above the natural ground level to the lift head overrun.

In this circumstance, the extent of the breach will not be discernible from the streetscape or from adjoining properties and does not present as visually obtrusive or inconsistent with the desirable development form on this site.

Having regard to the above justification there are sufficient environmental planning grounds to warrant a variation of the height control on this site.

Clause 1.3 Objects of the EP and Act 1979

In explaining the sufficient environmental planning grounds referred to in cl 4.6 Preston CJ in Initial Action considers that it is available to the applicant to also deal with the Objectives of the Act under S1.3 when considering a Clause 4.6 variation. Clause 1.3 of the EP and A Act 1979 relevantly provides:

“1.3 Objects of Act

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment. (emphasis added)*

The proposal accepting the height variation described in section 3 reasonably satisfies the objectives of under S1.3 EP&A Act 1979. The plans by Momentum Architects, dated April 2022 satisfies the objectives in bold given that:

- The development achieves the zone objectives which increases the supply of housing for the community. Increased density and use of land specifically targeted for transport

orientated development makes best use of land currently serviced by the existing infrastructure. Adaptive use of existing serviced residential lands reduces environmental impact and use of resources;

- The variation enables access and provision of roof top communal space which improves the available amenity to the future residents of the building
- Provision of rooftop communal space achieves ADG objectives which support the use of rooftop spaces
- The variation enables disabled access to the roof top communal areas
- Appropriate urban design response based on the proposed street edge height;
- The proposed land uses are permissible under the RLEP 2014;
- The proposal represents an economically viable development of the site, that is both capable and suitable for the site, when assessed on a merit-based assessment under the s4.15 heads of the consideration of the *EP&A Act 1979*.
- The development offers better and proper management of the States land resources by providing a more efficient use of private land on a large land holdings in proximity to transport.
- The urban design outcomes of the development, incorporating the upper level provides an appropriate urban design outcome and “fit” in the locality.
- The additional height enables the architect to optimise the layout and design of the building so that it can better achieve the strategic planning imperatives and TOD initiatives without any unacceptable amenity impacts to neighbouring properties.

Based on the above there are sufficient environmental planning grounds to warrant the variation.

Notwithstanding the above Preston CJ clarified in *Micaul and Initial Action*, that sufficient environmental planning grounds may also include demonstrating a lack of adverse amenity impacts. In this case, these include:

- Compliant solar access provided to the future occupants as well as the adjoining properties. The areas where the height variations occur do not directly lead to any significant adverse impact.
- The level of privacy loss (views gained from internal areas of Unit 12) are not significant and no greater generally than the impact associated with a compliant development.

Section 9 Matters for Consideration - Clause 4.6(4)(a)(i)(ii)

The relevant provisions under clause 4.6(4)(a)(i) and (ii) are provided below:

*“(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”*

The relevant provisions of clause 4.6(4) are addressed below:

Clause 4.6(4)(a)(i)

The written request addresses the relevant matters set out in clause 4.6 (3).

Provision of Clause 4.6	Addressed in Written Request Report
<i>(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written</i>	Yes - Section 7 and 8

<i>request from the applicant that seeks to justify the contravention of the development standard by demonstrating:</i>	
<i>(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and</i>	Yes - Section 7
<i>(b) that there are sufficient environmental planning grounds to justify contravening the development standard.</i>	Yes - Section 8

Clause 4.6(4)(a)(ii)

The proposed development will be in the public interest because it is consistent with the objectives of the **15.5m** height control development standard and the objectives for development within the **B4 Mixed Use** zone. In this section “Consistency” means “not antipathetic to” rather than the higher threshold of “promotes” or “is compatible” with the objectives.

Clause 4.6(4)(a)(ii) requires a two part test. Each part is addressed within the written request as specified below.

In the first instance Clause 4.6(4)(a)(ii) requires an investigation into the objectives of the standard and this is provided at **Section 7** thus satisfying Clause 4.6(4)(a)(ii).

A review of the Zone Objectives confirms that sufficient environmental planning grounds exist to support the height variation given that the objectives are satisfied.

An enquiry is made below in relation to the ability of the proposal to ‘*be in the public interest*’, notwithstanding the variation, because it is able to reasonably satisfy the stated objectives of the **B4 Mixed Use**.

The zone objectives are as follows:

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

The objectives are addressed below:

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

The proposed development satisfies the stated objectives of the B4 Mixed Use zone. The proposal provides a mixed use development which is predominantly residential in nature that is compatible with surrounding land uses and general character of the area. The proposal successfully integrates residential apartments with commercial GFA at the ground floor which will activate the street frontage and also encourage walking and

cycling. Modest opportunities are provided for employment particularly given proximity to transport nodes.

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

Proposal provides additional density that achieves transport orientated development (TOD) planning objectives. The site is well placed to take advantage of public transport. Additional density will support growth of retail and commercial pursuits. The objective is achieved.

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

Proposal does not offend the stated objective.

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

Proposal does not offend the objective.

Section 10 Other Matters for Consideration

Step 4- Clause 4.6(4)(b) – The Concurrence of the Secretary has been obtained

On 21 February 2018, the Secretary of the Department of Planning and Environment issued a Notice ('the Notice') under cl. 64 of the *Environmental Planning and Assessment Regulation 2000* (the EP&A Regulation) providing that consent authorities may assume the Secretary's concurrence for exceptions to development standards for applications made under cl. 4.6 of the RLEP.

The Court has power to grant development consent to the proposed development even though it contravenes Clause 4.3 of the RLEP 2014 without obtaining or assuming the concurrence of the Secretary by reason of s39(6) of the *Land and Environment Court Act 1979* (the Court Act).

Clause 4.6(5) - Concurrence Considerations

In the event that concurrence cannot be assumed pursuant to the Notice, cl. 4.6(5) of the RLEP provides that in deciding whether to grant concurrence, the Secretary must consider:

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

The proposed contravention of the development standard has been considered in light of cl. 4.6(5) as follows:

- The proposed non-compliance does not raise any matter of significance for State or regional environmental planning as it is peculiar to the design of the proposed development for this particular site.

It is not directly transferrable to any other site in the immediate locality, wider region or the State and the scale of the proposed development does not trigger any requirement for a higher level of assessment;

- As indicated in **Sections 7 – 9**, the proposed contravention of the development standard is considered to be in the public interest because it is consistent with the objectives of the B4 Mixed Use zone and the objectives of the 15.5m maximum height standard.

The proposed development contravenes **Clause 4.3** of the **RLEP 2014** being a development standard and height is not excluded from the application of **clause 4.6 of RLEP 2014**.

This written request to vary the development standard has been prepared in accordance with **cl 4.6 of the RLEP 2014** and demonstrates that strict compliance with the development standard is unreasonable and unnecessary for the following reasons:

- Notwithstanding the contravention of the development standard, the proposed development is consistent with the relevant aims and objectives of the RLEP 2014 and is not antipathetic to the stated objectives of the B4 Mixed Use zone and therefore, the proposed development is in the public interest;
- Notwithstanding the proposed height variation of 1.17m as articulated in **Section 3** the proposed mixed use building will not result in adverse environmental harm in that the existing and future amenity of neighbouring properties will be reasonably maintained and the built form will complement the established streetscape within in Ethel Street and Ethel Lane;
- The variation enables provision of communal open space

In addition, this written request outlines sufficient environmental planning grounds to justify the contravention of the development standard.



Andrew Martin MPlA
Planning Consultant

ASSESSMENT AGAINST ADG & DCP

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

The SEPP requires consideration of the Apartment Design Guide (ADG) which supports the 9 design quality principles by giving greater detail as to how those principles might be achieved. The tables below provide Council’s comments regarding the 9 quality design principles and address the relevant matters with particular regard to the measurable requirements set out in the Design Criteria.

Design Quality Principles

Principle	Control	Comment
Design quality principles		
The development satisfies the 9 design quality principles.		
1. Context & neighbourhood character	<p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area’s existing or future character. Well designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The site is located in the north-east sector of the Eastwood Town Centre and is surrounded by a mix of uses with varied bulk, scale and styles.</p> <p>A mixed use development adjoins the site to the east consisting of ground floor shops and a 2 storey street wall and a 4 storey residential wing to the rear. The ground floor podium consists of at-grade car parking which extends to the boundaries and is accessed via Ethel Lane at the rear. The façade shared with the subject site consists of car park ventilation grills. The mid portion of the building consists of balconies and windows to residential apartments.</p> <p>A mixed use development adjoins the site to the west consisting of 2 retail tenancies on the ground level and 2 residential apartments above. This narrow site features at-grade parking at the side/rear.</p> <p>The redevelopment of the subject site is considered to be highly constrained due to its width and buildings on the adjoining sites. Council and the UDRP strongly encourage the amalgamation of the site and No. 6 Ethel Street.</p> <p>Note: The applicant has demonstrated that they have satisfied the ‘site isolation’ planning principles (refer to discussion below).</p> <p>The proposal, as amended, demonstrates that it is responsive to the site and surrounds and contributes</p>

		<p>to the existing and desired future character of this immediate locality.</p> <p>The building has been architecturally designed and is considered to support the progression of the identity of Eastwood.</p>
2. Built form & scale	<p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The built form, height and scale of the proposed development has been resolved by a thorough evaluation of the site's surrounding context, topography and environmental characteristics, with an emphasis on amenity for surrounding and future residents.</p> <p>The site planning comprises a centrally located courtyard with building elements to the front and rear of the site with views directed to the front and rear.</p> <p>The public domain is activated by the front window of a commercial space and casual surveillance from the apartments above.</p> <p>The overall scale is a positive contribution to the existing and future character of this area.</p>
3. Density	<p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The proposed 12 apartments achieve a high level of design quality and are an appropriate development outcome for this site.</p> <p>The proposed density is capable of being sustained as the site is well serviced by infrastructure, public transport, shops, facilities and public open space.</p> <p>Consistent with the Greater Sydney Regional Plan, the proposal creates the opportunity to place residents within 30 minutes of their jobs as the site is conveniently located in the Eastwood Town Centre.</p>
4. Sustainability	<p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for</p>	<p>The proposal utilises sustainable design techniques to achieve natural cross ventilation and access to sunlight to support the amenity of occupants.</p> <p>The accompanying BASIX Certificate demonstrates that the targets for sustainability are achieved through the efficient use of energy and water resources which are incorporated into the design of the building.</p> <p>The proposal demonstrates appropriate waste management during the demolition, construction and ongoing use phases.</p>

	groundwater recharge and vegetation.	
5. Landscape	<p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>The proposed building is complemented by site landscaping elements which are of a high quality design and are capable of being sustained and maintained.</p> <p>The proposed landscaping will complement the presentation of the built form as viewed from the public domain and will enhance the amenity of the private and common open space areas.</p>
6. Amenity	<p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>The design of the proposal is considered to provide a suitable level of amenity through a carefully considered spatial arrangement and layout.</p> <p>In light of the future occupants within the site, as well as the surrounding properties, the proposal achieves a suitable level of internal amenity through providing appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas.</p> <p>The lobbies in the southern building do not have access to light and air. However, this is a constrained site and each lobby services only 2 apartments per floor.</p> <p>Movement throughout the building is suitably available and accessible for the commercial occupants, residents and visitors.</p>
7. Safety	Good design optimises safety and security within the	With regard to Crime Prevention Through Environmental Design

	<p>development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>(CPTED) guidelines, the applicant states that:</p> <p>The development incorporates the use of sensor lighting, security pedestrian and vehicular access via roller door to basement. Security alarm system and swipe access to be installed. Balconies and upper level terraces located to provide passive surveillance to street and laneway as well as the internal courtyard area.</p> <p>The proposed design is considered to satisfactorily incorporate the CTPED design principles of natural surveillance, access control, territorial enforcement and space management. The proposal reflects good design that optimises safety and security.</p> <p>The proposal is considered to be satisfactory in terms of future residential occupants overlooking communal spaces while maintaining internal privacy.</p> <p>The development enhances resident and public safety through its built form, opportunities for surveillance and active use at the ground level.</p>
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<p>8. Housing diversity & social interaction</p>	<p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The proposed apartment mix caters to the anticipated market and demographic demand in the area.</p> <p>The communal open space areas within the site are easily accessible by residents and provides opportunities residents and visitors to socialise.</p>
<p>9. Aesthetics</p>	<p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The proposed development is considered to be appropriate in terms of the composition of building elements, textures, materials, finishes and colours, and reflects the use, internal design and structure of the resultant buildings.</p> <p>The distinct and contemporary architecture assists in setting a high quality standard for the transitioning character of this locality and creates a desirable streetscape.</p>

Compliance with the Apartment Design Guide (ADG)

ADG Requirement	Proposal	Compliance	
Controls			
<p>2F Building Separation</p>	<p>Up to 4 storeys/12 m: 12 m between habitable rooms/balconies 9 m between habitable rooms/balconies and non-habitable rooms 6 m between non-habitable rooms</p> <p>Further consideration is setting building separation controls: No building separation is necessary where building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within centres.</p>	<p>Within the site: 12m building separation is provided between the north and south building elements.</p> <p>To the adjoining sites: No building separation. However, the Ground Level and Levels 1, 2 and 3 are treated as podium levels within the Eastwood Town Centre. A blank party wall is permitted.</p>	<p>Yes</p> <p>Yes</p>
<p>5 to 8 storeys/up to 25 m:</p>	<p>Within the site:</p>	<p>Yes</p>	

ADG Requirement		Proposal	Compliance
	<p>18 m between habitable rooms/balconies</p> <p>12 m between habitable rooms/balconies and non-habitable rooms</p> <p>9 m between non-habitable rooms</p>	<p>12m building separation is provided between the north and south building elements.</p> <p>To the adjoining sites (southern building element only):</p> <p>Level 4 is setback 1.37m to 1.78m to the western boundary. A blank wall effect is proposed, with the exception of 1 highlight window.</p> <p>Level 4 is setback 1.8m to the eastern boundary. A blank wall effect is proposed, with the exception of 3 highlight windows. Level 4 is above the roofline of the existing development at Nos. 10-12 Ethel Street.</p>	<p>Yes, due to the side facades being treated with a 'blank wall effect.' The highlight windows are above the rooflines of the adjoining developments and avoids adverse visual and acoustic amenity impacts.</p>
	<p>Nine storeys and above/over 25 m:</p> <p>24 m between habitable rooms/balconies</p> <p>18 m between habitable rooms/balconies and non-habitable rooms</p> <p>12 m between non-habitable rooms</p>	N/A	N/A

Siting the Development

3A Site analysis	Satisfy the site analysis guidelines - Appendix 1.	The application is accompanied by a site analysis which examines the opportunities and constraints of the site.	Yes
3B Orientation	<p>Where an adjoining property does not currently receive 2 hours of sunlight in midwinter, solar access should not be further reduced by more than 20%.</p> <p>4 hours of solar access should be retained to solar collectors on neighbouring buildings.</p>	<p>Adjoining properties currently receive 2 hours of sunlight in midwinter. Solar access is maintained. Refer to the detailed discussion regarding solar access in the Assessment report.</p> <p>There are no affected solar collectors.</p>	<p>Yes</p> <p>Refer to further discussion regarding solar access in the Assessment report.</p> <p>N/A</p>
3C Public domain interface	<p>Ground level courtyards to have direct access, if appropriate.</p> <p>Ground level courtyards to be above street level for visual privacy.</p> <p>Balconies and windows to overlook the public domain.</p>	<p>Direct access is provided.</p> <p>N/A</p> <p>Balconies & windows are suitably placed to view public spaces.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p>

ADG Requirement	Proposal	Compliance	
Front fences to be visually permeable with maximum 1 m height, and limited length.	N/A	N/A	
Entries to be legible.	Entries are clear and legible.	Yes	
Raised terraces to be softened by landscaping.	Landscape is provided.	Yes	
Mailboxes to be located in lobbies, perpendicular to the street or within the front fence.	Mailboxes are located at the entrance; perpendicular to the street.	Yes	
Basement carpark vents not to be visually prominent.	Carpark vent is integrated into the building design	Yes	
Substations, pump rooms, garbage storage rooms and other service rooms should be located in the basement car parks or out of view.	The fire pump fronts Ethel Lane and is screened from view. The waste storage room is located within the basement.	Yes	
Ramping for accessibility to be minimised.	The extent of ramping is minimal and suitable.	Yes	
Durable, graffiti resistant and easily cleanable materials should be used.	Suitable materials are proposed.	Yes, condition recommended to be imposed regarding management of graffiti. See Conditions 38 & 140.	
On sloping sites, protrusion of car parking should be minimised.	The site slopes downwards to the rear and the car parking level is screened from view from the primary (southern) street frontage.	Yes	
3D Communal and public open space	Communal open space (COS) >25% of the site.	Required: 162.3m ² Provided: 255.8m ²	Yes
Direct sunlight to >50% of communal open space for 2 hours between 9am and 3pm.	Achieved.	Yes	
Minimum dimension of 3m.	Dimensions are greater than 3m.	Yes	
Direct and equitable access.	Access is suitable.	Yes	
If communal open space cannot be located on Ground level, provide on the podium or roof.	N/A	N/A	
If communal open space can't be achieved, provide on rooftop of a common room, provide larger balconies, or demonstrate proximity to public open space and facilities.	N/A	N/A	

ADG Requirement	Proposal	Compliance
	<p>Range of activities (e.g. seating, BBQ, play area, gym or common room).</p> <p>Visual impacts minimised from ventilation, substations and detention tanks.</p> <p>Maximise safety.</p> <p>Public Open Space, where provided, is to be well connected and adjacent to street.</p>	<p>The ground level features a common room which can be used for activities such as a meeting room, play area or gym. An outdoor courtyard is connected to the common tom and provides landscaped features and a waterfall.</p> <p>A landscaped common terrace area is provided at Level 2 which includes a covered pergola area and seating.</p> <p>A range of passive and active spaces are proposed.</p> <p>Ventilation and detention tanks are suitably designed to integrate with the building.</p> <p>The COS is suitably designed to foster the safety of residents and visitors.</p> <p>N/A</p>
<p>3E Deep soil zones</p>	<p>Minimum area = 7% of site area. Preferred area = 15%. If over 1,500 m² then minimum dimensions of 6 m. Achieving the design criteria may not be possible on some sites including where:</p> <ul style="list-style-type: none"> the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres). there is 100% site coverage or non-residential uses at ground floor level. <p>Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.</p>	<p>Site area: 649.06m². Minimum required 7% = 45.43m². Provided: Nil.</p> <p>No. However, the design guidance states that achieving deep soil area may not be possible on sites where the location and building typology has limited space for deep soil at ground level, where there is 100% site coverage and non-residential uses at ground level.</p> <p>The proposal meets these design criteria, being in the Eastwood Town Centre, on a constrained site, in a medium/high density area, consists of 100% site coverage and comprises non-residential uses</p>

ADG Requirement	Proposal	Compliance
		<p>at the ground level.</p> <p>On this basis, this variation to deep soil area is supported.</p>
<p>3F</p> <p>Visual privacy</p>	<p>Building Separation: refer to 2F above.</p> <p>Separation distances between buildings on the same site depending on the type of room as to reflect Figure 3F.2.</p> <p>No separation is required between blank walls.</p> <p>Separation distances between windows and balconies to the side and rear balconies:</p> <p>Up to 4 storeys/12 m: 6 m to habitable rooms/balconies 3 m to non-habitable rooms</p> <p>5 to 8 storeys/up to 25 m: 9 m to habitable rooms/balconies 4.5 m to non-habitable rooms</p> <p>Nine storeys and above/over 25 m: 6 m to habitable rooms/balconies 3 m to non-habitable rooms</p> <p>Direct lines of sight should be avoided for windows and balconies across corners.</p> <p>Appropriate design solutions should be in place to separate POS and habitable windows to common areas.</p> <p>Note: When adjacent to a lower density residential zone an</p>	<p>Yes</p> <p>Yes. Refer to further discussion in the Assessment report.</p> <p>Yes</p> <p>No. Variation sought. Refer to Assessment report for further details.</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>N/A</p>

ADG Requirement	Proposal	Compliance
	additional 3 m rear side setback is required.	
3G Pedestrian access and entries	Connect to and activate the public domain. Easy to identify access. Internal pedestrian links to be direct.	Access points are direct and easily identifiable. Integrated connections are provided to the non-residential tenancies and common areas.
3H Vehicle access	Access points are safe and create quality streetscapes. The need for large vehicles to enter or turn around within the site should be avoided.	One vehicular access point is provided via Ethel Lane and includes traffic management measures to ensure safety, including providing space on the driveway for vehicles to wait while they access the intercom, setting back the building elements and using convex mirrors to enable sight lines. The design does not detract from the quality of the streetscape. Suitable access and manoeuvring space is provided on-site, including a turning bay. Collection of waste is to be undertaken by Council along Ethel Lane.
3J Bicycle and car parking	The minimum car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, <u>whichever is less</u> . Sites within 800m of a railway station are to comply with the minimum requirements of the Guide to Traffic Generating Developments: < 20 units 1 space for each unit An additional 0.2 space for each 2 bed unit An additional 0.5 space per 3 bed unit 0.2 space for visitor parking	Residential parking spaces Required = 14.4 (say 15) Provided = 13 (shortfall of 1) Visitor parking spaces Required = 2.4 Provided = 2 No. However, as explained above, the minimum parking requirements under the Ryde DCP 2014 apply. At least 15 residential car parking spaces are required, and 13 are provided under the DCP. At least 3 residential visitor car parking spaces are required, and 2 are provided under the DCP being a shortfall of 1 space (variation sought as discussed in

ADG Requirement		Proposal	Compliance
	<p>>20 units Metropolitan Sub-Regional Centres: 0.6 spaces per 1 bed unit. 0.9 spaces per 2 bed unit. 1.4 spaces per 3 bed unit. 1 space per 5 units (visitor parking)</p> <p>Conveniently located and sufficient numbers of scooter and motorbike spaces.</p>	<p>N/A</p> <p>1 motorbike spaces is provided at the Lower Basement level.</p>	<p>the Assessment report).</p> <p>N/A</p> <p>Yes</p>
Designing the building			
4A Solar and daylight access	<p>Living rooms and private open space receive minimum 2 hours direct sunlight between 9 am to 3 pm in mid-winter > 70% of units. (Minimum 1m² of direct sunlight measures at 1m above floor level is achieved for at least 15 minutes).</p> <p>Maximum number with no sunlight access < 15%.</p> <p>Suitable design features for operable shading to allow adjustment and choice.</p>	<p>9/12 (91%) of apartments receive at least 2 hours of direct sunlight to their living room and private open space area. Achieved.</p> <p>1/12 (8.3%) of apartments are south facing and receive no sunlight, being Unit 4 on Level 1.</p> <p>Privacy screens are provided on the outer edge of balconies to enable shading.</p>	<p>Yes.</p> <p>Yes</p> <p>Yes</p>
4B Natural ventilation	<p>All habitable rooms naturally ventilated. Number of naturally cross ventilated units > 60%.</p> <p>Depth of cross over apartments < 18 m.</p> <p>The area of unobstructed window openings should be equal to at least 5% of the floor area served.</p>	<p>All habitable rooms are ventilated. 91% of apartments are cross ventilated (11/12 units).</p> <p>Units 6 & 7 on Level 2 and Units 9 & 10 on Level 3 have a cross over depth of 21.2m (being a variation of 3.2m or 18%).</p> <p>The window areas are satisfactory.</p>	<p>Yes</p> <p>No. Variation sought. Refer to further discussion in the Assessment report.</p> <p>Yes</p>
4C Ceiling heights	<p>2.7 m for habitable 2.4 m for non-habitable</p> <p>For mixed use buildings, 3.3m for ground and first floor to promote future flexibility of use.</p>	<p>Achieved. Achieved.</p> <p>Achieved.</p>	<p>Yes</p> <p>Yes</p>
4D Apartment	<p>Studio > 35m² 1 bed > 50m²</p>	<p>Minimum area achieved. Minimum area achieved.</p>	<p>Yes</p>

ADG Requirement	Proposal	Compliance
<p>size and layout</p> <p>2 bed > 70m² 3 bed > 90m² + 5m² for each unit with more than 1 bathroom.</p> <p>Habitable Room Depths: limited to 2.5m x ceiling height (6.75m with 2.7m ceiling heights)</p> <p>Open Plan Layouts that include a living, dining room and kitchen – maximum 8m to a window.</p> <p>Bedroom sizes (excl wardrobe space): Master - 10m² Other - 9m²</p> <p>Minimum dimensions: 3m</p> <p>Living rooms/dining areas have a minimum width of: 3.6m – Studio or 1 bedroom 4.0m – 2 or 3 bedroom</p> <p>Cross-over/cross-through: minimum 4m wide.</p>	<p>Minimum area achieved. Minimum area achieved. Noted.</p> <p>Maximum room depth achieved.</p> <p>All apartments are open plan layout. Maximum 8m to a window.</p> <p>Minimum are achieved.</p> <p>Minimum dimensions achieved.</p> <p>Minimum areas achieved.</p> <p>Minimum width achieved.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>4E Private open space and balconies</p> <p>Studio > 4 m² 1 bed > 8 m² and 2 m depth 2 bed >10 m² and 2 m depth 3 bed >12 m² and 2.4 m depth Ground level/ podium apartments > 15 m² and 3m depth</p> <p>Extension of the living space.</p> <p>A/C units should be located on roofs, in basements, or fully integrated into the building design.</p>	<p>Minimum area & depth achieved. Minimum area & depth achieved. Minimum area & depth achieved. Minimum area & depth achieved. Minimum area & depth achieved.</p> <p>The POS is an extension of the living room.</p> <p>A/C units are provided at the basement levels.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>4F Common circulation and spaces</p> <p>Maximum number of apartments off a circulation core on a single level – 8 to 12.</p> <p>Buildings over 10 storeys - maximum of 40 units sharing a single lift.</p> <p>Daylight and natural ventilation to all common circulation areas above ground level.</p>	<p>Maximum 3.</p> <p>N/A</p> <p>Achieved for the lobbies of the northern building element. Not achieved for the lobbies of the southern building element.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>No. Variation sought. Refer to further discussion in the</p>

ADG Requirement	Proposal	Compliance
	<p>Corridors greater than 12m from the lift core to be articulated by more foyers, or wider areas/higher ceiling heights at apartment entry doors.</p> <p>Maximise dual aspect apartments and cross over apartments.</p> <p>Primary living room and bedroom windows are not to open directly onto common circulation spaces.</p> <p>Direct and legible access.</p> <p>Tight corners and spaces to be avoided.</p> <p>Well lit at night.</p> <p>For larger development – community rooms for owners meetings or resident use should be provided.</p>	<p>Assessment report.</p> <p>N/A</p> <p>Achieved.</p> <p>Achieved.</p> <p>Achieved.</p> <p>Achieved.</p> <p>Achieved.</p> <p>A common room is provided at the ground floor.</p>
<p>4G Storage</p>	<p>Studio > 4m³</p> <p>1 bed > 6m³</p> <p>2 bed > 8m³</p> <p>3 bed >10m³</p> <p>Min 50% within the apartment.</p>	<p>Minimum area provided.</p> <p>Minimum area provided.</p> <p>Minimum area provided.</p> <p>Minimum area provided.</p> <p>Storage provided in the apartment and basement levels.</p>
<p>4H Acoustic privacy</p>	<p>Window and door openings orientated away from noise sources.</p> <p>Noise sources from garage doors, driveways, services, communal open space and circulation areas to be 3m from bedrooms.</p> <p>Separate noisy and quiet spaces.</p> <p>Provide double/acoustic glazing, acoustic seals, materials with low noise penetration.</p>	<p>Window and door opening appropriately placed.</p> <p>The driveway are garage doors are located at-grade with residential apartments above. Communal open space and circulation areas are 3m from bedrooms.</p> <p>Habitable spaces are appropriately separated.</p> <p>Recommended to be conditioned to ensure that appropriate quality acoustic protection measures are installed.</p>
<p>4J Noise and pollution</p>	<p>In noisy or hostile environments, the impacts of external noise and pollution are to be minimised through the careful siting and layout of buildings.</p> <p>To mitigate noise transmission:</p>	<p>The site is not considered to be in a noisy or hostile environment.</p>

ADG Requirement		Proposal	Compliance
	<p>Limit the number and size of openings facing the noise sources.</p> <p>Use double or acoustic glazing, acoustic louvres or enclosed balconies (winter gardens).</p> <p>Use materials with mass and/or sound insulation (e.g., solid balcony balustrades, external screens or soffits).</p>		
Configuration			
4K Apartment mix	<p>Provide a variety of apartment types.</p> <p>Flexible apartment mix.</p>	<p>3 x Studio or 1 bed (25%)</p> <p>7 x 2 bed (58%)</p> <p>2 x 3 bed (17%)</p>	Yes
4L Ground floor apartments	<p>Maximise street frontage activity.</p> <p>Direct street access to ground floor apartments.</p> <p>Ground floor apartments to deliver amenity and safety for residents.</p>	<p>Achieved.</p> <p>Achieved.</p> <p>Achieved.</p>	Yes
4M Facades	<p>Front building facades are to provide visual interest whilst respecting the character of the local area.</p> <p>Building services are to be integrated into the overall façade.</p> <p>Provide design solutions which consider scale and proportion to the streetscape and human scale.</p>	<p>Façade design achieves visual interest.</p> <p>Building services are appropriately placed and integrated.</p> <p>The scale and proportion of the building is in proportion with the streetscape and human scale.</p>	Yes
4N Roof design	<p>Roof treatments are to be integrated into the building design and positively respond to the street.</p>	<p>A flat roofline is proposed.</p>	Yes
4O Landscape design - site area	<p>< 850m² = 1 medium tree per 50m² of deep soil zone.</p> <p>850m² to 1,500m² = 1 large tree or 2 medium trees per 90m² of DSZ.</p> <p>>1,500m² = 1 large tree or 2 medium trees per 80m² of deep soil zone.</p>	<p>No deep soil is provided.</p> <p>As discussed above, the context of the site in the Eastwood Town Centre does not generate the need for deep soil area. Suitable podium landscaping is provided.</p>	N/A
4P Planting on structures	<p>Provide sufficient soil volume, depth and area.</p> <p>Provide suitable plant selection.</p> <p>Provide suitable irrigation and drainage systems and maintenance.</p> <p>Enhance the quality and amenity of communal open space with green walls, green roof and planter boxes, etc.</p>	<p>Sufficient soil is provided.</p> <p>Suitable plants are selected.</p> <p>Suitable maintenance is proposed.</p> <p>Communal open space is appropriately embellished.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

ADG Requirement		Proposal	Compliance
4Q Universal design	<p>Adaptable housing should be provided in accordance with Council's policy.</p> <p>Benchmark of 20% of the apartments incorporating the Liveable Housing Guideline's silver level universal design features.</p> <p>Flexible design solutions to accommodate the changing needs of occupants.</p>	<p>Ryde DCP 2014 requires 10% of apartments to be adaptable.</p> <p>1 (8.3%) apartment is adaptable (Unit 4).</p> <p>The design of the apartments and overall development foster accessibility for all users.</p>	Yes
4R Adaptive reuse	New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place.	N/A	N/A
4S Mixed use	<p>Provide active street frontages and encourage pedestrian movement.</p> <p>Residential entries separate and clearly defined.</p> <p>Landscaped communal open space to be at podium or roof level.</p>	<p>An active street frontage is provided. The design encourages pedestrian movement. This includes replacing the public walkway along Ethel Street.</p> <p>Residential entries are separate.</p> <p>Landscaping is provided at the ground and upper.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
4T Awnings and signage	<p>Awnings to be continuous and complement the existing street character.</p> <p>Provide protection from sun and rain, wrapped around the secondary frontage.</p> <p>Gutters and down pipes to be integrated and concealed.</p> <p>Lighting under awnings is to be provided.</p> <p>Signage is to be integrated and in scale with the building.</p> <p>Legible and discrete way finding is to be provided.</p>	<p>Provided.</p> <p>Provided.</p> <p>Provided.</p> <p>Provided.</p> <p>No signage is proposed.</p> <p>Provided.</p>	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p>
Performance			
4U Energy efficiency	<p>The development is to incorporate passive solar design.</p> <p>Heating and cooling infrastructure are to be centrally located (e.g., basement).</p>	<p>Passive solar measures are incorporated.</p> <p>A/C units are located in the basement levels.</p>	Yes
4V	Rainwater collection and reuse.	Rainwater is not re-used.	Yes

ADG Requirement		Proposal	Compliance
Water management and conservation	Drought tolerant plants. Water sensitive urban design measures. Detention tanks should be located under paved areas, driveways or in basement car parks.	Provided. WSUD is incorporated into the development A detention tank is located in the basement.	
4W Waste management	Waste storage should be discreetly located away from the front of the development or in the basement. Waste cupboard within each dwelling. Waste and recycling rooms are to be in convenient and accessible locations related to each vertical core.	Waste storage is located in the basement at the rear of the site. Each apartment is provided with a bin storage area. Waste rooms are accessible.	Yes
4X Building maintenance	The design is to provide protection from weathering. Enable ease of maintenance. The materials are to reduce ongoing maintenance costs.	The building is designed to be well maintained in the long term.	Yes

Ryde Development Control Plan (DCP) 2014

The proposal has been assessed against the following relevant sections of the Ryde DCP 2014 as follows:

Ryde DCP 2014 Control	Comment	Compliance
Part 4.1 Eastwood Town Centre		

Objectives

This Part aims to revitalise Eastwood Town Centre through controls and provisions which:

1. Facilitate the creation of town centres that contain a mix of land uses that service the needs of visitors and communities within the centre catchment;
2. Encourage new development and enhance existing buildings;
3. Describe the desired form scale and bulk of new buildings;
4. Improve pedestrian amenity and develop a sense of community place;
5. Create a people-friendly place with active street life;
6. Increase the number of people living within walking distance of public transport services;
7. Provide for safe and convenient motor vehicle access and parking;
8. Protect and enhance items of environmental heritage within each centre; and
9. Provide for safe, well used and attractive public spaces.

2.2 Eastwood Town Centre

Future Character Statement:

In the future, Eastwood will be a place designed for the enjoyment and utility of pedestrians and a place which allows convenient access for people between home, work, shopping and leisure. It will also be a place that has:

- a high level of aesthetic amenity at street level;
- safe attractive and convenient public spaces;
- a vibrant, viable and profitable commercial centre;
- well-used robust and attractive active and passive recreation and public space;

- an appropriate mix and arrangement of land uses, which satisfactorily serve and integrate with the surrounding residential activities.

3.0 DEVELOPMENT CONTROLS - EASTWOOD URBAN VILLAGE PRECINCT

Figure 4.1.01b Eastwood Village Precinct

Council seeks to encourage development forms and arrangements that contribute to the overall goal of developing its centres as urban villages.



<p>Objectives</p> <p>(a) To establish diverse land uses, services and facilities within the Centre;</p> <p>(b) To encourage the development of well used safe and attractive public places; and</p> <p>(c) To increase the number of persons living close to public transport.</p>	<p>The proposal is consistent with these objectives.</p>	<p>Satisfactory</p>
<p>Controls</p>		
<p>a. Active public uses, such as restaurants, cafes, community facilities, entries to business premises and retail should be located at street level. Refer also section 3.5.1 of this DCP.</p> <p>Note: These uses would tend to attract higher volumes of pedestrian traffic, resulting in a safer environment particularly after dark and would also result in adjacent public areas being better utilised (for example, side street cafes).</p>	<p>The entry to the commercial premises is located at the Ethel Steet frontage.</p>	<p>Yes</p>
<p>b. Public and commercial uses should be accommodated in the level/s immediately above street level. Such uses may include professional offices, medical suites, leisure uses such as gymnasias, cinemas, theatres, places of worship and meeting rooms. Residential dwellings that include home offices may also be accommodated on this level.</p>	<p>Residential dwellings are located above street level.</p>	<p>N/A</p>
<p>c. Residential land uses are discouraged at the street level within the Eastwood Urban Village Precinct. Residential development may be provided at upper levels of development.</p>	<p>Residential dwellings are located above street level.</p>	<p>Yes</p>
<p>d. Buildings are to designed to overlook public and communal streets and other public areas to provide casual surveillance.</p>	<p>The commercial premises and residential apartments above overlook the street and provide casual surveillance.</p>	<p>Yes</p>
<p>e. Private living spaces and communal or public spaces should be clearly identified and defined.</p>	<p>Private living spaces and communal areas are clearly identified.</p>	<p>Yes</p>

f. Sufficient lighting is to be provided to all pedestrian ways, building entries, driveways and carparks to ensure a high level of safety and security for residents.	Sufficient lighting is provided to all entries.	Yes
g. Pedestrian and communal areas to be well lit and designed to minimise opportunities for concealment.	Pedestrian and communal areas are appropriately lit.	Yes
h. Pedestrian entry to the residential component of mixed use developments should be separated from entry to other land uses in the building/s.	Pedestrian entry to the residential component is separate. However, some entry paths are shared, such as access to the basement. This is satisfactory given the constraints of this narrow site.	Satisfactory.
i. The use of outdoor restaurant seating whether on private or public land is a favoured land use in the urban village. Applicants should refer to Council's Footpath Activity Policy and Outdoor Dining Policy.	N/A	N/A

3.2 Flooding and Stormwater Management

a. A stormwater inundation impact assessment and stormwater management strategy is to be submitted for all developments to the satisfaction of Council. b. Floor levels within any new development should be a minimum of 300mm above the calculated flood level for the 100 year ARI event. c. Developments should comply with Part 8.2 Stormwater Management & Part 8.6 Floodplain Management of this DCP for flood controls for Eastwood/Terry's Creek Flood Plain.	The proposal is accompanied by a stormwater management plan and features appropriate floor levels. Council's Development Engineer supports the proposal.	Satisfactory.
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3.3 Architectural Characteristics

3.3.1 Setbacks
Eastwood comprises a "village" character that is, in part, provided by the scale and massing of buildings to the streetscape.

a. Buildings must comply with the maximum height limit shown on the Height of Buildings Map under Ryde LEP 2014.	The proposal generally complies with the Height of Buildings Development Standard, with the exception of part of the roofline of the southern building element.	Variation sought. Refer to further discussion in the Assessment report.
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b. Setbacks at the upper levels shall be provided. Parapets, fronting retail/pedestrian priority streets (see Section 3.5) should reflect existing predominant parapet lines.	The upper levels are set back.	Yes
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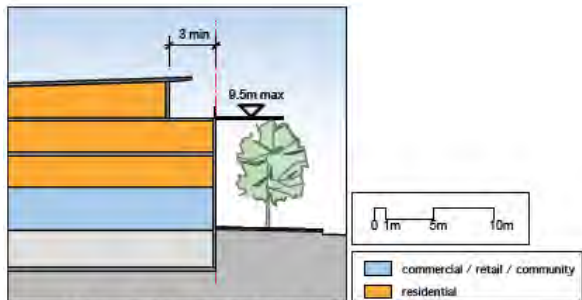


Figure 4.1.02 Building Height Setback

c. New buildings are to have street frontages built predominantly to the street alignment (front boundary) for up to 9.5m measured from the street level.	The first 2 levels are aligned to the street frontage.	Yes
d. Buildings may be constructed to the side & rear boundaries for up to 9.5m from street level.	Southern building form: this part of the development is proposed to be built to the side boundaries for the first 3 levels. Northern building form: this part of the development is proposed to be built to the side boundaries for all levels.	Yes No. Variation sought. Refer to further discussion in the Assessment report.
e. Buildings (including balconies) must be setback a minimum of 3m from all boundaries above 9.5m from street level.	Southern building form: this part of the development is constructed to the side boundaries for the first 3 levels. The upper levels are set back 1.37m to 1.8m. Northern building form: this part of the development is proposed to be built to the side boundaries for all levels.	No. Variation sought. Refer to further discussion in the Assessment report.
f. Buildings may be setback from the street alignment where: i. The site is adjacent to a freestanding heritage building. In this case the setback of the new building from the street alignment should match the setback of the heritage building; or ii. The new development contributes an appropriate public space at the street frontage.	N/A	N/A
3.3.2 Urban Design/Exterior Finishes		
The maintenance and improvement of the public domain is dependent on a consistent approach to the design of new development including the articulation and finish of building exteriors.		
a. Building exteriors are to be designed to avoid extensive expanses of blank glass or solid wall.	The building exteriors are broken up by varied setbacks and building articulation.	Yes
b. Balconies and terraces should be provided, particularly where buildings overlook public spaces.	Balconies and terraces are provided and overlook the streets.	Yes
c. The siting and configuration of buildings should take into account the impact on surrounding development and public spaces in terms of amenity, shadowing and visual privacy. In this regard at least 2 hours of sunlight access must be maintained in public spaces in Rowe Street.	As suggested by the Urban Design Review Panel, the siting and configuration of buildings are responsive to the alignment of the adjoining buildings.	Yes

d. The tops of buildings are to be designed so that they: i. Integrate with the design of the building and conceal plant and equipment; and ii. Promote a visually distinctive and interesting skyline.	A flat line roof is proposed which avoids plant and equipment being viewed and enhances the unique character of this development.	Yes
3.3.3 Corner Allotments		
	N/A	N/A
3.4 Access & Parking		
3.4.1 Parking Design and Location		
To provide for a reasonable amount of safe and convenient car parking within the centre.		
a. The creation of additional on-street car parking is encouraged. Opportunities to amplify on-street car parking through reconfiguration of car spaces (i.e. angled parking) should be explored with Council.	The proposed car parking satisfies the minimum required parking rate required by this DCP. This is achieved by providing a car hoist to provide access between the parking levels.	Yes
b. Car parking should be located below ground level. Where this is not practicable (e.g. due to flood impacts) parking must not be visible from the street.	Parking is shielded from public view by providing it at the lower end of the site (Ethel Lane) and providing a screen basement door.	Yes
c. In order to minimise vehicular conflict between residents' delivery and customer vehicles, car parking associated with residential uses should be separated from parking for other land uses.	Commercial and residential parking are separated to avoid conflict.	Yes
3.4.2 Location of Vehicle Access and Footpath crossings		
This section seeks to minimise the effects of vehicle crossings over footpaths that disrupt pedestrian movement, threaten safety and influence the quality of the public domain.		
a. New vehicle access points are restricted in retail/pedestrian priority streets. Where practicable, vehicle access is to be from lanes and minor streets rather than major pedestrian streets or major arterial roads such as Rutledge Street, First Avenue, or Blaxland Road.	The existing vehicular access point via Ethel Lane is retained.	Yes
b. Service vehicle access is to be combined with parking access and limited to a maximum of 1 access point per building.	1 access point is provided.	Yes
3.4.3 Design of Vehicle Access		
Vehicular crossings need to be managed to ensure that they do not detract from the visual harmony of the streetscape.		
a. Vehicle access is to be a single crossing, perpendicular to the kerb alignment.	Achieved.	Yes
b. Vehicle access ramps parallel to the street frontage will not be permitted.	N/A	N/A
c. Active uses or items of visual interest above vehicle access points are required in the horizontal line of sight of pedestrians.	The residential apartment above the driveway is embellished with landscaping to offer visual interest.	Yes
d. Vehicle entries are to buildings are to be well designed and include high quality finishes to walls and soffit. No service ducts or pipes are to be visible from the street.	Appropriate screening is provided.	Yes
3.5 Pedestrian Access & Amenity		
3.5.1 Street Frontage Activities		

It is important that diverse activities at street level provided liveliness of the public domain of Eastwood is increased.

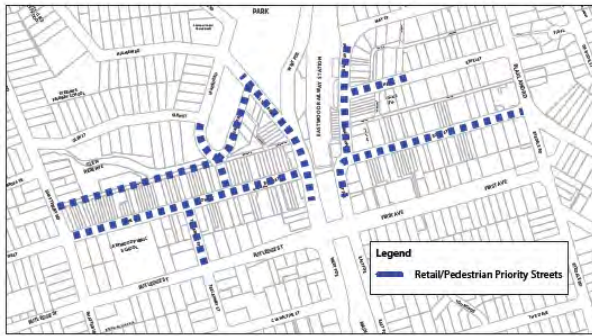


Figure 4.1.04 Retail/Pedestrian Priority Streets

a. Provide ground level active uses on the Retail/Pedestrian Priority Streets (refer to Figure 4.1.04 above)	The commercial unit fronts Ethel Street.	Yes
b. Active uses contribute to personal safety in the public domain and comprise: i. Community and civic facilities. ii. Recreation and leisure facilities. iii. Shops. iv. Commercial premises v. Residential uses, particularly entries and foyers. However, these should not occupy more than 20% of the total length of each street frontage.	A commercial premises is proposed. The residential entry foyer comprises less than 20% of the site frontage.	Yes
c. Where required, active uses must comprise the street frontage for a depth of at least 10m.	Achieved.	Yes
d. Vehicle access points may be permitted where active frontage is required if there are no practicable alternatives.	N/A	N/A
e. Blank roller- shutter type doors are not permitted on ground level shop fronts.	Not proposed.	N/A
f. Serviced apartments hotels and motels shall not have apartments at the ground level. Locate retail, restaurants and / or other active uses at the ground level.	N/A	N/A

3.5.2 Circulation

The manner in which vehicles and pedestrians circulate within and around the Centre are important for its future success.

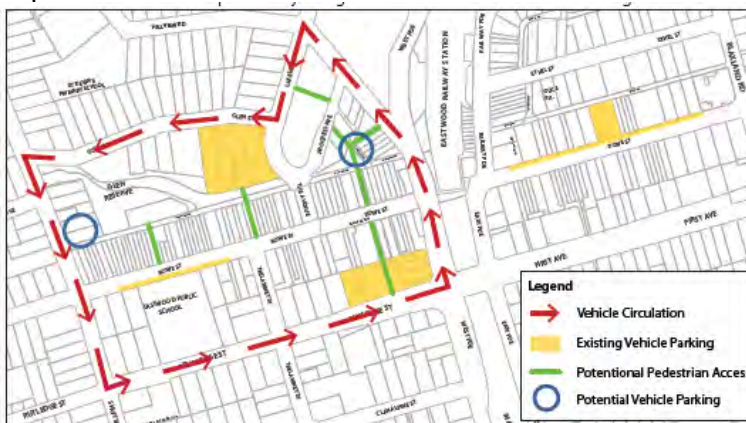


Figure 4.1.05 Circulation Strategy

a. Where circulation is provided through a site or within a building serving to connect 2 points, the thoroughfare should function as a shortcut, be continuous and level with pedestrian	N/A The site is not part of this circulation strategy.	N/A
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streets / areas and incorporate adjoining active retail and / or commercial edges.		
b. Entry and exit points for vehicles are to be designed in a manner that reinforces the Circulation Strategy.	N/A	N/A
3.5.3 Public Domain Finishes		
The purpose is to create well used public spaces that provide comfort and convenience for users and incorporate high quality design, attractive appearance, robust materials and street furniture.		
a. Developments which entail the provision of new public spaces (e.g. streets, footpaths, walkways and the like) will need to incorporate new paving and street furniture that is at the developers cost and in accordance with the Ryde Public Domain Technical Manual.	This is required to be provided by Council's Public Domain section. See Condition 65 & 66.	Yes
3.5.4 Landscaping & trees		
To soften the appearance of buildings and improve the visual quality of the centre and to modify the microclimate.		
a. Development proposals, incorporating landscaped elements, are to be accompanied by a landscape plan. Where the development comprises mixed uses or is 2 or more storeys the landscape plan should be prepared by a qualified landscape architect.	A suitable landscape plan has been provided.	Yes
b. Where appropriate, developments should incorporate landscaping into the upper levels to soften the building form and to contribute to privacy and amenity.	Landscaping is provided to the upper terraces/balconies.	Yes
c. Ground level entries should be well lit and not obstructed by planting in a way that reduces the actual or perceived personal safety and security of centre residents or pedestrians.	The ground level entries reflect a safe design.	Yes
d. Street trees shall be provided in accordance with the Ryde Public Domain Technical Manual and shall be provided at the developers' cost in conjunction with any new building work involving additional floor space.	Street trees are to be provided in accordance with the Eastwood Street Tree Master Plan. See Condition 65.	Yes
e. Street trees at the time of planting shall have a minimum container size of 200 litres, and a minimum height of 3.5m, subject to species availability.	Street trees are to be provided in accordance with the Eastwood Street Tree Master Plan. See Condition 65.	Yes
f. Where a proposal involves redevelopment of a site with a frontage of at least 40m to a public road, the developer shall arrange for electricity and telecommunications utilities to be undergrounded along the entire length of all street frontages. Such utility modifications will be carried out to the satisfaction of the responsible authority (e.g. Energy Australia).	Council's Public Domain section require the undergrounding of overhead utility services. See Condition 65.	Yes
3.5.5 Awnings and Weather Protection		
It is important to provide continuous weather protection (from rain and sun) on street footpaths, particularly on pedestrian routes and retail frontages.		
a. Buildings with frontage to any street must incorporate an awning or other form of weather protection along that boundary.	An awning is provided.	Yes

b. The pavement level of a covered walkway shall be at the same level as the footpath to which it is adjacent.	The pavement levels are required to avoid abrupt level changes, as required by Condition 76.	Yes
c. The height of a colonnade, awning or covered way shall not be less than 3m or greater than 4.5m measured to the soffit.	3.3m	Yes
d. The width of a colonnade, awning or covered way shall not be less than 3m.	12.2m	Yes
e. Any new awnings should: i. Be continuous for the entire length of the site frontage; ii. Be set back from the face of the kerb by 0.6m; iii. Have cut-outs of 1m wide by 1m deep to accommodate street trees, where the frontage is proposed to accommodate a street tree in accordance with the master plan or any public domain improvement plan; iv. Be weather sealed to the face of the building to which they are attached and to the adjoining awnings; v. Have a height clearance above the footpath level of at least 3m or a height consistent with adjacent awnings; and vi. Maintain sufficient clearances from any overhead electricity or telecommunications installations.	Achieved. Achieved. Not required. The location of the street tree is clear of the proposed awning, as shown on the Ground Floor Plan. Achieved. Due to the slope of the site, the proposed awning will not be attached to the adjoining awnings, as they are at different levels. Achieved. Achieved. These installations are required to be undergrounded. See Condition 65.	Yes

3.6 Signage

To allow advertising and signage in a manner that enhances the image and visual quality of the centre and which does not contribute to visual clutter or detract from architectural features.

N/A

N/A

3.7 Environmental Management

3.7.1 Sunlight

This section is primarily concerned with sun access to public spaces in Eastwood, including those that are privately owned and sun access to residential developments.

a. Major public spaces should receive a minimum of 50% sunlight on the ground plane for at least 2 hours between 10am and 2pm on June 21. Note: Depending on the nature and use of a particular space, periods outside those specified above may also be required.	N/A No major public spaces are affected.	N/A
b. In new residential developments, windows to north-facing living areas should receive at least 3 hours of sunlight between 9am and 5pm on June 21 over a portion of their surface. North-facing windows to living areas of neighbouring dwellings should not have sunlight reduced to less than the above 3 hours.	The north facing living room windows in this proposal achieve over 3 hours of sunlight. The north facing living room windows on the adjoining sites maintain over 3 hours of sunlight.	Yes
c. All development proposals of 2 storeys or more are to be accompanied by shadow diagrams.	Shadow diagrams are provided.	Yes

3.7.2 Wind Standards

<p>Windy conditions can cause discomfort and danger to pedestrians, and down drafts from buildings can inhibit the growth of street trees. Conversely, moderate breezes that penetrate the streets can enhance pedestrian comfort and disperse vehicle emissions.</p>		
<p>a. Building design is to minimise adverse wind effects on recreation facilities, on open terraces within developments and on the public domain.</p>	<p>The proposed 5 storey development is not considered to result in adverse wind effects.</p>	<p>Yes</p>
<p>3.7.3 Energy Efficiency of Buildings The Master Plan calls for ecologically sustainable development (ESD) principles to be taken into account in development within the Eastwood Centre.</p>		
<p>a. New buildings should be designed to ensure that energy usage is minimised.</p>	<p>The application is accompanied by a NatHERS and BASIX Assessment report and the required information is detailed on the plans for the residential and non-residential components of the proposal.</p>	<p>Yes</p>
<p>3.7.4 Vibration and Noise Mitigation Loud noise and vibration affects the amenity of places. Developments within close proximity to the railway line may be subject to actual or potential impact from vibration.</p>		
<p>a. In respect of proposals for new residential buildings:</p> <p>i. the building plan, walls, windows, doors and roof are to be designed and detailed to reduce intrusive noise levels.</p> <p>ii. balconies and other external building elements are located, designed and treated to minimise infiltration and reflection of noise onto the façade.</p> <p>iii. dwellings are to be constructed in accordance with:</p> <p>-- Australian Standard 367 1-1989: Acoustics – Road Traffic Noise Intrusion, Building Siting and Construction; and</p> <p>-- Australian Standard 367 1-1987: Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors.</p> <p>-- Environmental Criteria for Road Traffic Noise (EPA, 1999).</p>	<p>Addressed in the Acoustic Report. This includes appropriate treatment to floors, walls/facades, ceilings/roof, window glazing, frames and seals, doors, mechanical plant services and risers. In addition to these measures, the development is designed in a manner which avoids sound being directed towards the adjoining apartments by creating a blank wall treatment to the side boundaries, including semi-enclosing the sides of balconies and installing screens.</p> <p>The Acoustic Report has been prepared in accordance with these relevant Australian Standards.</p>	<p>Yes</p>
<p>b. In respect of developments proposed within 100m of the railway line, the following document should be used as a guideline for incorporating measures to mitigate noise and vibration:</p> <p>i. Rail Related Noise and Vibration: Issues to Consider in Local Environmental Planning – Development Applications and Building Applications (State Rail Publication, 1995).</p>	<p>N/A</p>	<p>N/A</p>
<p>3.7.5 Reflectivity Reflective materials used on the exterior of buildings can result in undesirable glare for pedestrians and potential hazardous glare for motorists. Reflective materials can also impose additional heat load on other buildings.</p>		

a. The use of highly reflective glass is discouraged.	Condition 39 states that the reflectivity of glass used in the external facades of the buildings is not to affect road traffic and must not cause discomfort through glare or intense heat to surrounding areas	Yes
b. New buildings and façades should not result in uncomfortable glare that causes discomfort or threatens safety of pedestrians or drivers.	Condition 39 states that external materials must be of low glare and reflectivity.	Yes
c. Visible light reflectivity from building materials used on the façades of new buildings should not exceed 18%.	As above.	Yes

3.7.6 External Lighting of Buildings

The external lighting of buildings can add to the architectural character of buildings at night and enliven the centre. However, external lighting has an impact on total energy efficiency and can affect residential amenity.

a. Any external lighting of buildings is to be considered with regard to: i. The integration of external light fixtures with the architecture of the building (for example highlighting external features of the building); ii. The contribution of the visual effects of external lighting to the character of the building, surrounds and skyline; iii. The energy efficiency of the external lighting system; and iv. The amenity of residents in the locality.	External lighting of the building is not proposed. Conditions 41 states that lighting of common areas and street frontages are not to cause offensive glare onto surrounding residential properties.	Yes
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Ryde DCP 2014 Control	Comment	Compliance
Part 7: Environment		
Part 7.1: Energy Smart, Water Wise		
(a) Energy efficiency performance report (b) Details of hot water system, insulation, energy and water efficient appliances and water storage. (c) Site Analysis.	The application is accompanied by a NatHERS and BASIX Assessment report and the required information is detailed on the plans for the residential and non-residential components of the proposal.	Yes
Part 7.2 Waste Minimisation and Management		
2.3 All Developments		
(d) Developments must provide space for onsite waste containers. (e) Compliant size of storage areas and number of storage containers. (f) Space to be provided for bulk waste where appropriate. (g) Storage of green waste provided. (h) Stored within the boundaries of the site. (i) Site Waste Minimisation and Management Plan (SWMMP) required. (j) Located to provide easy, direct and convenient access.	Provided in the basement. Size and number of storage containers is provided. Provided in the basement. Provided in the basement. Provided within the site. SWMMP submitted. Suitably located.	Yes

(k) Storage areas visible from the street are to complement the design of the development and streetscape.	N/A Provided in the basement.	
(l) No incineration devices.	No incineration devices.	
(m) Collection point identified on plan.	Shown on plans.	
(n) Path for wheeling bin collection not less than 14:1.	Achieved.	
(o) Complies with Australian Standard AS 2890.2-2002 Parking Facilities – Part 2: Off-street commercial vehicle facilities.	Complies with AS.	
(p) Complies with the Building Code of Australia and relevant Australian Standards.	Complies with BCA & AS.	

2.4 Demolition and Construction

(a) Demolition must comply with AS and WorkCover.	Yes, conditions recommended. See Conditions 1, 26 & 28.	Yes
(b) Demolition work plan submitted.	Submitted.	
(c) Dedicated area on site for stockpile of materials taking into account environmental factors and amenity impacts.	Plan show suitable area for stockpile of waste.	
(d) Construction materials to be stored away from the waste materials on site.	Yes, condition recommended. See Condition 95.	

2.9 Mixed Use Developments (in addition to 2.3 above)

(a) Separate waste and recycling storage, handling and collection systems for the residential and commercial areas.	Separate residential and commercial systems provided.	Yes
(b) Waste management systems to efficiently operate without conflict between the systems within the development and surrounding land uses.	Systems operate without conflict.	
(c) Easily accessible to users and waste collection staff.	Systems easily accessible.	
(d) The waste management systems are to comply with the relevant requirements for those developments under this part.	Yes, conditions recommended. See Conditions 143-152.	
(e) Noise from the operation of waste collection is not to impact on residents, with consideration given to siting of equipment and the collection area, and appropriate measures to mitigate potential daily noise impacts.	Waste collection is wholly contained in the basement area.	
(f) Commercial tenants to be discouraged from using residential waste facilities (e.g., via signage, separate keys and locking systems).	Yes	
(g) Details to be clearly identified in the site waste minimisation and management plan.	Yes	

Part 8: Engineering

Part 8.1 Construction Activities

2.1.2 Erosion and sediment control plan to be submitted.	Erosion and sediment control plan provided.	Yes
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Part 8.2 Stormwater and Floodplain Management		
2.0 Stormwater Drainage. To ensure the collection and conveyance of stormwater runoff on property is undertaken in a manner to preserve the amenity of the land, prevent damage to property and without jeopardising public safety.	Reviewed by Council's Development Engineer and City Works section. Satisfactory, subject to conditions. See Conditions 55-58 .	Yes
3.0 Water Sensitive Urban Design	N/A. Does not apply to this land use zone.	N/A
4.0 Flooding and Overland Flow Applies to land identified as "Flood Planning Area" on the Flood Planning Map within Ryde LEP 2014, and other land at or below the flood planning level.	The site is not identified as a flood planning area on the Ryde LEP maps. Reviewed by Council's Development Engineer and City Works section and the proposal is supported.	Satisfactory.
Part 8.3 Driveways		
2.0 Design Standards. Layout and design of the driveway and parking facility shall take into account the design standards.	The proposal is consistent with the design standards.	Yes
3.2 Disused footway crossings that become redundant are to be removed and footway restored.	Disused crossings are sought to be removed.	Yes
4.0 Designing internal access roads and parking spaces		
4.1 (a) General: The design of all parking spaces, circulation roads and manoeuvring areas on the property must confirm to the minimum requirements of AS2890.1-2004 and AS2890.2-2002.	The proposal is consistent with the design criteria.	Yes
4.2 Design of Parking Spaces		
(a) Parking spaces and driveway widths for all vehicles shall comply with A.S.2890.	Suitable widths are provided.	Yes
(b) Vehicles (85th percentile) to enter and leave designated parking space in a single 3 point turn manoeuvre. A 99 th percentile vehicle for disabled vehicles.	Suitable space for manoeuvring is provided.	
(c) Enter and leave in a forward direction.	All vehicles enter and exit in a forward direction.	
4.3 Gradient for Cars and Small Rigid Trucks		
(a) The access driveway from the centreline of the public road to the parking space is to be designed to minimise entry hazards from the road, account for pedestrian safety and prevent scraping of vehicles using the access.	Driveway access is safe and includes specific traffic safety measures including a central raised pedestrian island and egress restricted to a 'left out' turning movement only.	Yes
Part 9.2 Access for People with Disabilities		
An accessible path of travel from the street to unit. 10% apartments adaptable.	The proposal is accompanied by a BCA & Access Compliance Report which demonstrates that the development is capable of complying with the BCA. An accessible path of travel is provided.	Yes

8 (10%) adaptable apartments are provided.

Part 9.3 Parking Controls: 2.2 Residential Land Uses

The proposal is for 13 residential and 2 residential visitor car parking spaces, which is within the range of car parking spaces permitted under the DCP, as shown in the table below:

Apartment Type	DCP Parking Rate	Minimum Spaces	Maximum Spaces	Provided	Compliance
1 bed (3)	0.6 to 1 space per dwelling	1.8	3	-	-
2 bed (7)	0.9 to 1.2 spaces per dwelling	6.3	8.4		
3 bed (2)	1.4 to 1.6 spaces per dwelling	2.8	3.2		
Sub-total		10.9 (11)	14.6 (15)	13	Yes
Visitor	1 space per 5 dwellings	2.4 (3)	2.4 (3)	2	No. Variation sought. Refer to further discussion in the Assessment report.
Total		13.3	17	15	Partial

Part 9.3 Parking Controls: 2.3 Non-residential Land Uses

The proposal is for 6 commercial car parking spaces at the Basement Level, which satisfies the requirements of the DCP, as shown in the table below.

Use	DCP Parking Rate	Area	Required	Provided	Compliance
Commercial	1 space per 25m ²	150m ²	6	6	Yes

Part 9.5 Tree Preservation

There are no significant trees or vegetation on the site or along the boundaries with the adjoining properties.

Council's Landscape Officer has confirmed that the trees along the Ethel Street frontage are as follows:

- Murraya – which is considered to be a weed species by the Department of Primary Industries and can be removed.
- Lasiandra – which has a height of less than 5m and is exempt from the Tree Management Order. This tree is in poor condition and can be removed.

Overall, the proposal provides a favourable balance between the built form and the planting of new trees and landscaping which is in keeping with the desired future character of the locality to foster a green environment.

EXPERT OPINION: SOLAR ACCESS

Walsh Analysis

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OVERSHADOWING STUDY

8 Ethel Street Eastwood

29th October 2021

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1.0 PRELIMINARIES AND SUMMARY

1.1 PRELIMINARIES

- 1.1.1 This expert opinion report is an analysis and verification of projected **overshadowing** compliance for the DA proposal comprising of 18 apartments at 10-12 Ethel Street Eastwood.
- 1.1.2 Our qualifications and experience are summarized in *A.0 APPENDIX A: CREDENTIALS*.
- 1.1.3 The documents referred to in this report are detailed in *2.1 DOCUMENTS*.

1.2 SUMMARY OF OVERSHADOWING IMPACTS

1.2.1 SOLAR ACCESS FOR APARTMENTS

To undertake the analysis we received a 3D model of the proposal located in the surrounding context. We then take half hourly views from the sun (Appendix B), and a detailed compliance table of the overshadowing caused by the DA scheme is prepared (Appendix C).

1.2.2 10-12 ETHEL STREET EASTWOOD

10-12 Ethel St Eastwood currently has 8 out of 18 (44.4%) of units receiving 2 hours of solar access to their living room and private open space between 9am-3pm. With the new development application proposal, there is a 0% reduction which is **compliant with Objective 3B-2 of the ADG**.

There is some overshadowing to various units which are discussed further in part 4.1; however, we consider any of that overshadowing to be reasonable given the apartment layouts and that there is still good amenity provided to those units.

1.2.3 6 ETHEL STREET EASTWOOD

It is our considered opinion that a future development on 6 Ethel Street could achieve full compliance with Objective 4A-1 of the Apartment Design Guide.

2.0 DOCUMENTS AND INFORMATION

2.1 DOCUMENTS

2.1.1 We base our analysis and opinion on drawings provided by Momentum Architects:

- Strata Plan Drawings for SP78411
- Realestate plans of neighbouring building to show locations of living verse bedrooms
- 3D digital model supplied by the architects in DWG format:
 - o 3DModel 12-10-2021.dwg

2.2 SITE

The proposed development site has a long frontage facing East and West, with a shorter street frontage to the north known as Ethel Lane, and a shorter southern frontage to Ethel Street. The neighbouring buildings in the context are predominately apartment buildings or shop top housing.

To the east of the site there is an apartment building which relies on sun from the east north and west for amenity to the apartments. This apartment building to the east at 10-12 Ethel Street Eastwood is the main subject of this overshadowing study.



Figure 1: Aerial view of site

3.0 SOLAR ACCESS – OVERSHADOWING

3.1 RELEVANT SOLAR ACCESS STANDARDS

3.1.2 RELEVANT ADG CONTROLS

The ADG provides a test for acceptable additional overshadowing impact on adjacent multi-residential properties:

<i>Objective 3B-2</i>
Overshadowing of neighbouring properties is minimised during mid winter
<i>Design guidance</i>
Living areas, private open space and communal open space should receive solar access in accordance with sections 3D Communal and public open space and 4A Solar and daylight access
Solar access to living rooms, balconies and private open spaces of neighbours should be considered
Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%

3.1.2 LOCAL CONTROLS

We note that **Solar access (6.1) Design criteria** in the ADG are *discretionary controls* which, by virtue of Cl. 6A of SEPP65, take precedence over controls contained in Councils' DCPs.

In quantifying the compliance for solar access for this application, we rely on satisfying the ADG as also satisfying the DCP requirement.

3.2 PREDICTED SOLAR ACCESS: METHODOLOGY

We employ the following analysis methodology.

3.2.1 3D DIGITAL MODEL

For a detailed analysis of overshadowing and solar access, we refer to a 3D model that has been provided by Momentum Architects. A 3D file was sent to us on the 12/10/2021 named "3DModel 12-10-2021.dwg".

3.2.2 MODEL LOCATION

We have independently geo-located the model and verified the direction of North.

3.2.3 ACCURACY OF THE MODEL

From the model, we have summarily checked topographical and building dimensions that might otherwise give rise to any errors, by reference to figured RL dimensions. Having established the accuracy of the key points, we feel confident to rely on the general accuracy of the modelling.

3.2.4 VIEWS FROM THE SUN

The SketchUp software prepares the shadow projections by reference to accurate solar geometry. Because of the complexity of demonstrating the quantification of solar access to glazing and private open space of various orientations, our detailed analysis was performed primarily by using projections known as '**View from the Sun**' taken at half hourly intervals.

A view from the sun shows all sunlit surfaces at a given time and date. It therefore allows a very precise count of sunlight hours on any glazing or horizontal surface, with little or no requirement for secondary calculations or interpolation. The technique is illustrated in Figure 2.

Note that a 'view from the sun' by definition does not show any shadows.



Figure 2: View from the sun, 12pm June 21

3.3 CHARACTERISATION OF SOLAR ACCESS COMPLIANCE

3.3.1 SUN PATCHES ON GLAZING

For the purpose of calculating the compliance with the control, we examine sun patches on the relevant glazing line of each apartment. Because of its key importance in the determination of what is 'effective sunlight' for characterisation of compliance, for both glazing and private open space, we refer specifically to the relevant *L+EC Planning Principle (The Benevolent Society v Waverley Council [2010] NSWLEC 1082)* in that:

- We quantify as complying all sun patches of 'reasonable size', which we generally take to be a minimum of approximately 1m².
- We ignore very large angles of incidence to the glazing surface, and unusably small areas of sunlit glazing.

There is no accepted standard for the absolute limit of acceptable area of the sun patch on partly shaded glazing. In accordance with the Court's Planning Principle, we consider this to be approximately 1m² (on the basis that it exceeds 50% of the area of a standard window 1500 x 1200 high which would normally be accepted as complying).

3.3.2 SUN TO BEDROOMS

Periods of sun available to bedrooms contribute significantly to the amenity of any apartment that may have an otherwise unfavourably oriented or overshadowed living area. This characterisation is consistent with the interpretation of *the BenSoc Principle* (and its predecessor *Parsonage Principle*) as previously accepted by the Land and Environment Court, and by various Councils.

That said, in evaluating this development, we do not rely on periods of sun to bedrooms in lieu of living areas to characterise apartments as complying with the ADG Design criterion.

3.3.3 SUN TO BOTH POS AND LIVING

Objective 4A-1 of the ADG states "Living rooms **and** private open spaces". The use of the conjunctive "and" has been tested in the Land and Environment Court in the case *Landmark Group Australia Pty Ltd v Council of the City of Sydney [2019] NSWLEC 1338* where in 227, Commissioner Smithson did not agree that a development could count living rooms **or** private open space. In line with the ADG wording and the LEC case noted above, we only count units that receive complying sun to both living rooms and private open space.

4.0 OVERSHADOWING IMPACT ON NEIGHBOURING PROPERTIES

The views from the sun are also the most effective technique for identifying potential overshadowing impacts for neighbouring properties.

4.1 10-12 ETHEL STREET EASTWOOD

10-12 Ethel Street Eastwood is located directly to the east of the proposed development.

Of the 18 units, there are **no apartments that lose their complying amount of solar access.**

Multiple apartments on the western façade are effected by different degrees of overshadowing; however, as stated previously, no apartments lose a complying amount of solar access. We have provided a breakdown of the analysis, but this is just a summary of Appendix C which reports the full table of direct sun access for all individual apartments in 10-12 Ethel Street Eastwood.

Unit 1 – At 2:00pm, the living area is overshadowed; however there is still solar access to the bedrooms. The courtyard of this apartment is overshadowed; however, there is still 2.5 hours of solar access to the courtyard.

Unit 5 – This apartment has the living room recessed back meaning it didn't receive sun to the living area until 3pm. The proposed building overshadows this living area window at 3pm; however there is still sun to the bedrooms at this time. The balcony is also overshadowed from 2pm, meaning it loses 1 out of the 2.5 hours of solar access.

Unit 9 – This apartment mainly faces to the south but there is a bedroom which has a non operable window facing north. This window is overshadowed from 1pm-3pm which is considered reasonable given the apartment is not relying on it for complying solar access.

Unit 11 – This is the most effected apartment in the whole development from a complying solar access point of view. Whilst the living areas and balcony face south, there is a small window on the western side of the living room. This window currently received sun from 1pm until 3pm which will be reduced significantly under this proposal. Whilst the living room may not receive sun, bedrooms of that apartment will continue to receive sun until 3pm (when our reporting stops). There is a good level of amenity provided to that apartment.

Unit 15 – The Private Open Space (POS) of this unit runs along the full southern frontage. There is a small part of this POS which received sun from 1:30-3pm. That solar access is all but removed from the apartment. It is not considered reasonable to maintain that small amount of sun.

Table 2 below summarises the existing and projected solar access status for 10-12 Ethel Street Eastwood.

	EXISTING	PROJECTED	CHANGE
>2 hrs 9-3 Living	8 / 18 = 44.4%	8 / 18 = 44.4%	0%
No sun	0 / 18 = 0%	0 / 18 = 0%	0%

Table 2: Summary of Overshadowing to 10-12 Ethel Street Eastwood.

The projected overshadowing impact of the development proposal does not change compliance of 10-12 Ethel Street Eastwood. There is a 0% reduction in compliance across the whole development which is **compliant with Objective 3B-2 of the ADG.**

4.2 6 ETHEL STREET EASTWOOD

We have also looked at the site of 6 Ethel Street Eastwood. Whilst the site is not an apartment building currently, we looked at the site and its solar potential. Due to the location North, any future development on 6 Ethel Street would receive full solar access from 11:30am until 3pm, therefore would have more than 2 hours of solar access to satisfy Objective 4A-1 of the Apartment Design Guide. Depending on the unit configuration, this solar access could actually be from 9am until 3pm if the building was to make full use of the 12m building separation of the proposal at 8 Ethel Street Eastwood.

It is our considered opinion that a future development on 6 Ethel Street could achieve full compliance with Objective 4A-1 of the Apartment Design Guide.

5.0 CONCLUSIONS

5.1 OVERSHADOWING OF 10-12 ETHEL STREET EASTWOOD

The overshadowing impact of the proposal does not reduce the amount of units receiving 2 hours of solar access to their living room and private open space between 9am-3pm. The number of complying apartments in both existing and proposed conditions is 8 out of 18 which equals 44.4%. There is a 0% reduction which is **compliant with Objective 3B-2 of the ADG.**

5.2 OVERSHADOWING OF 6 ETHEL STREET EASTWOOD

It is our considered opinion that a future development on 6 Ethel Street could achieve full compliance with Objective 4A-1 of the Apartment Design Guide.

A.0 APPENDIX A: CREDENTIALS

Walsh Analysis provides opinion based services primarily in relation to analysis and reporting of solar access and overshadowing compliance of multi residential projects.

Scott Walsh is a Director of Walsh Analysis. He developed his specialised expertise under Steve King, a well-known expert in the field.

Scott started working for Steve King in 2011 as a tutor of Environmental Design at the University of New South Wales. From 2013 Scott has contracted to Steve King to undertake modelling and numerical analysis of solar access to large apartment projects. Over a number of years Scott contributed significantly to fine-tune the way the analysis was undertaken, and assisted in providing to the architects feedback in regards to areas that could be adjusted to improve solar access.

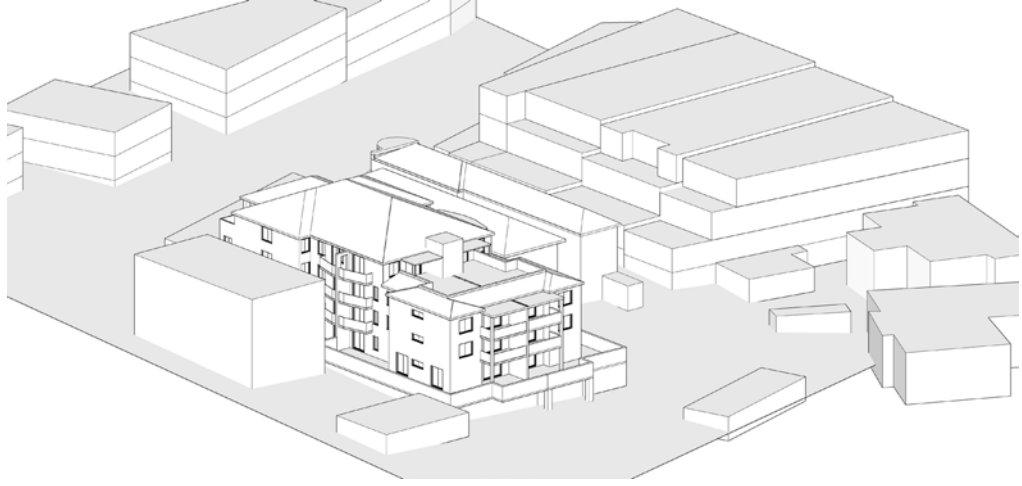

Scott holds a Masters of Architecture from the University of New South Wales as well as a Bachelor of Architecture. He is a registered architect in New South Wales (10366) and the Australian Capital Territory (2624) and a director of Walsh Architects.

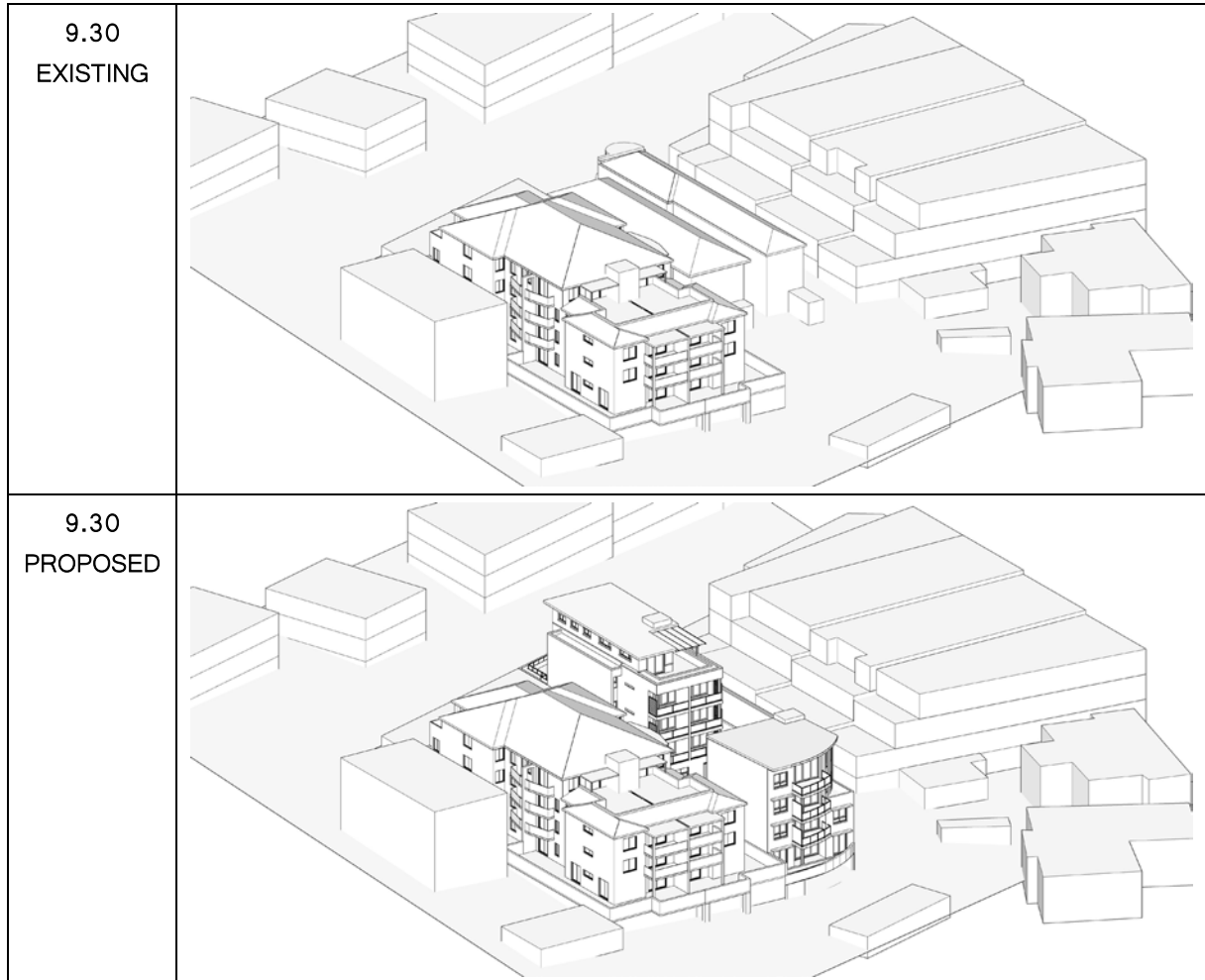
Steve King:

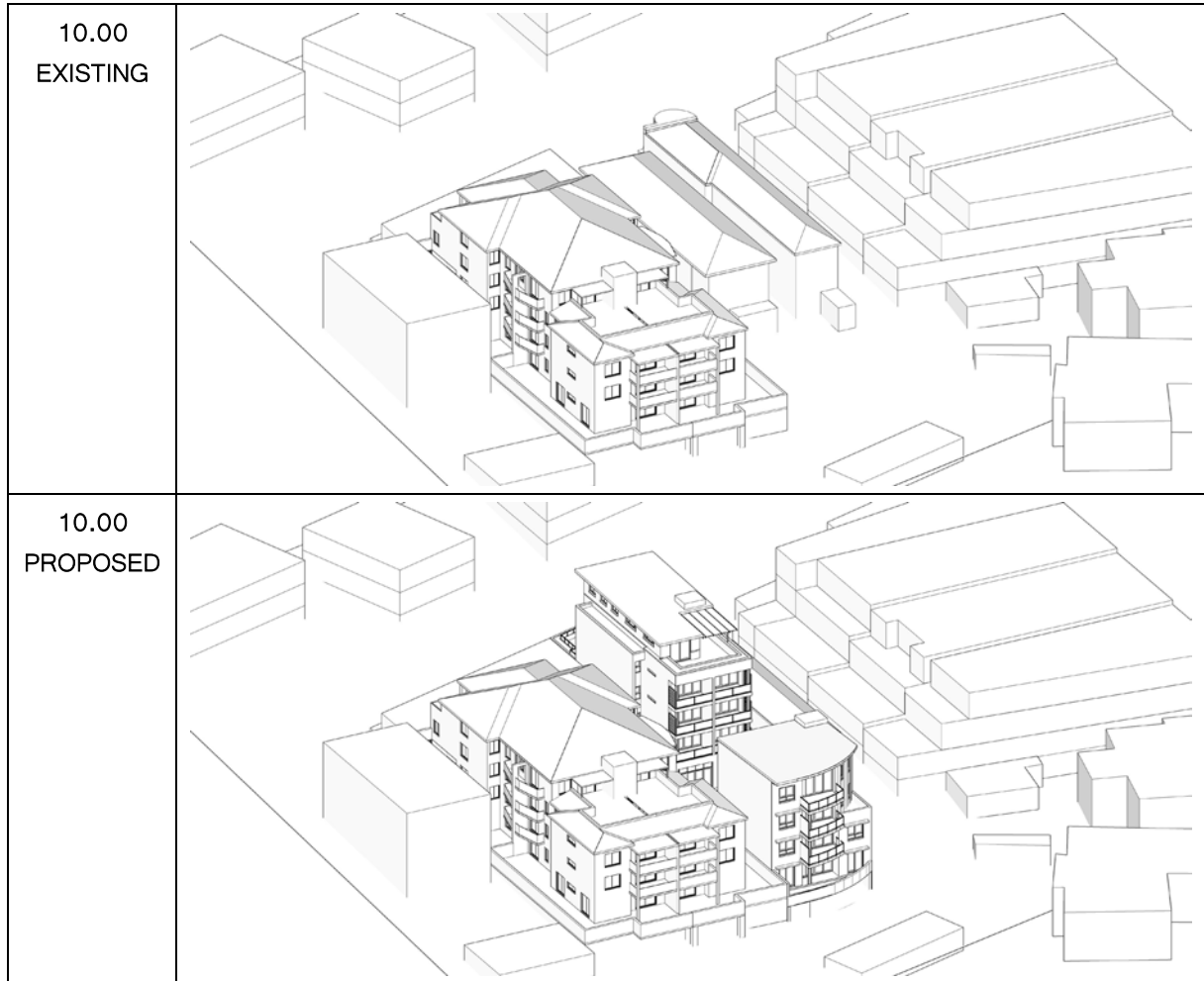
I am pleased to provide my commendation and support for Walsh Analysis. Scott has undertaken solar access and overshadowing analysis of over 150 apartment buildings from as small as 10 units up to over 1000 units. I have relied on his technical expertise and accuracy to provide advice to architects, planners and to the Land and Environment Court, including independent third-party peer review of others' characterisation and reporting of compliance.

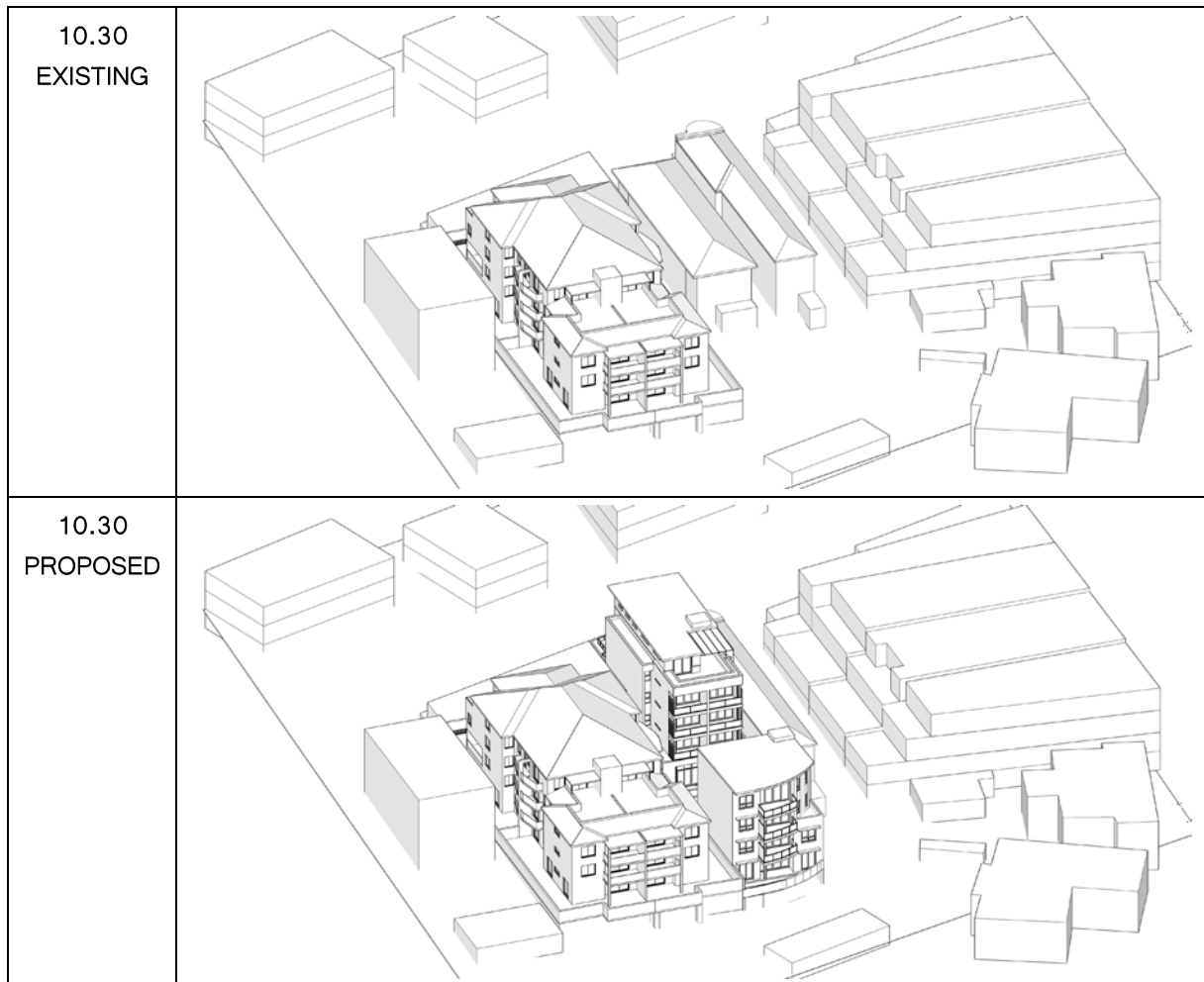
B.0 APPENDIX B: VIEWS FROM THE SUN

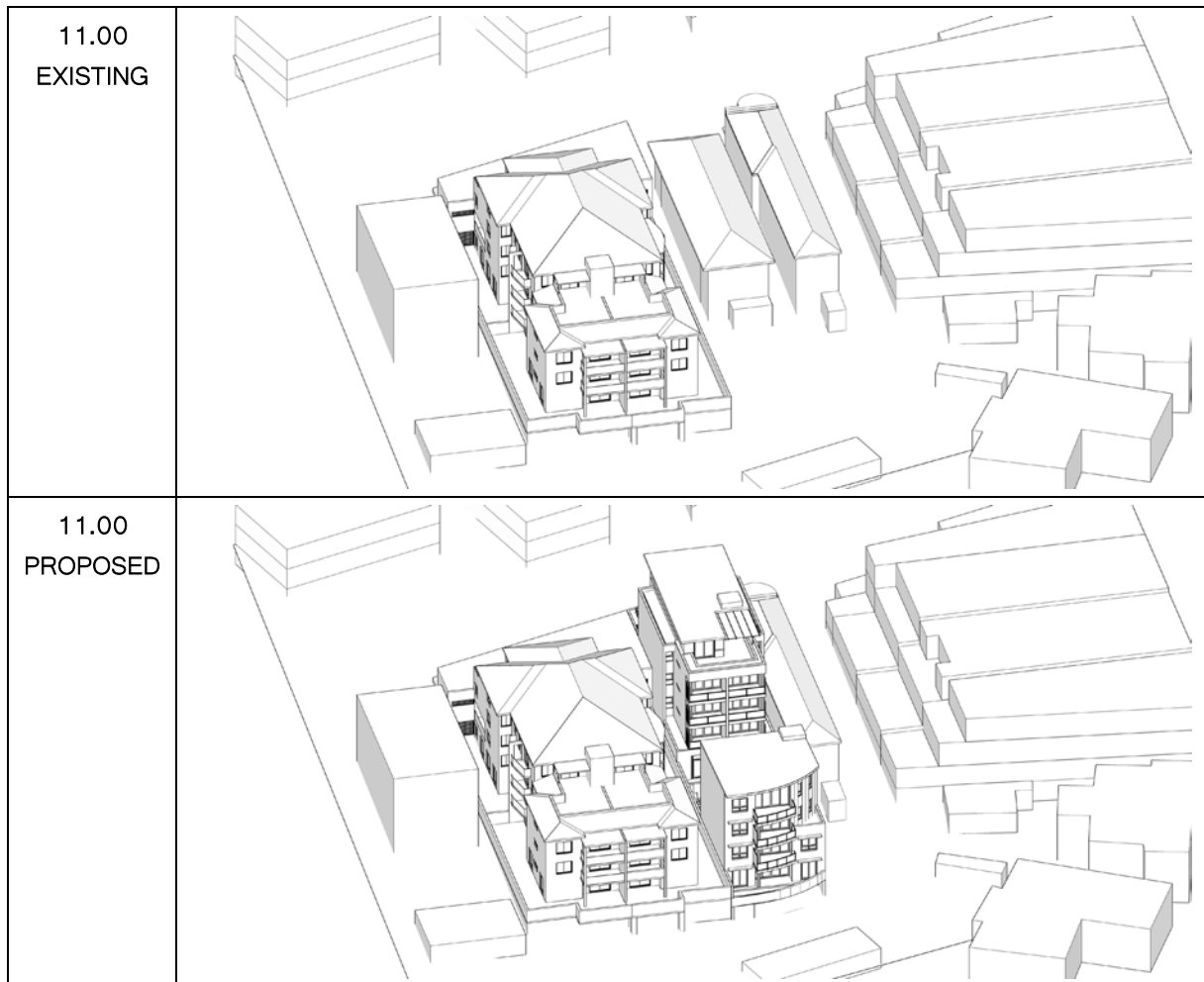
The table shows half-hourly views of solar access projections for June 21.

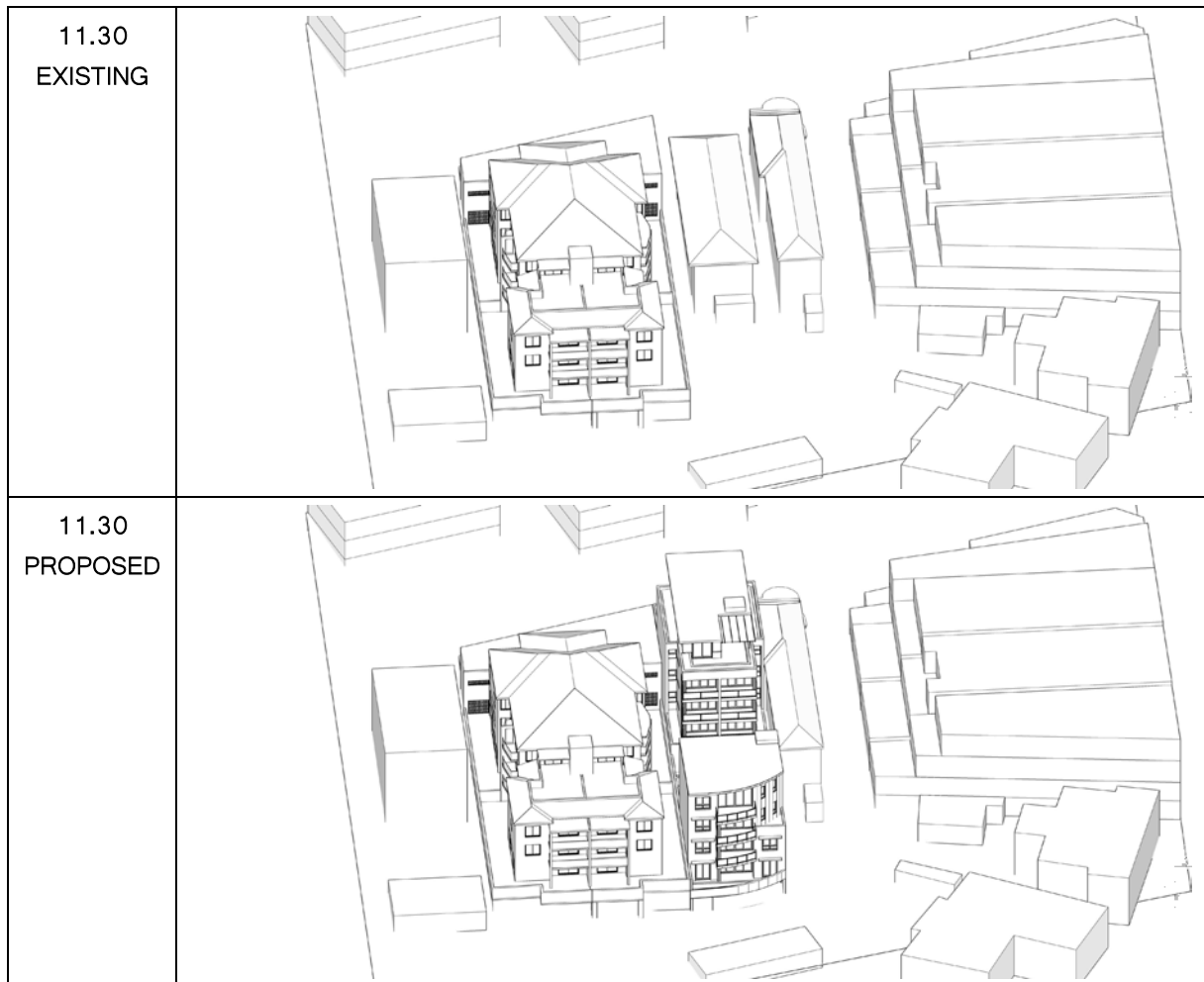
<p>9.00 EXISTING</p>	 A 3D architectural rendering showing a cluster of buildings. The central building is a multi-story structure with a complex facade, including balconies and a gabled roof section. It is surrounded by several other rectangular buildings of varying heights and widths. The scene is rendered in a clean, wireframe style with light gray shading to indicate depth and perspective.
<p>9.00 PROPOSED</p>	 A 3D architectural rendering showing the same cluster of buildings as the 'EXISTING' view, but with a new building added. This new building is a multi-story structure with a curved facade and a prominent balcony, positioned to the right of the central building. The overall layout and surrounding buildings remain the same as in the existing view.



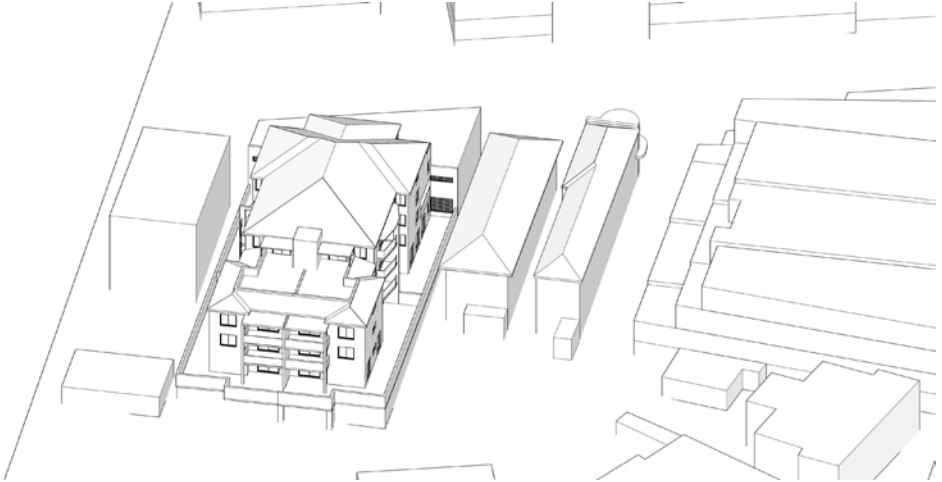





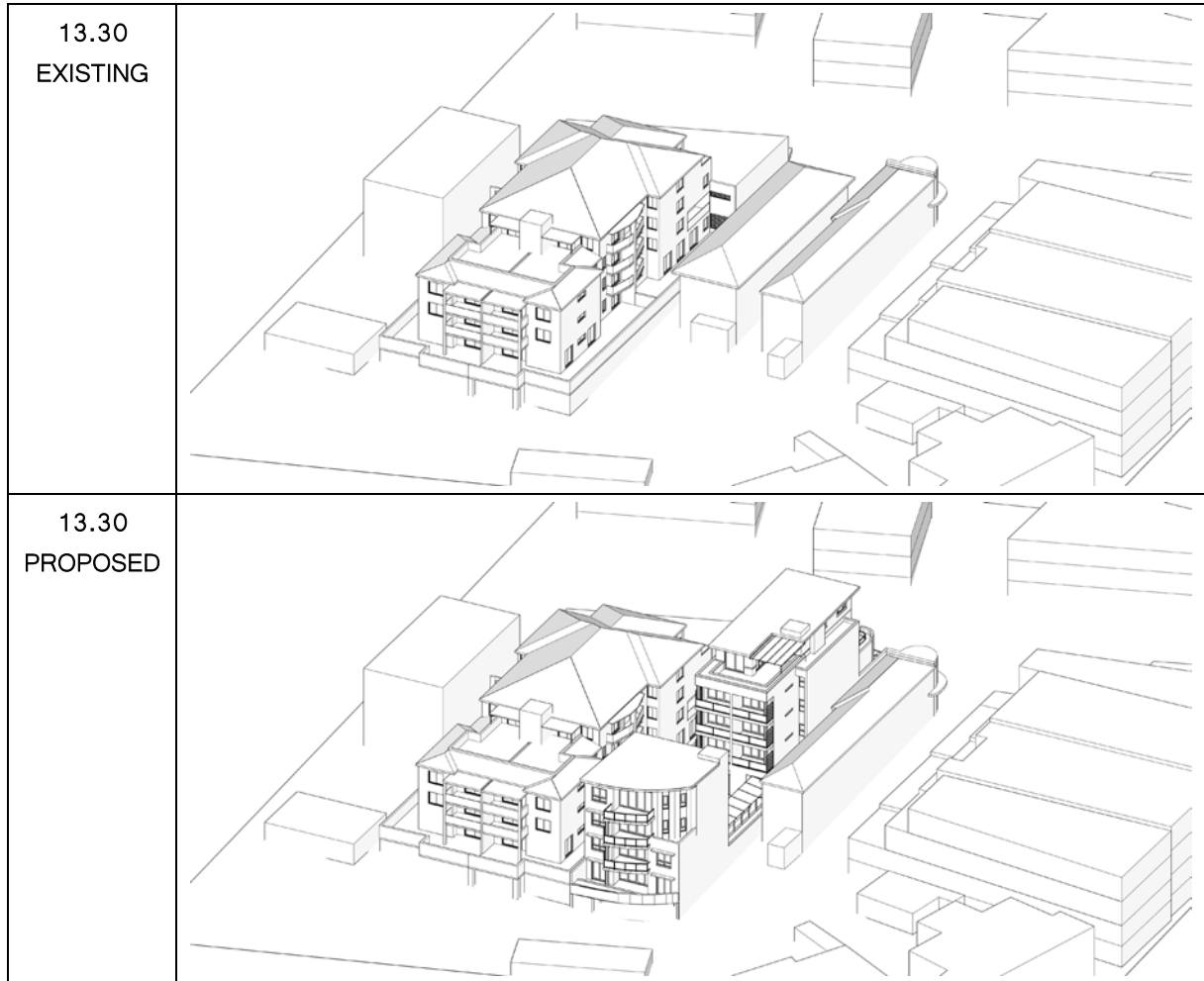


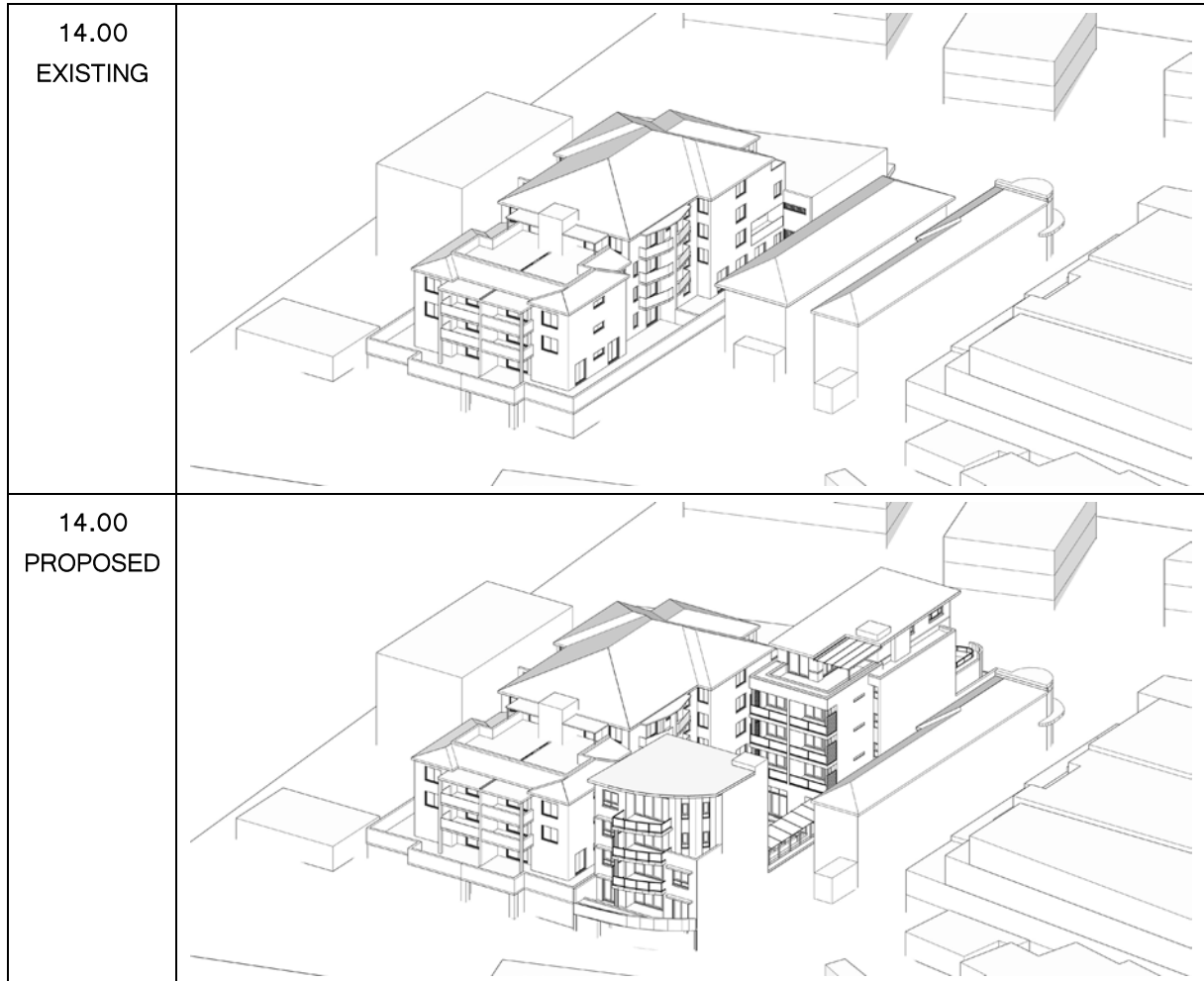


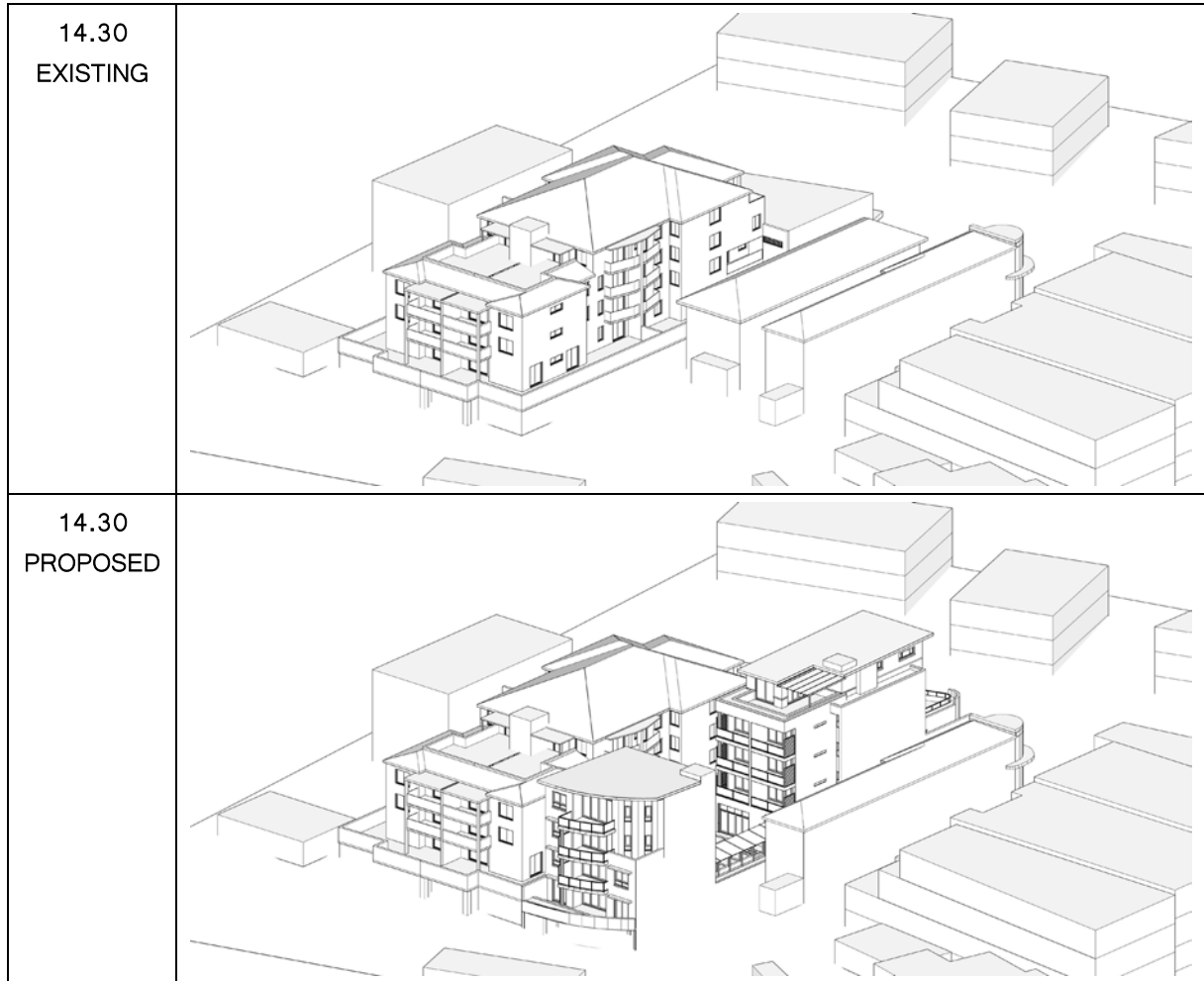


<p>12.30 EXISTING</p>	 A 3D architectural rendering showing a cluster of existing buildings. The central building is a multi-story structure with a prominent gabled roof and a chimney. To its right is a long, narrow building with a pitched roof. Further right is a large, multi-story building with a flat roof. The rendering is a line drawing with light shading to indicate depth and perspective.
<p>12.30 PROPOSED</p>	 A 3D architectural rendering showing the proposed buildings at the same location. The central building is similar to the existing one but with a different roofline. A new, taller building is added to the right of the central building, and another structure is added in front of it. The rendering is a line drawing with light shading to indicate depth and perspective.

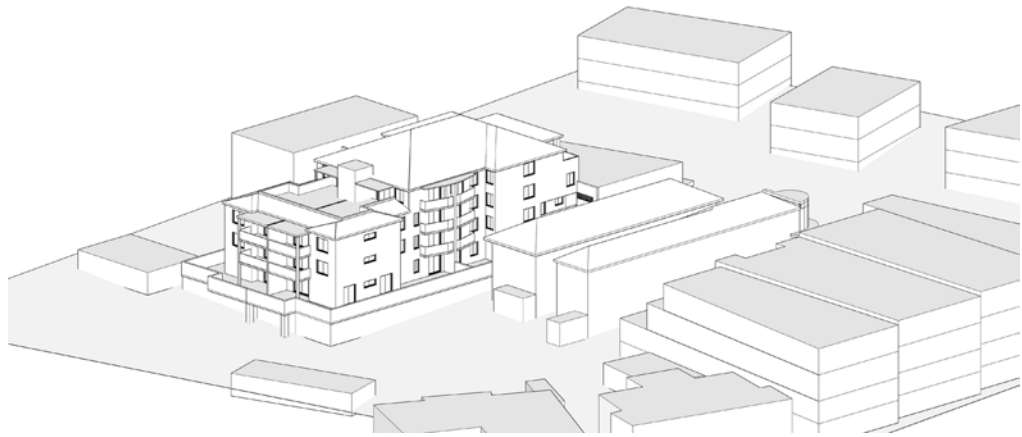








15.00
EXISTING



15.00
PROPOSED



C.0 APPENDIX C: DETAILED COMPLIANCE TABLE - OVERSHADOWING

The following table sets out in detail the solar access status of each Apartment in the current DA Scheme.

LEGEND	
Y	RECEIVES COMPLIANT SUN
H	HABITABLE SPACES RECEIVES COMPLIANT SUN
N	DOES NOT COMPLY
N	LIVING NOW OVERSHADOWED
H	HABITABLE SPACES NOW OVERSHADOWED
H	LIVING OVERSHADOWED BUT HABITABLE ROOM GETS SUN

LEVEL	UNIT NUM.	ROOM	9	930	10	1030	11	1130	12	1230	13	1330	14	1430	15	>3 hrs 9-3	Comply for Living + POS >3 hrs	>2 hrs 9-3	Comply for Living + POS >2 hrs	No sun	
EXISTING SOLAR COMPLIANCE																					
GROUND FLOOR	UNIT 1	Living	N	N	N	N	N	N	N	Y	Y	Y	Y	N	H						
		POS	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.				N/A
	UNIT 2	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y			YES		YES	
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.				N/A
LEVEL 1	UNIT 3	Living	N	H	N	H	Y	N	N	N	N	N	N	N	N						
		POS	N	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	Y	YES.				N/A
	UNIT 4	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES	
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.				N/A
LEVEL 1	UNIT 5	Living	N	N	N	N	N	N	N	H	H	H	H	H	Y						
		POS	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y			YES.		N/A
	UNIT 6	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES	
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.				N/A
LEVEL 1	UNIT 7	Living	N	N	H	H	H	N	N	N	N	N	N	N	N						
		POS	N	N	N	Y	Y	N	N	N	N	N	N	N	N	N					N/A
	UNIT 8	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES	
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.				N/A
LEVEL 2	UNIT 9	Living	N	N	N	N	N	H	H	H	H	H	H	H	H						
		POS	N	N	N	N	N	N	N	N	N	N	N	N	N	N					N/A
	UNIT 10	Living	N	N	N	Y	Y	Y	Y	Y	N	N	N	N	N	N			YES		
		POS	N	N	N	N	N	N	N	N	N	N	N	N	N	N					N/A
LEVEL 2	UNIT 11	Living	N	N	N	N	N	N	N	H	Y	Y	Y	Y	Y			YES			
		POS	N	N	N	N	N	N	N	N	N	N	N	N	N	N					N/A
	UNIT 12	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES	
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.				N/A
LEVEL 3	UNIT 13	Living	Y	Y	Y	Y	Y	H	N	N	N	N	N	N	N			YES			
		POS	N	N	N	N	N	N	N	N	N	N	N	N	N	N					N/A
	UNIT 14	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES	
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.				N/A
LEVEL 3	UNIT 15	Living	N	N	N	N	H	H	H	H	H	H	H	H	H						
		POS	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y					N/A
	UNIT 16	Living	H	H	H	H	H	H	H	H	H	N	N	N	N	N					
		POS	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N	N					N/A
LEVEL 3	UNIT 17	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES	
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.				N/A
	UNIT 18	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	YES	YES		YES	
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.				N/A
18																8	8	3	8	0	
																44.4%	44.4%	16.7%	44.4%	0.0%	
																			44.4%	0.0%	

LEVEL	UNIT NUM.	ROOM	9	930	10	1030	11	1130	12	1230	13	1330	14	1430	15	>3 hrs 9-3	Comply for Living + POS >3 hrs	>2 hrs 9-3	Comply for Living + POS >2 hrs	No sun
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PROPOSED SOLAR COMPLIANCE

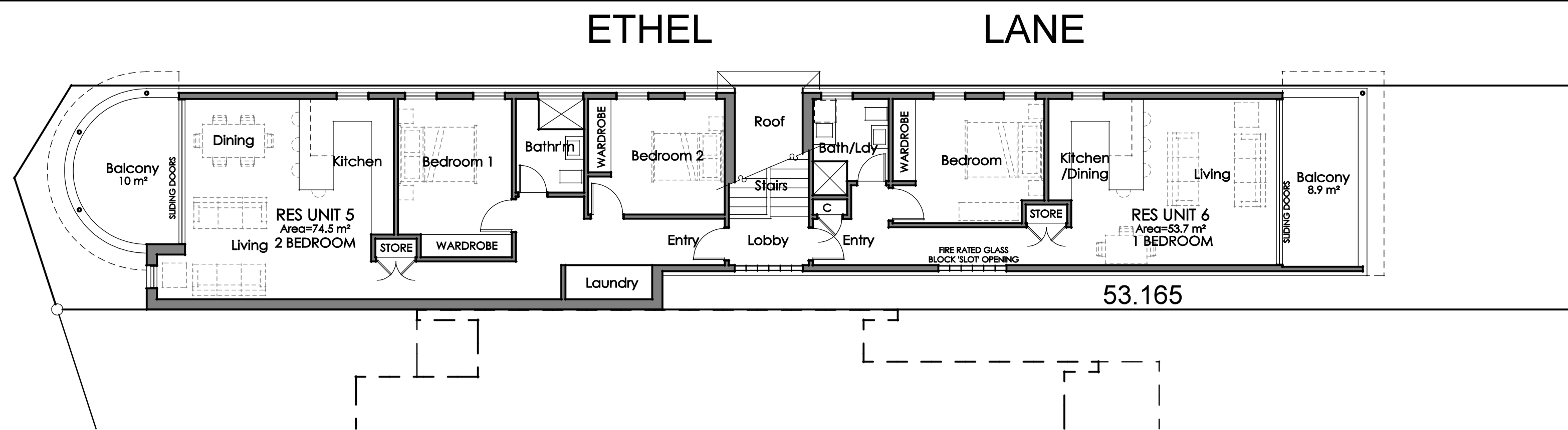
LEVEL	UNIT	ROOM	Solar Compliance Data															Comply for Living + POS >3 hrs	>2 hrs 9-3	Comply for Living + POS >2 hrs	No sun
			9	930	10	1030	11	1130	12	1230	13	1330	14	1430	15	>3 hrs 9-3					
GROUND FLOOR	UNIT 1	Living	N	N	N	N	N	N	N	Y	Y	Y	H	N	H						
		POS	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	N		YES.		N/A	
	UNIT 2	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES		
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.			N/A		
LEVEL 1	UNIT 3	Living	N	H	N	H	Y	N	N	N	N	N	N	N	N						
		POS	N	Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	YES.			N/A		
	UNIT 4	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES		
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.			N/A		
LEVEL 2	UNIT 5	Living	N	N	N	N	N	N	N	H	H	H	H	H	H						
		POS	N	N	N	N	N	N	N	Y	Y	Y	N	N	N				N/A		
	UNIT 6	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES		
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.			N/A		
LEVEL 3	UNIT 7	Living	N	N	H	H	H	N	N	N	N	N	N	N	N						
		POS	N	N	N	Y	Y	N	N	N	N	N	N	N	N				N/A		
	UNIT 8	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES		
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.			N/A		
LEVEL 4	UNIT 9	Living	N	N	N	N	N	H	H	H	N	N	N	N	N						
		POS	N	N	N	N	N	N	N	N	N	N	N	N	N				N/A		
	UNIT 10	Living	N	N	N	Y	Y	Y	Y	Y	N	N	N	N	N		YES				
		POS	N	N	N	N	N	N	N	N	N	N	N	N	N				N/A		
LEVEL 5	UNIT 11	Living	N	N	N	N	N	N	N	H	Y	H	H	H	H						
		POS	N	N	N	N	N	N	N	N	N	N	N	N	N				N/A		
	UNIT 12	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES		
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.			N/A		
LEVEL 6	UNIT 13	Living	Y	Y	Y	Y	Y	H	N	N	N	N	N	N	N			YES			
		POS	N	N	N	N	N	N	N	N	N	N	N	N	N				N/A		
	UNIT 14	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES		
		POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.			N/A		
LEVEL 7	UNIT 15	Living	N	N	N	N	H	H	H	H	H	H	H	H	H						
		POS	N	N	N	N	N	N	N	N	N	Y	N	N	N				N/A		
	UNIT 16	Living	H	H	H	H	H	H	H	H	H	N	N	N	N						
		POS	Y	Y	Y	N	N	N	N	N	N	N	N	N	N				N/A		
UNIT 17	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES	YES		YES			
	POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.			N/A			
UNIT 18	Living	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	YES						
	POS	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	YES.	YES		YES			

18

8	8	2	8	0
44.4%	44.4%	11.1%	44.4%	0.0%
			44.4%	0.0%

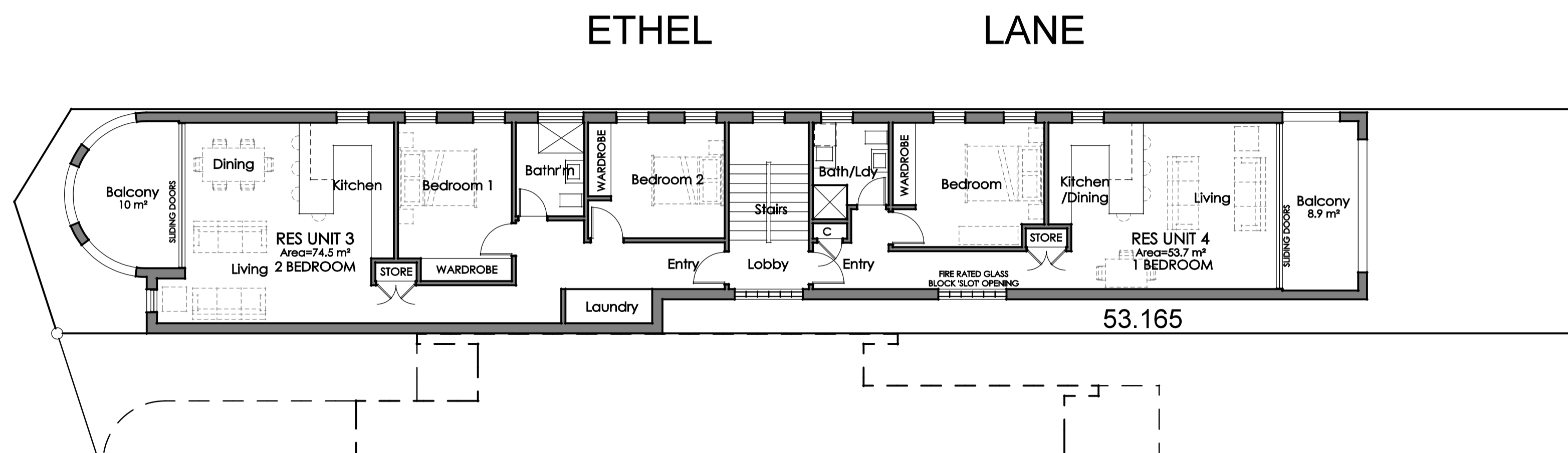
THIRD FLOOR PLAN

NEW ADDED FLOOR
2 RESIDENTIAL UNITS



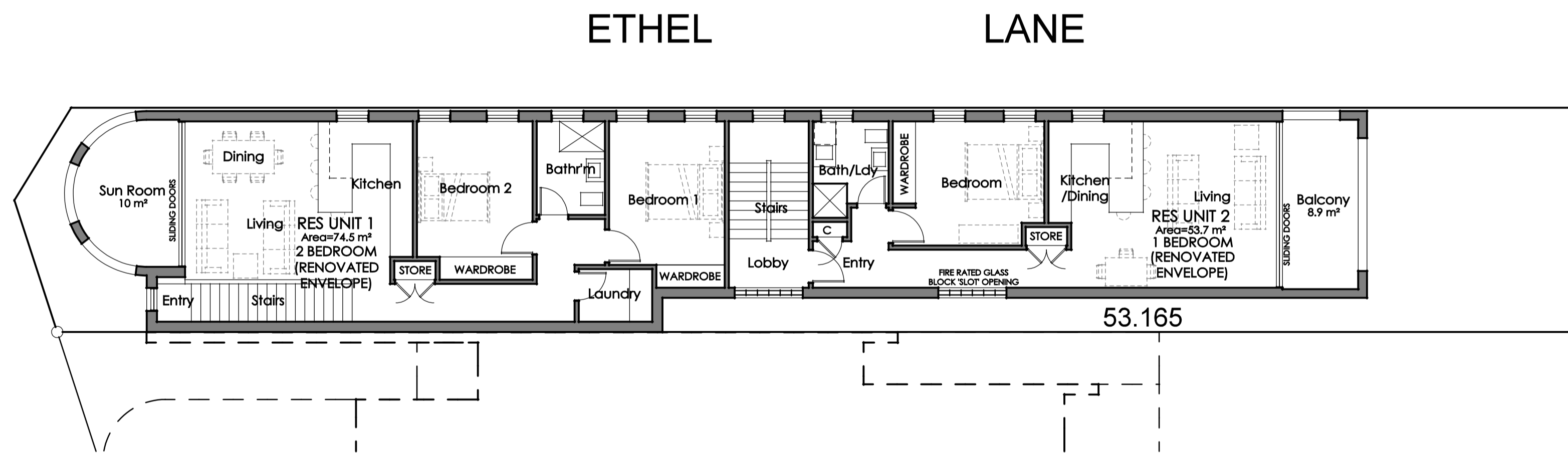
SECOND FLOOR PLAN

NEW ADDED FLOOR
2 RESIDENTIAL UNITS



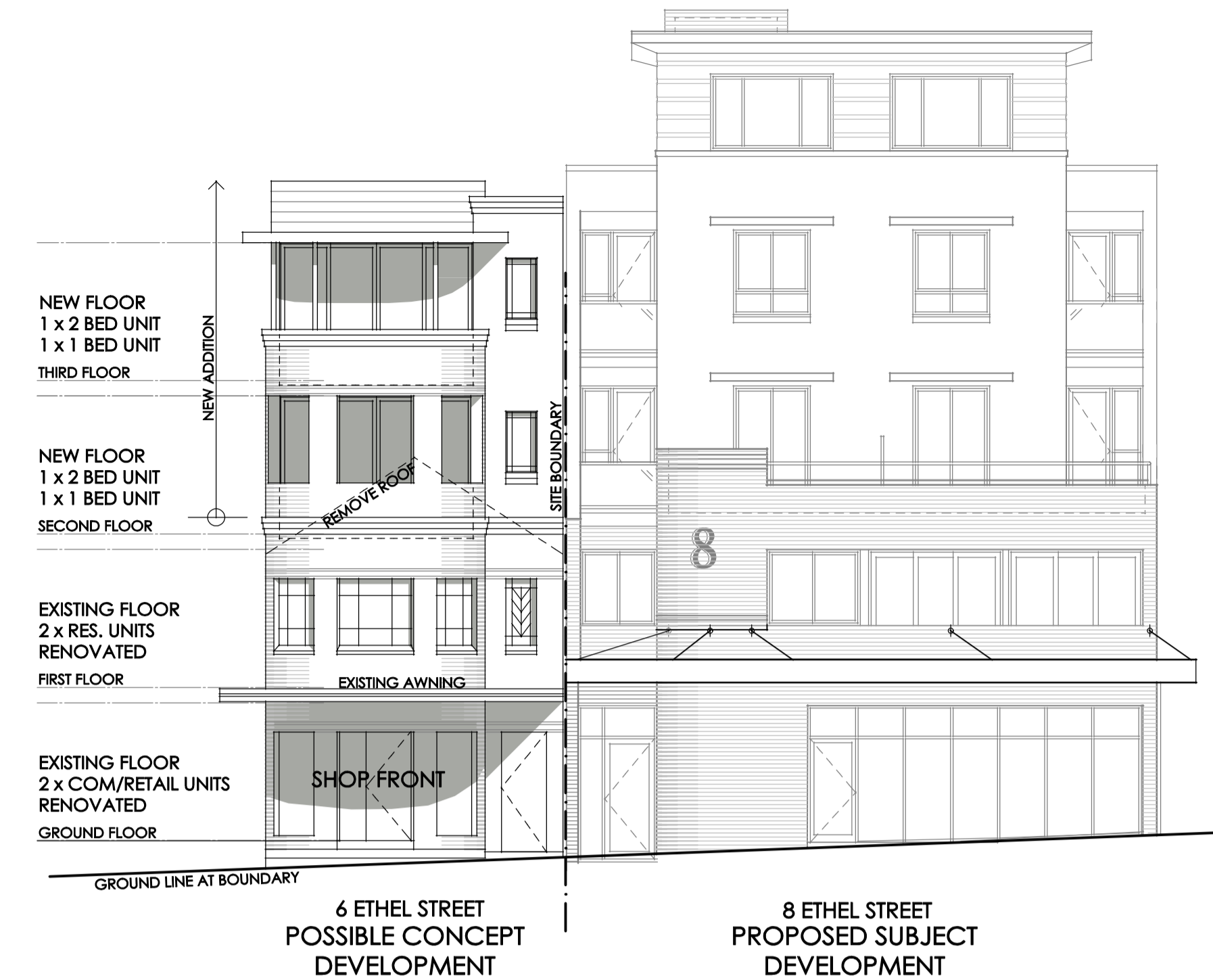
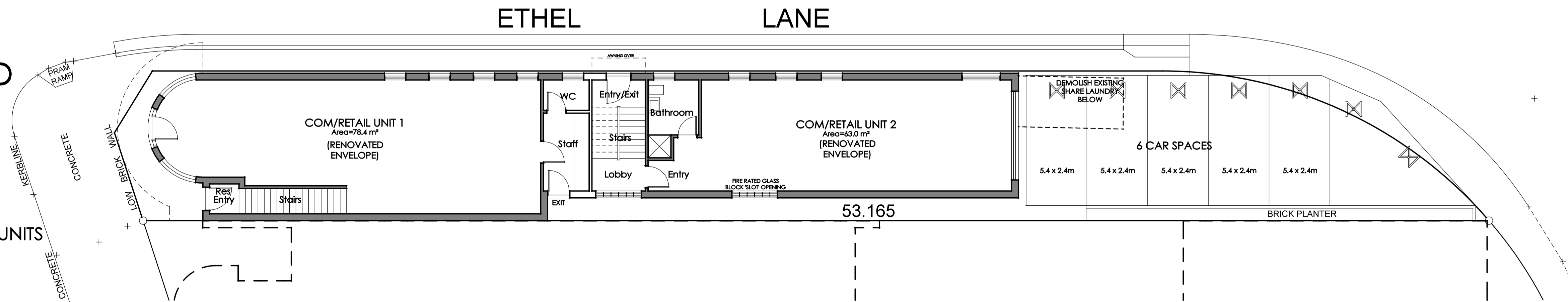
FIRST FLOOR PLAN

EXISTING RENOVATED
2 RESIDENTIAL UNITS



GROUND FLOOR PLAN

EXISTING RENOVATED
2 COM/RETAIL UNITS



POTENTIAL REDEVELOPMENT CONCEPT - No.6 ETHEL STREET

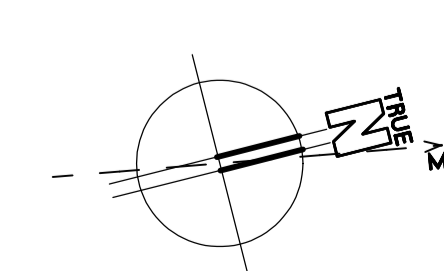
AI SHEET

DRAWING No.6 POTENTIAL DEV.			
DATE	OCTOBER, 2021	DRAWN	A.P.G
REF.	FILES\RON-ETHEL\DA\PLANS3		
DRAWING No.	EX	YEAR	REV.
190XX	DA	21	A

PROJECT	
PROPOSED MIXED COMMERCIAL AND SHOP-TOP HOUSING DEVELOPMENT	
AT	FOR
8 ETHEL STREET STRATA PLAN SP.18447 EASTWOOD NSW 2122	MR RON WANG

REV.	REVISION DESCRIPTION	DATE	REV.	REVISION DESCRIPTION	DATE	REV.	REVISION DESCRIPTION	DATE
A	REVISED DA DESIGN SUBMISSION	OCT, 2021						

NOTES
 FIGURED DIMENSIONS TO TAKE PRECEDENCE OVER SCALING.
 ANY DISCREPANCIES TO BE CHECKED WITH THE AUTHOR PRIOR TO COMMENCING WORK.
 ALL LOCAL GOVERNMENT REGULATIONS, BUILDING CODE OF AUSTRALIA AND OTHER CODES AND STANDARDS SHALL BE COMPLIED WITH IN THE WORKS.
 THESE DRAWINGS ARE PROTECTED BY COPYRIGHT.



MOMENTUM ARCHITECTS
 UNIT 20, 22 HUDSON AVE. CASTLE HILL NSW 2154 AUSTRALIA
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 JOHN G. BOURKE B.ARCH (HONS), A.R.A.I.A
 DIP. C.D. (HONS), A.S.T.C. (HONS), P.D.C., N.S.W. REG. #2428

DRAFT CONDITIONS OF CONSENT

GENERAL

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

- 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/Document Description	Drawing Number	Issue	Date
Site Analysis Plan	19059	-	March 2021
Demolition Plan	19089	-	March 2021
Lower Basement Plan	19060	C	April 2022
Basement Floor Plan	19061	C	April 2022
Site & Ground Floor Plan (as amended in red)	19062	C	April 2022
First Floor Plan	19063	C	April 2022
Second Floor Plan	19064	C	April 2022
Third Floor Plan	19065	C	April 2022
Fourth Floor Plan (as amended in red)	19066	C	April 2022
Roof Plan	19067	C	April 2022
Elevations	19068	C	April 2022
Elevations	19070	C	April 2022
Sections	19068	C	April 2022
Balcony Details	19071	B	Feb 2022
Schedule of Finishes	-	-	April 2021
Landscape Plan prepared by EarthMatters Consulting (as amended in red)	LD01	R1	15.10.2021
Stormwater Management Plan prepared by Karai Consulting Engineers (as amended in red)	SW01-05	8	10.11.2021
Stormwater Management & Sediment Control Plan (as amended in red)	SW02-05	8	10.11.2021
Stormwater Management & Sediment Control Plan (as amended in red)	SW03-05	8	10.11.2021
Stormwater Management & Sediment Control Plan	SW04-05	8	10.11.2021
Stormwater Management & Sediment Control Plan	SW05-05	8	10.11.2021
Draft Strata Plan - Basement 2 Prepared by Momentum Architects	19090	C	April 2022
Supplementary Traffic Planning Report prepared by Stanbury Traffic Planning	-	-	04.11.2021
Parking and Traffic Impact Assessment prepared by Stanbury Traffic Planning	19-183-4	-	May 2021
Preliminary Site Investigation prepared by Asset Geo Enviro	6367-E1	0	27.01.2021
Site Waste Minimisation and Management Plan prepared by Momentum Architects	-	-	16.02.2021

Accessibility Assessment Report prepared by Plan Urbia	A13720	C	08.06.2021
NCC Building Certification Report prepared by Kudos Building Certification	RE7031.1	R01	11.03.2021
Demolition Safe Work Method Statement prepared by Civil King Australia	-	-	25.08.2021
Acoustic Report prepared by Vipac Engineers and Scientists	20E-20-0271-TRP-30550425-0	-	25.02.2021

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

- (a) The BBQ is to be deleted from the ground level communal open space area and added to the rooftop communal open space terrace.
- (b) The internal paving material is to be detailed on the Landscape Plan.
- (c) The Stormwater Plans are to be amended to ensure that the stormwater inspection pipes are provided on either side of the building to allow access to the pipe for maintenance and repair works; and relocation of the pump-out system to ensure that access to the riser is convenient and efficient.

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

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

(Reason: Statutory requirement).

3. **BASIX.** Compliance with all commitments listed in BASIX Certificates numbered 1170361M_02 dated 3 May 2022.

(Reason: Statutory requirement).

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.

(Reason: Statutory requirement).

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

(Reason: To ensure signage is not erected without prior development approval).

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

(Reason: To ensure security grilles or barriers are not erected without prior development consent).

7. **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.

(Reason: To protect the amenity of the locality).

Protection of Adjoining and Public Land

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

(Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties).

9. **Hoardings.**

- (a) A hoarding or fence must be erected between the work site and any adjoining public place.
- (b) An awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.
- (c) Any hoarding, fence or awning erected pursuant this consent is to be removed when the work has been completed.

(Reason: To ensure public safety).

10. **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.

(Reason: To ensure public safety).

11. **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.

(Reason: To ensure that development occurs within the site boundaries).

12. **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.

(Reason: to ensure public safety).

Works on Public Road

13. **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.

(Reason: Access to public utilities).

14. **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.

(Reason: To ensure compliance with the requirements of the Roads Act 1993).

Engineering

15. **Design and Construction Standards.** All engineering plans and work inside the property shall be carried out in accordance with the requirements of the relevant Australian Standard. All Public Domain works or modification to Council infrastructure which may be located inside the property boundary, must be undertaken in accordance with Council's DCP Part 8.5 (*Public Civil Works*) and Part 8.2 (*Stormwater and Floodplain Management*), except otherwise as amended by conditions of this consent.

(Reason: To ensure that all works are undertaken in accordance with any relevant standard and DCP requirements.)

16. **Service Alterations.** All services or utilities required to be altered in order to complete the development works are to be undertaken in accordance with the requirements of the relevant service provider (eg Telstra, Jemena, Ausgrid, etc), with all costs associated with this alteration to be borne by the applicant.

(Reason: To ensure public services are maintained.)

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

(Reason: To ensure the amenity and state of the public domain is maintained.)

18. **Road Opening Permit.** In accordance with the requirements of the Roads Act, the applicant must obtain consent (*Road opening Permit*) from Council prior to any excavation being undertaken in the road reserve (this includes verge and public footpath areas). No works shall be carried out in the road reserve without this permit being paid and a copy kept on the site.

(Reason: To ensure the amenity and state of the public domain is maintained.)

Traffic

19. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 - 2009 and City of Ryde's Development Control Plan 2014: - Part 8.1: Construction Activities.

(Reason: To ensure traffic management procedures are in place at all times).

20. **Construction Traffic Management Plan.** For all construction works including demolition and excavation activities, a Construction Traffic Management Plan (CTMP) including any traffic control plans (TCPs) shall be prepared by a suitably qualified traffic engineer. This document shall be submitted to and approved by Council prior to the issue of any Construction Certificate.

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

(Reason: To ensure traffic management procedures are in place at all times).

21. **Implementation of Construction Traffic Management Plan.** All construction works including demolition and excavation activities are to be undertaken in accordance with the approved Construction Traffic Management Plan (CTMP). All controls in the CTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate SafeWork NSW accreditation. A copy of the approved CTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

(Reason: To ensure traffic management procedures are implemented at all times).

22. **Work Zones and Permits.** Prior to the commencement of any demolition/construction works, the applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane.

(Reason: To ensure traffic management procedures are in place at all times).

23. **Land Boundary / Cadastral Survey.** A land boundary / cadastral survey be undertaken to define the land. The land boundaries should be marked or surveyed offset marks placed prior to the commencement of any work on site.

(Reason: To ensure that development occurs within the site boundaries).

DEMOLITION CONDITIONS

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

A Construction Certificate is not required for Demolition.

24. **Demolition Deposit.** The Council must be provided with security for the purposes of Section 4.17(6) of the *Environmental Planning and Assessment Act 1979* in a sum determined by reference to Council's Management Plan prior to the demolition occurring on the site.

(Reason: Statutory requirement)

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

- (a) Council must be notified of the following particulars:
- (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - (ii) The date the work is due to commence and the expected completion date
- (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.

(Reason: To ensure adequate details are provided to Council and properties in the immediate area of the proposed works).

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

(Reason: Statutory requirement).

27. **Contamination and Remediation.** All demolition and excavation works are to be carried out in accordance with the requirements of the Preliminary Site Investigation prepared by Asset Geo Enviro / Reditus and dated January 2021.

(Reason: To ensure that any potential contamination is appropriately managed).

28. **Excavation**

- (a) All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent the activities from being dangerous to life or property and, in accordance with the design of a structural engineer.
- (b) A Demolition Work Method Statement must be prepared by a licensed demolisher who is registered with Safework NSW in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version. The applicant must provide a copy of the Statement to Council prior to commencement of demolition work.

(Reason: To ensure work is completed in an appropriate manner).

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

(Reason: Safety).

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

(Reason: Safety).

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

(Reason: To ensure demolition materials are disposed in an appropriate manner).

32. **Disposal of demolition waste.** All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes. Tip Dockets identifying the type and quantity of waste disposed/recycled during demolition are to be kept in accordance with the Site Waste Minimisation & Management Plan for spot inspections.

(Reason: To ensure demolition materials are disposed in an appropriate manner).

33. **Pre-commencement dilapidation report.** The submission of a pre-commencement dilapidation survey report providing an accurate record of the existing condition of adjoining public and private properties namely No. 6 Ethel Street and Nos. 10-12 Ethel Street, Eastwood, and public infrastructure (including roads, gutters, footpaths, etc). A copy of the report must be provided to the Certifying Authority (*and Council, if Council is not the Certifying Authority*), any other owners of public infrastructure and the owners of the affected adjoining private properties, prior to the commencement of construction (including demolition).

(Reason: To identify the condition of adjoining public and private properties prior to the commencement of work and clarify any claims of damage made by adjoining property owners).

PRIOR TO CONSTRUCTION CERTIFICATE

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

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

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

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

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

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$ 35,684.57
Open Space & Recreation Facilities	\$ 61,447.13
Roads & Traffic Management Facilities	\$ 18,864.08
Plan Administration	\$ 1,739.91
The total contribution is	\$ 117,735.69

These are contributions under the provisions of Section 7.11 of the *Environmental Planning and Assessment Act 1979* as specified in City of Ryde Section 7.11 Development Contributions Plan 2020, effective from 1 July 2020.

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

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

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

(Reason: Statutory requirement).

35. **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**.

(Reason: Statutory requirement).

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

(Reason: Statutory requirement).

37. **Adaptable Units.** A minimum of 10% (1) adaptable apartment, with an allocated disabled parking space, is to be provided within the development. Details demonstrating compliance

with the requirements outlined in the Australian Adaptable Housing Code (AS 4299-1995) are to be provided on the relevant Construction Certificate plans, which includes 'pre-adaptation' design details to ensure visitability is achieved. Prior to the issue of the **Construction Certificate**, a suitably qualified access consultant is to certify that the development achieves the requirements of AS4299.

38. **Cladding Requirements.** Materials and finishes including the external walls of the development are to comply with the requirements of the *Environmental Planning and Assessment Amendment (Identification of Buildings with Combustible Cladding) Regulation 2018* and *State Environmental Planning Policy Amendment (Exempt Development – Cladding and Decorative Work) 2018* which commenced on 22 October 2018. Details are to be provided to the Certifying Authority prior to the release of the Construction Certificate.
39. **External Materials.** Building materials and finishes are to be finished with an anti-graffiti coating. Roofing and other external materials must be of low glare and reflectivity. The reflectivity of glass used in the external facades of the buildings is not to affect road traffic and must not cause discomfort through glare or intense heat to surrounding areas. 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**.

(Reason: To ensure the use of appropriate external materials).

40. **External Fixtures and Conduits.** External service fixtures and conduits are to be designed so that they form part of the overall appearance of the building, or are to be screened from view.

(Reason: To ensure that external fixtures are screened from view).

41. **Lighting of Common Areas.** Details of lighting for the street frontages, internal driveway, parking areas, building entrances and communal open space areas shall be submitted for approval by the Certifying Authority prior to issue of the relevant **Construction Certificate**. The details to include certification from an appropriately qualified person that there will be no offensive glare onto surrounding residential properties.

(Reason: To protect the amenity of surrounding occupants).

42. **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**.

(Reason: Statutory requirement).

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

(Reason: Statutory requirement).

44. **Infrastructure Restoration and Administration Fee** must be paid to Council in accordance with Council's Management Plan prior to the release of the **Construction Certificate**.

(Reason: Statutory requirement).

45. **Driveway Access Levels.** The applicant is to apply to Council, pay the required fee, and have issued site specific driveway access levels by Council prior to the issue of the **Construction Certificate**.

(Reason: Statutory requirement).

46. **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**.

(Reason: Statutory requirement).

47. **Contamination and Remediation.** The requirements of the Preliminary Site Investigation prepared by Asset Geo Enviro / Reditus and dated January 2021 are to be satisfied prior to the issue of any Construction Certificate.

(Reason: To ensure that any potential contamination is appropriately managed).

48. **Sydney Water – Building Plan Approval.** The plans approved as part of the Construction Certificate must also be approved by Sydney Water prior to excavation or construction works commencing. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of your development. Please go to www.sydneywater.com.au/tapin to apply.

(Reason: Statutory requirement).

49. **Residential Apartment Noise attenuation.** A qualified acoustical engineer with membership of the Association of Australasian Acoustical Consultants must certify that the building has been designed to minimise the noise intrusion from any internal or external noise source and when constructed achieve a 5 star rating under the Association of Australasian Acoustical Consultants Guideline for Apartment and Townhouse Acoustic rating Version 1.0. Details of compliance are to be submitted with the plans for Construction Certificate.

(Reason: Statutory requirement).

50. **Acoustic Impacts.** The development shall be carried out in accordance with the recommendations provided within the Acoustic Report prepared by Vipac Engineers and Scientists and dated 25.02.2021. The recommendations contained in the report are to be demonstrated on the relevant Construction Certificate plans. Details indicating compliance with these recommendations are to be submitted to the PCA prior to the Construction Certificate being issued.

(Reason: To ensure compliance with the approved plans).

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

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

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

(Reason: Statutory requirement).

52. **Requirements of the NSW Police.** The Construction Certificate documentation is required to include details regarding the installation of CCTV at the entrance to the building and within the car park areas, including the entrance and egress points, as required by the NSW Police.

(Reason: To ensure that safety and security measures required by the NSW Local Police are provided).

Waste

53. **Waste Management.** Any changes to the Waste Management Plan dated 16/2/21 or Plans (DA21 Rev A Drawing 19061) which were utilised to evaluate the waste collection by Council, have to be approved by the Waste Department at the City of Ryde Council before the issue of a Construction Certificate to ensure the waste collection is not affected.

All waste storage areas which have a doorway must be wide enough to allow the bins allocated to the property to fit through opening including the door. For 240L Bins the required dimensions are a width of 600mm, depth of 800mm and height of 1100mm.

Two separate receptacles must be provided inside each dwelling to store up to two days worth of waste and recyclables awaiting transfer to the communal bin disposal areas to ensure source separation of recyclables.

All garbage and recycling rooms must be constructed in accordance with the following requirements:

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

(Reason: To ensure that waste management on the site is suitably designed and effective).

Engineering

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

With respect to this, the following revision(s) / documentation must be provided with the plans submitted with the application for a Construction Certificate:

- a) All internal driveways and vehicle access ramps must have ramp grades, transitions and height clearances complying with AS 2890 for all types of vehicles accessing the parking area. To demonstrate compliance with this Australian Standard, the plans to be prepared for the Construction Certificate must include a driveway profile, showing ramp lengths, grades, surface RL's and overhead clearances taken along the vehicle path of travel from the crest of the ramp to the basement. The driveway profile must be taken along the steepest grade of travel or sections having significant changes in grades, where scraping or height restrictions could potentially occur and is to demonstrate compliance with AS 2890 for the respective type of vehicle.
- b) To ensure that service vehicles have sufficient headroom clearance when accessing loading bay areas, an accessway / ramp profile must be produced along the vehicle path of travel for all service vehicles. The plan must detail all levels and overhead clearances (allowing for services) along the vehicle path of travel from the vehicle entry at the boundary to the loading bay area and must demonstrate that the required overhead clearance is achieved along this path.
- c) The proposed OSD tank above car space C9 shall be reconfigured to provide a minimum of 2.2m headroom for car space C9 at the basement car park.

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

(Reason: To ensure the vehicle access and parking area is in accordance with the require standards and safe for all users.)

55. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to Council's stormwater pit in Ethel Lane, generally in accordance with the plans by Karai Consulting Engineers, Job No. P129, Drawing No. SW01-05 to SW05-05, Issue No. 8, Dated 10.11.2021, subject to any variations marked in red on the approved plans or noted following:

- Inspection pits shall be provided on either side of the building to allow to access to the pipe (underneath proposed Unit 1) for maintenance and repair works.
- The proposed OSD tank above car space C9 shall be reconfigured to provide a minimum of 2.2m headroom for car space C9 at the basement car park.
- The pump-out system shall be relocated so that the connection from the proposed riser to the proposed OSD is convenient and efficient.
- Connection to the public drainage infrastructure will require the approval of Council's City Works (Stormwater) Department. Any conditions associated with this approval must be noted on the plans.

The detailed plans, documentation and certification of the drainage system must be submitted with the application for a Construction Certificate and prepared by a suitably qualified Civil Engineer and comply with the following:

- The certification must state that the submitted design (including any associated components such as WSUD measures, pump/ sump, absorption, onsite dispersal, charged system) are in accordance with the requirements of AS 3500.3 (2003) and any further detail or variations to the design are in accordance with the requirements of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- The submitted design is consistent with the approved architectural and landscape plan and any revisions to these plans required by conditions of this consent.

- The subsurface drainage system must be designed to preserve the pre-developed groundwater table so as to prevent constant, ongoing discharge of groundwater to the public drainage network, as well as avoid long term impacts related to the support of structures on neighbouring properties.

(Reason: To ensure that the developments stormwater management system is aligned with the controls and objectives of the City of Ryde DCP 2014 Part 8.2).

56. **Stormwater Management - Onsite Stormwater Detention.** In accordance with Council's community stormwater management policy, an onsite stormwater detention (OSD) system must be implemented in the stormwater management system of the development.

As a minimum, the OSD system must

- a) provide site storage requirement (SSR) and permissible site discharge (PSD) design parameters complying with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management).
- b) incorporate a sump and filter grate (trash rack) at the point of discharge from the OSD system to prevent gross pollutants blocking the system or entering the public drainage service,
- c) ensure the OSD storage has sufficient access for the purpose of ongoing maintenance of the system, and
- d) ensure the drainage system discharging to the OSD system is of sufficient capacity to accommodate the 100 year ARI 5 minute storm event.

Detailed engineering plans and certification demonstrating compliance with this condition & Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) are to be submitted with the application for a Construction Certificate.

(Reason: To ensure that the design of the OSD is compliant with the requirements of the City of Ryde DCP 2014 Part 8.2).

57. **Stormwater Management - Pump System.** The basement pump system must be dual submersible and shall be sized and constructed in accordance with Section 9.3 of AS 3500.3.

The wet well must be designed and constructed in accordance with section 9.3 of AS 3500.3, except that the sump volume is to be designed to accommodate storage of runoff accumulating from the 100yr ARI 3 hour storm event, in the event of pump failure as per the requirements of Council's DCP - Part 8.2 (*Stormwater and Floodplain Management*).

Direct connection of the pumps rising main to the kerb will not be permitted. The rising main must discharge to the sites drainage system, upstream of the onsite detention system (if one is provided) or any rainwater tank which is utilised for irrigation only.

Pump details and documentation demonstrating compliance with this condition are to be submitted in conjunction with the Stormwater Management Plan for the approval of the Certifying Authority, prior to the release of any Construction Certificate for construction of the basement level.

(Reason: To ensure that the design of the pump system is compliant with the requirements of the City of Ryde DCP 2014 Part 8.2 and relevant Australian Standards.)

58. **Stormwater Management – Connection to Public Drainage System.** The connection to the public inground stormwater drainage infrastructure located in Ethel Lane will require the assessment, approval and inspection by Council's Public Works section to ensure the integrity of this asset is maintained. Engineering plans detailing the method of connection complying with Council's DCP and Technical Standards and an inspection fee in accordance with Council's current fees and charges must be paid to Council prior to the issue of the Construction Certificate. Council must be notified when the connection has been made to the pit / pipe and an

inspection must be made by a Council officer prior to restoration/ backfill at the point of connection for approval.

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

(Reason: To ensure that the connection is in accordance with the City of Ryde 2014 DCP Part 8.2 and to Council's satisfaction.)

59. **Vehicle Footpath and Gutter Crossover Approval.** A new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access location/s. Where there is an existing vehicle footpath crossing and gutter crossover, the reconstruction of this infrastructure may be required in order that it has a service life consistent with that of the development and ensure it is compliant with current Council's standards and specifications. The location, design and construction shall be in accordance with Council's DCP 2014 Part 8.3 (*Driveways*), Part 8.5 (*Public Civil Works*) and Australian Standard AS2890.1 – 2004 (*Offstreet Parking*).

Prior to the issue of the Construction Certificate, an application shall be made to Council for approval under Section 138 of the Roads Act, 1993, for the construction of the vehicle footpath and gutter crossover. The application shall include engineering design drawings of the proposed vehicle footpath crossing and gutter crossover. The drawings shall be prepared by a suitably qualified Civil Engineer using the standard B85 vehicle profile. The drawings shall show the proposed vehicle footpath crossing width, alignment, and any elements impacting design such as service pits, underground utilities, power poles, signage and/or trees. In addition, a benchmark (to Australian Height Datum) that will not be impacted by the development works shall be included. All grades and transitions shall comply with Australian Standard AS 2890.1-2004 *Offstreet Parking* and Council's specifications. The new crossing shall be 6.1 m. wide, without the splays, and shall be constructed at right angle to the alignment of the kerb and gutter, and located no closer than 1m from any power pole and 3m from any street tree unless otherwise approved by Council.

Fees are payable at the time of the application, in accordance with Council's Schedule of Fees and Charges.

The Council approved design details shall be incorporated into the plans submitted for the application of the Construction Certificate.

(Reason: The design and levels of the new driveway crossover(s) will require approval from Council under Section 138 of the Roads Act).

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

This engineer is to prepare the following documentation:

- a) Certification that the civil and structural details of all subsurface structures are designed to:
 - provide appropriate support and retention to neighbouring property,
 - ensure there will be no ground settlement or movement during excavation or after construction (whether by the act of excavation or dewatering of the excavation) sufficient to cause an adverse impact to adjoining property or public infrastructure, and,
 - ensure that the treatment and drainage of groundwater will be undertaken in a manner which maintains the pre-developed groundwater regime, so as to avoid constant or

ongoing seepage to the public drainage network and structural impacts that may arise from alteration of the pre-developed groundwater table.

- b) A Geotechnical Monitoring Program (GMP) to be implemented during construction that:
- is based on a geotechnical investigation of the site and subsurface conditions, including groundwater,
 - details the location and type of monitoring systems to be utilised, including those that will detect the deflection of all shoring structures, settlement and excavation induced ground vibrations to the relevant Australian Standard;
 - details recommended hold points and trigger levels of any monitoring systems, to allow for the inspection and certification of geotechnical and hydro-geological measures by the professional engineer; and;
 - details action plan and contingency for the principal building contractor in the event these trigger levels are exceeded.

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

(Reason: To ensure there are no adverse impacts arising from excavation works.)

61. **Pre-commencement dilapidation report.** The submission of a pre-commencement dilapidation survey report providing an accurate record of the existing condition of adjoining public and private properties namely No. 6 Ethel Street and Nos. 10-12 Ethel Street, Eastwood, and public infrastructure (including roads, gutters, footpaths, etc). A copy of the report must be provided to the Certifying Authority (*and Council, if Council is not the Certifying Authority*), any other owners of public infrastructure and the owners of the affected adjoining private properties, prior to the commencement of construction (including demolition) and prior to the release of the **Construction Certificate**.

(Reason: To identify the condition of adjoining public and private properties prior to the commencement of work and clarify any claims of damage made by adjoining property owners).

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

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

- a) All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded so as to prevent the emission of offensive noise as a result of their operation.
- b) Pumps used for dewatering operations are not to be fuel based so as to minimise noise disturbance and are to be electrically operated.
- c) Discharge lines are to be recessed across footways so as to not present as a trip hazard and are to directly connect to the public inground drainage infrastructure where ever possible.
- d) The maximum rate of discharge is to be limited to the sites determined PSD rate or 30L/s if discharging to the kerb.
- e) Certification must state that the submitted design is in accordance with the requirements of this condition and any relevant sections of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- f) Incorporate water treatment measures to prevent the discharge of sediment laden water to the public drainage system. These must be in accordance with the recommendations of approved documents which concern the treatment and monitoring of groundwater.

- g) Any details, approval or conditions concerning dewatering (eg Dewatering License) as required by the Water Act 1912 and any other relevant NSW legislation.
- h) Approval and conditions as required for connection of the dewatering system to the public drainage infrastructure as per Section 138 of the Roads Act.

(Reason: To ensure that stormwater runoff and the disposal of groundwater from the excavation is drained in an appropriate manner and without detrimental impacts to neighbouring properties and downstream water systems.)

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

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

The ESCP must be submitted with the application for a Construction Certificate.

(Reason: To protect downstream properties, Council's drainage system and natural watercourses from sediment build-up transferred by stormwater runoff from the site.)

Public Domain

64. **Ground Anchors** - The installation of permanent ground anchors into public roadway is not permitted. The installation of temporary ground anchors may be considered subject to an application to Council's City Works Directorate, and approval obtained as per the provisions of Section 138 of the Roads Act, 1993. The application for consent must include detailed structural engineering plans prepared by a Chartered Structural Engineer (registered on the NER of Engineers Australia), clearly nominating the number of proposed anchors, minimum depth below existing ground level at the boundary alignment and the angle of installation. The approval will be subject to:
- a. Advice being provided to the relevant Public Utility Authorities of the proposed anchoring, including confirmation that their requirements are being met.
 - b. the payment of all fees in accordance with Council's Schedule of Fees & Charges at the time of the issue of the approval, and
 - c. the provision of a copy of the Public Liability insurance cover of not less than \$20million with Council's interest noted on the policy. The policy shall remain valid until the de-commissioning of the ground anchors.

(Reason: To ensure that permanent ground anchors are not installed into the public roadway).

65. **Public domain improvements.** The public domain is to be upgraded on both the Ethel Street and Ethel Lane frontages of the development site in accordance with the City of Ryde Public Domain Technical Manual Chapter 3 - Eastwood. The works shall include paving,

street lighting upgrade, undergrounding of overhead utility services, and street tree plantings, and must be completed to Council's satisfaction at no cost to Council.

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

- (a) Footpath paving as specified in the condition of consent for public infrastructure works.
- (b) Street trees to be provided in accordance with the Eastwood Street Tree Master Plan. The designated species to be planted on the Ethel Street frontage are "Jacaranda mimosifolia" (Jacaranda).

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

- (c) All telecommunication and utility services are to be placed underground along both the Ethel Street and Ethel Lane frontages. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of work. The public utility cover requirements shall be based on the approved Finished Surface Levels for the footpath, driveways and kerb ramps.

For the undergrounding of existing overhead electricity network, the requirements specified in the Ausgrid Network Standards NS130 and NS156 are to be met.

- (d) New street lighting using LED luminaires is to be designed and installed to Australian Standard AS1158:2010 Lighting for Roads and Public Spaces, with vehicular luminance category V35 and pedestrian luminance category PR2 along both the Ethel Street and Ethel Lane frontages. The street lighting will remain on the Ausgrid street lighting network.
Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant and submitted to, and approved by Council's City Works Directorate prior to lodgement of the scheme with Ausgrid for their approval.

(Reason: To ensure the new public domain works are compliant with the Public Domain Technical Manual).

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

Engineering drawings prepared by a Chartered Civil Engineer (registered on the NER of Engineers Australia) are to be submitted to, and approved by Council's City Works Directorate prior to the issue of the Construction Certificate. The works shall be in accordance with City of Ryde DCP 2014 Part 8.5 - Public Civil Works, and DCP 2014 Part 8.2 - Stormwater Management, where applicable.

The drawings shall include plans, sections, existing and finished surface levels, drainage pit configurations, kerb returns, existing and proposed signage and linemarking, and other relevant details for the new works.

The Applicant must submit, for approval by Council as the Road Authority, full design engineering plans and specifications for the following infrastructure works:

- (a) The full reconstruction of half road width along the Ethel Street frontage of the development site in accordance with the City of Ryde DCP 2014 *Part 8.5 - Public Civil Works*, Clause 1.1.4 – *Constructing Half Road*.
- (b) Construction of new full width granite paving along the Ethel Street frontage in accordance with the city of Ryde Public Domain Technical Manual – Chapter 3: Eastwood, and the relevant Council standard drawings.
- (c) Street tree plantings and tree pits in accordance with the City of Ryde Public Domain Technical Manual – Chapter 3: Eastwood and relevant Council standard drawings.
- (d) The construction of new kerb and gutter along the Ethel Street frontage of the development site.
- (e) The construction of new roll kerb along the Ethel Lane frontage of the development site, in accordance with Council's . A minimum 500mm road pavement must be provided adjacent to the new roll kerb. Any additional road pavement works required to accommodate the new roll kerb must be detailed within the plans.
- (f) Stormwater drainage installations in the public domain in accordance with the DA approved plans.
- (g) Signage and linemarking details.
- (h) The relocation/adjustment of all public utility services affected by the proposed works. Written approval from the applicable Public Authority shall be submitted to Council along with the public domain plans submission. All the requirements of the Public Authority shall be complied with.

Notes:

1. The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths, prior to setting the floor levels for the proposed building.
2. Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
3. Prior to submission to Council, the Applicant is advised to ensure that the drawings are prepared in accordance with the standards listed in the City of Ryde DCP 2014 Part 8.5 - *Public Civil Works*, Section 5 "*Standards Enforcement*". A checklist has also been prepared to provide guidance, and is available upon request to Council's City Works Directorate.
4. City of Ryde standard drawings for public domain infrastructure assets are available on the Council website. Details that are relevant may be replicated in the public domain design submissions; however Council's title block shall not be replicated.

(Reason: To ensure the new public domain works are compliant with the requirements of the City of Ryde DCP 2014 Part 8.2 and Part 8.5).

67. **Vehicle Footpath Crossing and Gutter Crossover** – A new vehicle footpath crossing and associated gutter crossover shall be constructed at the approved vehicular access location/s. Where there is an existing vehicle footpath crossing and gutter crossover, the reconstruction of this infrastructure may be required in order that it has a service life that is consistent with that of the development, and that it is also compliant with current Council's standards and specifications. The location, design and construction shall be in accordance with City of Ryde Development Control Plan 2014 Part 8.3 *Driveways* and Part 8.5 - *Public Civil Works* and Australian Standard AS2890.1 – 2004 *Offstreet Parking*.

Prior to the issue of the Construction Certificate, an application shall be made to Council for approval under Section 138 of the Roads Act, 1993, for the construction of the vehicle footpath crossing and gutter crossover. The application shall include engineering design drawings of the proposed vehicle footpath crossing and gutter crossover.

The drawings shall be prepared by a suitably qualified Civil Engineer using the standard B85 vehicle profile. The drawings shall show the proposed vehicle footpath crossing width, alignment, and any elements impacting design such as service pits, underground utilities,

power poles, signage and/or trees. In addition, a benchmark (to Australian Height Datum) that will not be impacted by the development works shall be included.

All grades and transitions shall comply with Australian Standard AS 2890.1-2004 *Offstreet Parking* and Council's specifications. The new crossing shall be without the splays, shall be constructed at right angle to the alignment of the kerb and gutter, and located no closer than 1m from any power pole and 3m from any street tree unless otherwise approved by Council.

Fees are payable at the time of the application, in accordance with Council's Schedule of Fees and Charges.

The Council approved design details shall be incorporated into the plans submitted to the Principal Certifier, for the application of the Construction Certificate.

(Reason: To ensure the new vehicle footpath crossing is compliant with the requirements of the City of Ryde DCP 2014 Part 8.5).

68. **Public Domain Works – Defects Security Bond.** To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works in the road reserve following completion of the development. The defects liability period shall commence from the date of issue by Council, of the Compliance Certificate for the External Works. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period. A bond in the form of a cash deposit or Bank Guarantee of \$40,000 shall be lodged with the City of Ryde prior to the issue of a Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the twelve (12) months defects liability period.

(Reason: To ensure satisfactory performance of the public domain works).

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

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

(Reason: To ensure fees are paid in accordance with Council's Schedule of Fees and Charges).

70. **Anticipated Assets Register - Changes to Council Assets.** In the case that public infrastructure improvements are required, the developer is to submit a listing of anticipated infrastructure assets to be constructed on Council land as part of the development works. The new elements may include but are not limited to new road pavements, new Multi-Function Poles (MFPs), new concrete or granite footways, new street trees and tree pits, street furniture, bus shelters, kerb and gutter and driveways. This information should be presented via the Anticipated Asset Register file available from Council's Assets and Infrastructure Department. The listings should also include any assets removed as part of the works.

The Anticipated Asset Register is to assist with council's future resourcing to maintain new assets. There is potential for the as-built assets to deviate from the anticipated asset listing, as issues are resolved throughout the public domain assessment and Roads Act Approval process. Following completion of the public infrastructure works associated with the development, a Final Asset Register is to be submitted to Council, based upon the Public Domain Works-As-Executed plans.

(Reason: To record new assets in Council's Assets Register).

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

71. 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.

(Reason: Statutory requirement).

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

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

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

(Reason: Statutory requirement).

73. Excavation adjacent to adjoining land

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

(Reason: Statutory requirement).

74. **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.

(Reason: Statutory requirement).

75. **Proposed Property Addressing.** Proposed addressing for the new development must have been lodged with Council, prior to the commencement of construction.

(Reason: To ensure the address of the development meets Council's requirements).

76. **Property above/below Footpath Level.** Where the ground level adjacent the property alignment is above/below the established verge and footpath level, adequate measures are to be taken (either by means of constructing approved retaining structures or batters entirely on the subject property) to support the subject land/footpath and prevent harm to the public / occupants of the site due to the abrupt level differences.

(Reason: To preserve public safety and the support of property due to abrupt level differences between the site and public domain land.)

77. **Unexpected Finds Protocol.** The Unexpected Finds Protocol is to be prepared prior to any works commencing and prior to the issue of any construction certificate and must outline the process for identification, assessing and investigating any unexpected finds of potential contamination within the site.

(Reason: Statutory requirement).

Public Domain

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

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

(Reason: To ensure that Council's infrastructure is properly recorded prior to works commencing).

79. **Notification of adjoining owners & occupiers – public domain works.** The Applicant shall provide the adjoining owners and occupiers written notice of the proposed public domain works a minimum two weeks prior to commencement of construction. The notice is to include a contact name and number should they have any enquiries in relation to the construction works. The duration of any interference to neighbouring driveways shall be minimised; and driveways shall be returned to the operational condition as they were prior to the commencement of works, at no cost to the owners.

(Reason: To ensure that notice is provided prior to public domain works commencing).

80. **Pre-construction inspection.** A joint inspection shall be undertaken with Council's Engineer from City Works Directorate prior to commencement of any public domain works. A minimum 48 hours' notice will be required when booking for the joint inspection.

(Reason: To ensure that Council's infrastructure is properly recorded prior to works commencing).

81. **Pre-Construction Dilapidation Report.** To ensure Council's infrastructures are adequately protected a pre-construction dilapidation report on the existing public infrastructure in the vicinity of the proposed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record (in colour) of any observable defects to the following infrastructure where applicable.

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

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

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

(Reason: To ensure that Council's infrastructure is properly recorded prior to works commencing).

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

- a) Road Use Permit - The applicant shall obtain a Road Use Permit where any area of the public road or footpath is to be occupied as construction workspace, other than activities covered by a Road Opening Permit or if a Work Zone Permit is not obtained. The permit does not grant exemption from parking regulations.
- b) Work Zone Permit - The applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a Traffic Management Plan for standing of construction vehicles in a trafficable lane. **A Roads and Maritime Services Road Occupancy Licence shall be obtained for State Roads.**
- c) Road Opening Permit - The applicant shall apply for a road-opening permit and pay the required fee where a new pipeline is to be constructed within or across the road pavement or footpath. Additional road opening permits and fees are required where there are connections to public utility services (e.g. telephone, telecommunications, electricity, sewer, water or gas) within the road reserve. No opening of the road or footpath surface shall be carried out without this permit being obtained and a copy kept on the site.
- d) Elevated Tower, Crane or Concrete Pump Permit - The applicant shall obtain an Elevated Tower, Crane or Concrete Pump Permit where any of these items of plant are placed on Council's roads or footpaths. This permit is in addition to either a Road Use Permit or a Work Zone Permit.
- e) Crane Airspace Permit - The applicant shall obtain a Crane Over Airspace Permit where a crane on private land is operating in the air space of a Council road or footpath. Approval from the Roads and Maritime Services for works on or near State

Roads is required prior to lodgement of an application with Council. A separate application for a Work Zone Permit is required for any construction vehicles or plant on the adjoining road or footpath associated with use of the crane.

- f) Hoarding Permit - The applicant shall obtain a Hoarding Permit and pay the required fee where erection of protective hoarding along the street frontage of the property is required. The fee payable is for a minimum period of 6 months and should the period is extended an adjustment of the fee will be made on completion of the works. The site must be fenced to a minimum height of 1.8 metres prior to the commencement of construction and throughout demolition and/or excavation and must comply with WorkCover (New South Wales) requirements.
- g) Skip Bin on Nature Strip - The applicant shall obtain approval and pay the required fee to place a Skip Bin on the nature strip where it is not practical to locate the bin on private property. No permit will be issued to place skips.

(Reason: To ensure that Road Activity Permits are obtained in accordance with the *Roads Act 1993*).

83. **Temporary Footpath Crossing** - A temporary footpath crossing, if required, must be provided at the vehicular access points. It is to be 4 metres wide, made out of sections of hardwood with chamfered ends and strapped with hoop iron, and a temporary gutter crossing must be provided.

(Reason: To ensure that appropriate temporary footpath crossing are provided).

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.

84. **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*.

(Reason: Statutory requirement).

85. **Noise from construction and demolition work.** All feasible and reasonable measures must be implemented to minimise the emission of noise from demolition and construction work.

(Reason: To protect the amenity of the neighbourhood).

86. **Noise management plan.** Where demolition or construction activities are likely to cause significant noise or vibration (eg. jackhammering ,rock breaking or impact piling) a noise management plan must be prepared by a suitably qualified acoustical consultant and be submitted to the Principal Certifying Authority before the work commences. The plan must be prepared in accordance with the Interim Construction Noise Guideline (DECC, 2009) and include:

- (a) Identification of nearby affected residences or other sensitive receivers.
- (b) An assessment of the expected noise impacts.
- (c) Details of the work practices required to minimise noise impacts.
- (d) Noise monitoring procedures.
- (e) Procedures for notifying nearby affected residents.
- (f) Complaints management procedures.

(Reason: To protect the amenity of the neighbourhood).

87. **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.

(Reason: To ensure that the development is in accordance with the determination).

88. **Sediment/dust control.** No sediment, dust, soil or similar material shall leave the site during construction work.

(Reason: To protect the amenity of the area).

89. **Use of fill/excavated material.** Excavated material must not be reused on the property except as follows:
- (a) Fill is allowed under this consent;
 - (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
 - (c) the material is reused only to the extent that fill is allowed by the consent.

(Reason: To ensure fill is consistent with the consent).

90. **Construction materials.** All materials associated with construction must be retained within the site.

(Reason: To ensure the public domain is not affected during construction).

91. **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.

(Reason: Statutory requirement).

92. **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.

(Reason: To ensure the site is appropriately maintained during construction).

93. **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".

(Reason: To ensure works do not disrupt pedestrians and vehicular traffic).

Waste

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

(Reason: To ensure that waste disposal is appropriately recorded).

95. **Waste management.** The area surrounding the construction site must be maintained to reduce the incidence of illegal dumping and management of litter from the site and workers associated with the site must be undertaken.

(Reason: To ensure that the site and surrounding area are appropriately maintained).

Engineering

96. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Karai Consulting Engineers, Job No. P129, Drawing No. SW01-05 to SW05-05, Issue No. 8, Dated 10.11.2021, submitted in compliance to the condition labelled "Stormwater Management." and the requirements of Council in relation to the connection to the public drainage system.

(Reason: To ensure the stormwater system is constructed as approved).

97. **Erosion and Sediment Control Plan - Implementation.** The applicant shall install erosion and sediment control measures in accordance with the Construction Certificate approved Soil Erosion and Sediment Control (ESCP) plan at the commencement of works on the site. Erosion control management procedures in accordance with the manual "Managing Urban Stormwater: Soils and Construction" by the NSW Department – Office of Environment and Heritage, must be practiced at all times throughout the construction.

(Reason: To prevent soil erosion and the discharge of sediment over the land.)

98. **Geotechnical Monitoring Program - Implementation.** The construction and excavation works are to be undertaken in accordance with the Geotechnical Report and Monitoring Program (GMP) submitted with the Construction Certificate.

The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

All recommendations of the Geotechnical Engineer and GMP are to be carried out during the course of the excavation and construction. Each hold point and trigger level identified in the recommended geotechnical monitoring system is to be inspected and certified by a suitably qualified and practicing Engineer and a copy submitted to the private certifier and Council. In the event that these trigger levels are exceeded a detailed action plan and contingency for the principal building contractor is to be prepared. It is the responsibility of the person acting on this consent to carry out the detailed action plan and contingency. A copy is to be submitted to the private Certifier and Council.

(Reason: To ensure that the excavation and construction works are undertaken appropriately.)

99. **Site Dewatering Plan – Implementation.** The Site Dewatering Plan (SDP) on the site must be constructed in accordance with the Construction Certificate version of the SDP submitted in compliance to the condition labelled "Site Dewatering Plan.", the requirements of Council in regards to disposal of water to the public drainage infrastructure and the requirements of any Dewatering License issued under NSW Water Act 1912 in association with the works. A copy of the SDP is to be kept on site at all times whilst dewatering operations are carried out.

(Reason: To ensure that site dewatering is undertaken appropriately throughout the period of construction.)

100. **Hold Points during construction - Public Domain.** Council requires inspections to be undertaken by a Chartered Civil Engineer (registered on the NER of Engineers Australia), for the public domain, at the hold points shown below.

The Applicant shall submit to Council's City Works Directorate, certification from the Engineer, at each stage of the inspection listed below, within 24 hours following completion of the relevant stage/s. The certificates shall contain photographs of the works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken.

- a) Prior to the commencement of construction and following the set-out on site of the position of the civil works to the levels shown on the approved civil drawings.
- b) Upon excavation, trimming and compaction to the subgrade level - to the line, grade, widths and depths, shown on the approved civil engineering drawings.
- c) Upon compaction of the applicable sub-base course.
- d) Upon compaction or construction of any base layers of pavement, prior to the construction of the final pavement surface (e.g. prior to laying any pavers or asphalt wearing course).
- e) Upon installation of any formwork and reinforcement for footpath concrete works.
- f) Final inspection - upon the practical completion of all civil works with all disturbed areas satisfactorily restored.

(Reason: To ensure that inspections of the public domain are undertaken at appropriate stages).

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.

101. **BASIX.** The submission of documentary evidence of compliance with all commitments listed in BASIX Certificates numbered 1170361M_02 dated 3 May 2022.

(Reason: Statutory requirement).

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

(Reason: To ensure the development is in accordance with the development consent).

103. **Privacy Screens.** All privacy screens shown on the plans in Condition 1 are to be installed prior to the issue of the any **Occupation Certificate**.

(Reason: To ensure the development is in accordance with the development consent).

104. **Fire safety matters.** At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the Fire and Rescue NSW.

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

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

(Reason: Statutory requirement).

105. **Residential Apartment Noise Attenuation.** A AAAC 5 Star Certificate must be submitted by a qualified member of the Association of Australasian Acoustical Consultants (AAAC) demonstrating that the construction of the building including internal walls and floors ensures that all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems as well as noise generated between residential units has sufficient acoustical attenuation. Details of compliance must be submitted to the Principal Certifying Authority before the issue of any **Occupation Certificate**.

(Reason: To ensure the development meets the required noise attenuation measures).

106. **Acoustic Impacts.** Prior to the issue of any Occupation Certificate, a suitably qualified acoustic consultant is to certify that the development complies with the recommendations in the Acoustic Report prepared by Vipac Engineers and Scientists and dated 25.02.2021.

(Reason: To ensure compliance with the approved documentation).

107. **Design Verification.** Prior to an Occupation Certificate being issued to authorise a person to commence occupation or use of a residential flat building, the Principal Certifying Authority (PCA) is to be provided with a Design Verification from a qualified designer. The statement must include verification from a qualified designer that the residential flat development achieves the design quality of the development shown on plans and specifications in respect to any Construction Certificate issued, having regard to the design quality principles set out in Schedule 1 of the State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development. This condition is imposed in accordance with Clause 154A of the *Environmental Planning and Assessment Regulation 2000*.

(Reason: Statutory requirement).

108. **Sydney Water – Section 73 Compliance Certificate.** A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. A Section 73 Compliance Certificate must be completed before the issue of any Occupation Certificate. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

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

(Reason: Statutory requirement).

109. **Post-construction dilapidation report.** The submission of a post-construction dilapidation report which clearly details the final condition of all property, infrastructure, natural and man-made features that were recorded in the pre-commencement dilapidation report. A copy of the report must be provided to Council, any other owners of public infrastructure and the owners of the affected adjoining and private properties, prior to the issue of any **Occupation Certificate**.

(Reason: To provide a record of any damage to adjoining properties post construction and clarify any claims of damage made by adjoining property owners).

110. **Letterboxes and street/house numbering display.** All letterboxes are to be designed and constructed in accordance with Australia Post requirements and the house/unit numbering displayed shall be in accordance with the official property addressing allocated by Council's Land Information Section. The display of the street address shall be of a sufficient size and clarity to be easily visible from the street. Where a development contains multiple properties, signage is required to be clearly displayed on all unit door entrances. Directional signage is to be erected on site at driveway entry points and on buildings. Unit numbering signage is also required on stairway access doors and lobby entry doors. It is essential that all numbering signage throughout a development is clear to assist emergency service providers locate a destination with ease and speed, in the event of an emergency.

(Reason: To assist in way finding).

Engineering

111. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.

(Reason: To clarify the configuration of the completed stormwater management system.)

112. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.

(Reason: To maximise onstreet parking capacity and avoid confusion relating to the enforcement of parking restrictions.)

113. **Stormwater Management – Positive Covenant(s).** A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention, pump/ sump components incorporated in the approved Stormwater Management system. This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s). The terms of the instrument are to be in accordance with the Council's standard for the relevant systems and are to be to the satisfaction of Council. To assure Council the construction of the stormwater management system has been completed, stormwater Works-As-Executed plans and certification of the system are to be submitted to Council with a completed "*Application Form for Endorsement of Title Encumbrances*" (available from Council's website). The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.

(Reason: This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s).)

114. **Drainage System Maintenance Plan.** To ensure the approved onsite detention system and WSUD measures function as designed for the ongoing life of the development, a drainage system maintenance plan (DSMP) must be prepared for implementation for the ongoing life of the development.

The DSMP must contain the following;

- (a) All matters listed in Section 1.4.9 of the DCP Part 8.2 (Stormwater and Floodplain Management – Technical Manual).

- (b) The DSMP is to incorporate a master schedule and plan identifying the location of all stormwater components crucial to the efficient operation of the trunk drainage system on the development lot. This is to include (but not be limited to) pump/sump systems, WSUD components and all onsite detention systems. The master plan is also to contain the maintenance schedule for each component.
- (c) The DSMP is also to include safe work method statements relating to access and maintenance of each component in the maintenance schedule.
- (d) Signage is to be placed in vicinity of each component, identifying the component to as it is referred in the DSMP, the reference to the maintenance work method statement and maintenance routine schedule.
- (e) Designate areas inside the property in which the maintenance operation is to be undertaken for each component. Maintenance from the road reserve or public domain is not accepted. Areas are to be demarcated if required.
- (f) Locate a storage area for maintenance components / tools to be stored on site. The location is to be recorded in the DSMP.

The DSMP is to be prepared by a suitably qualified and practising drainage engineer in co-operation with a workplace safety officer (or similar qualified personal) and all signage / linemarkings are to be implemented prior to the issue of any Occupation Certificate.

(Reason: To ensure the approved stormwater components such as onsite detention system, pumps and WSUD measures, function as designed for the ongoing life of the development)

115. **Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.
- a) Confirming that all components of the parking areas contained inside the site comply with the relevant components of AS 2890 and Council's DCP 2014 Part 9.3 (Parking Controls).
 - b) Confirming that the Stormwater Management system (including any constructed ancillary components such as onsite detention) servicing the development complies with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures, and has been constructed to function in accordance with all conditions of this consent relating to the discharge of stormwater from the site.
 - c) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
 - d) Confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 - 2003 (National Plumbing and Drainage Code), the relevant sections of the Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures and any requirements of Council pending on site conditions.
 - e) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).
 - f) Certification from a suitably qualified structural or geotechnical engineer confirming that any temporary soil/ rock anchors installed into public roadway, have been de-stressed and are no longer providing any structural support.
 - g) Certification from a suitably qualified geotechnical engineer confirming that the Geotechnical Monitoring Program (GMP) was implemented throughout the course of construction and that all structures supporting neighbouring property have been designed and constructed to provide appropriate support of the neighbouring property and with consideration to any temporary loading conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes.

- h) Compliance certificate from Council confirming that all external works in the public road reserve and alteration to Council assets located in the property have been completed to Council's satisfaction.

(Reason: To ensure that all engineering components are completed to the satisfaction of an appropriately qualified person, prior to occupation or use of the development.)

116. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at 1 Pope Street – Ryde (Top Ryde City Shopping Centre).

(Reason: To ensure that owners of the site are aware of the location of the onsite detention system and the need to maintain the system over the life of the development.)

117. **Parking Area Linemarking and Signage.** To ensure the safe and efficient circulation of traffic and access to parking, directional signage, traffic control linemarking and signs must be installed in the developments parking area. The location and specifications of these measures must be in accordance with AS 2890.1, must be based on Traffic Engineering principals and must be located under the guidance of a suitably qualified Traffic Engineer experienced in traffic safety. Certification that these measures have been implemented must be provided to the Accredited Certifier prior to the issue of an Occupation Certificate for any part of the development requiring use of the parking area.

(Reason: To ensure the safe and efficient circulation of traffic and access to parking areas from the public road.)

Traffic

118. **Signage and Linemarking – External.** A Plan demonstrating proposed signage and linemarking changes within Council's Public Domain shall be prepared by a suitably qualified traffic engineering consultant and submitted to Council for endorsement by Ryde Traffic Committee and subsequent approval by Council, prior to the issue of any Occupation Certificate. This plan is to show "NO PARKING 5AM – 11AM WEDNESDAY AND PUBLIC HOLIDAYS" signposting restrictions along the northern side of Ethel Lane along the rear to enable unimpeded access for Council's 11m waste vehicle for kerbside collection on waste collection day(s).

Note: The applicant is advised that the plan will require approval by the Ryde Traffic Committee if the proposal requires change in existing parking conditions and hence, adequate time should be allowed for this process.

(Reason: To ensure that appropriate signage and linemarking is provided for waste collection.)

119. **Signage and Linemarking (External) – Implementation.** The applicant is to install all signage and linemarking, as per the plan approved by Council. These works are to be undertaken prior to the issue of any Occupation Certificate.

(Reason: To ensure that appropriate signage and linemarking is installed for waste collection.)

Waste

120. **Approval by waste officer.** An authorised Council waste officer is to ensure that the development can be accessed and serviced by the nominated waste collection vehicle in accordance with the Waste Management plan providing safe easy access to service the

waste containers. Approval must be provided by City of Ryde Council prior to the issue of the Occupation Certificate.

(Reason: To ensure that the development can be appropriately serviced for waste collection).

121. **Garbage services to be arranged.** Suitable arrangements must be made with the City of Ryde Council for the provision of garbage services to the premises prior to the issue of any Occupation Certificate

(Reason: To ensure that the development can be appropriately serviced for waste collection).

122. **Access to bin room.** Where there is a lockable door to access a bin room or hardwaste storage room, the universal Council key should be installed so the contractor can access the room for servicing bins or collect the household cleanup items.

(Reason: To ensure that secure access is provided to the bin room).

123. **Paving along the path of travel for bins.** The paving from the waste storage area or garbage and recycling room must be moderately graded with no steps or uneven surfaces so that the waste containers can be safely and easily maneuvered to the collection point.

(Reason: To ensure that an appropriate pathway is provided for presenting bins to the collection point).

Public Domain

124. **Vehicle Footpath Crossing and Gutter Crossover – Construction.** The proposed vehicle footpath crossing and gutter crossover shall be constructed prior to the issue of any Occupation Certificate at no cost to Council. Works may include the removal of any redundant vehicle footpath crossing and gutter crossover and reinstatement of kerb and gutter and restoration of road pavement.

Any adjustment or relocation of underground utilities as a result of **the** driveway construction must be carried out in accordance with the requirements of the utility authority. Minimum cover requirements of utility authorities must be maintained.

(Reason: To ensure that the vehicle footpath crossing and gutter crossover are appropriately completed and services are adjusted).

125. **Compliance Certificate – Vehicle Footpath Crossing and Gutter Crossover.** A Compliance Certificate shall be obtained from Council's City Works Directorate and a copy submitted to the Principal Certifier prior to the issue of any Occupation Certificate, confirming that the vehicle footpath crossing and gutter crossover have been constructed in accordance with the Council's standards and requirements. Fees are payable for the issue of the Compliance Certificate, in accordance with Council's Schedule of Fees and Charges.

(Reason: To ensure that the vehicle footpath crossing and gutter crossover are appropriately completed to Council's standards and requirements).

126. **Public Domain Improvements and Infrastructure Works – Completion.** All public domain improvements and infrastructure works shall be completed to Council's satisfaction, in accordance with the approved public domain plans and at no cost to the Council, prior to the issue of any Occupation Certificate.

(Reason: To ensure that the public domain improvements are appropriately completed).

127. **Restoration – Supervising Engineer's Certificate.** Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council a certificate from the Supervising Engineer confirming that the final restoration of disturbed road and footway areas for the purpose of

connection to public utilities, including repairs of damaged infrastructure and replacement of any redundant vehicular crossings as a result of the construction works associated with this development site, have been completed in accordance with the Council's standards and specifications, and DCP 2014 Part 8.5 *Public Civil Works*, or the Roads and Maritime Services' standards and specifications, where applicable.

(Reason: To ensure that the road and footway areas are completed in accordance with the relevant standards and specifications).

128. **Compliance Certificates – Street Lighting.** Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, a *Certificate of Compliance - Electrical Work (CCEW)* from the Electrical Contractor, and certification from a qualified Electrical Engineering consultant confirming that the street lighting in the public domain has been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications.

(Reason: To ensure that the street lighting is completed in accordance with Council's standards and specifications).

129. **Public Domain Works-as-Executed Plans.** To ensure the public infrastructure works are completed in accordance with the approved plans and specifications, Works-as-Executed (WAE) Plans shall be submitted to Council for review and approval. The WAE Plans shall be prepared on a copy of the approved plans and shall be certified by a Registered Surveyor. All departures from the Council approved details shall be marked in red with proper notations. Any rectifications required by Council shall be completed by the Developer prior to the issue of any Occupation Certificate.

In addition to the WAE Plans, a list of all infrastructure assets (new and improved) that are to be handed over to Council shall be submitted in a form advised by Council. The list shall include all the relevant quantities in order to facilitate the registration of the assets in Council's Asset Registers.

(Reason: To ensure that the public infrastructure works are completed in accordance with the approved plans and specifications).

130. **Registered Surveyor Final Certificate.** Upon completion of all construction works, and before the issue of any Occupation Certificate, a Certification from a Registered Surveyor must be submitted to Council, stating that all works (above and below ground) are contained within the site's land boundary.

(Reason: To ensure that the public domain works are contained within the site's boundaries).

131. **Supervising Engineer Final Certificate.** Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

(Reason: To ensure that the public domain works are completed in accordance with Council's standards and specifications).

132. **Post-Construction Dilapidation Report.** To ensure Council's infrastructures are adequately protected a post-construction dilapidation report on the existing public infrastructure in the vicinity of the completed development and along the travel routes of all construction vehicles, up to 100m either side of the development site, is to be submitted to Council. The report shall detail, but not be limited to, the location, description and photographic record of any observable defects to the following infrastructure where applicable.

(a) Road pavement,

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

The report shall include summary statement/s comparing the pre and post construction conditions of the public infrastructure. The report is to be dated and submitted to, and accepted by Council's City Works Directorate, prior to issue of the Occupation Certificate. The report shall be used by Council to compare with the pre-construction dilapidation report, and to assess whether restoration works will be required prior to the issue of the Compliance Certificate for External Works and Public Infrastructure Restoration.

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

(Reason: To ensure that the condition of Council's assets are appropriately recorded).

133. **Decommissioning of Ground Anchors.** Prior to the issue of any Occupation Certificate, the Applicant shall provide Council a certificate from a suitably qualified Structural or Geotechnical Engineer confirming that all temporary soil/ground anchors installed into the public road reserve, have been decommissioned and are not transferring any structural loads into the road reserve stratum.

(Reason: To ensure that the temporary ground anchors are appropriately decommissioned.).

134. **Final Inspection – Assets Handover.** For the purpose of the handover of the public infrastructure assets to Council, a final inspection shall be conducted in conjunction with Council's Engineer from City Works Directorate following the completion of the external works. Defects found at such inspection shall be rectified by the Applicant prior to Council issuing the Compliance Certificate for the External Works. Additional inspections, if required, shall be subject to fees payable in accordance with Council's Schedule of Fees & Charges at the time.

A minimum 48 hours' notice will be required when booking for the final inspection.

(Reason: To ensure that the public infrastructure assets are appropriately handed over to Council).

135. **Compliance Certificate – External Works and Public Infrastructure Restoration.** Prior to the issue of any Occupation Certificate, a compliance certificate shall be obtained from Council's City Works Directorate confirming that all works in the road reserve including all public domain improvement works and restoration of infrastructure assets that have dilapidated as a result of the development works, have been completed to Council's satisfaction and in accordance with the Council approved drawings. The applicant shall be liable for the payment of the fee associated with the issuing of this Certificate in accordance with Council's Schedule of Fees and Charges at the time of issue of the Certificate.

(Reason: To ensure that the public domain works are appropriately certified).

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.

136. **Parking Allocation.** Both the owner and occupier of the development must provide and maintain the car parking allocation as follows:

- A minimum of 13 residential spaces and 2 residential visitor spaces.
- A minimum of 6 commercial spaces.

(Reason: To ensure the development maintains the capacity and allocation of parking spaces on the site.)

137. **Communal open space areas.** The communal open space areas (comprising the ground level communal room and courtyard and the rooftop terrace) are permitted to be used by residents and their guests during the hours of 7am to 9pm daily.

(Reason: To restrict the hours of use to ensure that there is acceptable amenity to the surrounding locality).

138. **Commercial space.** The ground level non-residential space is approved for use as a commercial premises. Separate development consent required for fitout, unless such fitout and occupation is “exempt development.”. The hours of operation of the commercial premises is restricted to:

- 9am to 5pm (Monday-Friday).
- 9am to 4pm (Saturday)
- Closed on Sundays and public holidays.

(Reason: To restrict the hours of operation to ensure that there is acceptable amenity to the surrounding locality).

139. **Landscaping.** All landscaped areas provided in accordance with the approved plans shall be maintained at all times in a suitable manner.

(Reason: To ensure the development is in accordance with the development consent).

140. **Removal of Graffiti.** It is the responsibility of the owners or owner’s representatives of the site to remove any graffiti on the site which is visible from the public domain in a timely manner.

(Reason: To ensure the development is maintained free of graffiti).

141. **Stormwater Management – Implementation of maintenance program.** The stormwater management system components are to be maintained for the ongoing life of the development by the strata management/ owners corporation, as per the details in the approved drainage system maintenance plan (DSMP).

(Reason: To ensure that the stormwater management system is appropriately maintained for the life of the development.

142. **Offensive noise.** The use of the premises, including the operation of plant and equipment and air conditioners, must not cause the emission of ‘offensive noise’ as defined in the *Protection of the Environment Operations Act 1997*.

(Reason: To ensure the development does not impact on the amenity of the locality).

WASTE

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

(Reason: To ensure that the collection of domestic waste is appropriately managed).

144. **Signage.** Signs will be required to be placed within the bin area to encourage correct recycling and reduce contamination. City of Ryde will provide the required signage.

(Reason: To encourage recycling).

145. **Bins to be stored on site.** Garbage and recycling bins must always be stored on-site between collections.

(Reason: To ensure that bins are stored on-site).

146. **Management of waste storage areas.** All waste storage areas must be maintained in a clean and tidy condition at all times.

(Reason: To ensure that the waste storage areas are maintained).

147. **Storage of bulky items.** All material in the bulky items/hard waste storage rooms is to be taken to the collection area stipulated by Council, by the staff or contractors. The material is to be placed in such a manner so that it will not impede the access to any bins from a side arm waste collection vehicle or pedestrian access.

(Reason: To ensure that bulky items are appropriately stored and collected).

148. **Management of bins.** Staff or contractors must be employed to take the waste containers from garbage and recycling room to the container emptying point for servicing and to return the containers to the garbage room after servicing.

(Reason: To ensure that the development is responsible for the waste containers).

149. **Management of waste.** All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner.

(Reason: To ensure waste is collected and disposed of in an appropriate manner).

150. **Pre-booked household cleanup.** Unwanted household items must be stored onsite until the night prior to a Pre-booked household cleanup collection.

(Reason: To ensure the collect of waste does not impact on the amenity of the locality).

151. **Delivery and loading/unloading – hours.** No deliveries, loading or unloading associated with the premises are to take place between the hours of 10pm and 7am on any day.

(Reason: To ensure loading/unloading does not impact on the amenity of the locality).

152. **Delivery and loading/unloading – location.** All loading and unloading in relation to the use of the premises shall take place wholly within the property.

(Reason: To ensure loading/unloading does not impact on the amenity of the locality).

PRIOR TO SUBDIVISION CERTIFICATE

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

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

153. **Final Occupation Certificate.** The final occupation certificate associated with the approved development (including related modifications) must be issued for the entire development prior to the release of the Subdivision Certificate.

(Reason: To ensure that the development works are fully completed and that should the new lot come under separate ownership, such owners will not be burdened by outstanding works.)

155. **Final plan of subdivision.** The submission of a final plan of subdivision suitable for endorsement by the Authorised Officer of Council.

(Reason: To ensure that the final subdivision plan is adequate for acceptance of Land Registry Services.)

156. **Final plan of subdivision – title details.** The final plan of subdivision shall contain detail all existing and/or proposed easements, positive covenants and restrictions of the use of land.

(Reason: To disclose any easements or covenants burdening the land.)

157. **Removal of encroachments.** All structures, services etc. are to be wholly contained within the legal property boundaries of each lot. All existing structures and services etc are either to be demolished, relocated and/or have appropriate easement/s registered over the encroachment to ensure their legal operation.

(Reason: To avoid dispute over the maintenance or preservation of encroaching structures.)

158. **Section 88B Instrument.** The submission of an instrument under Section 88B of the Conveyancing Act 1919 with 2 copies, creating any Easements, Positive Covenants and Restrictions on use (where required) noting the “Council of the City of Ryde” being the authority empowered to release vary or modify the same.

(Reason: To facilitate the registration of any instrument accompanying the subdivision certificate.)

159. **Subdivision Certificate - Compliance Certificates.** The following compliance certificates must be provided to Council prior to the release of the Subdivision Certificate:

- a) Surveyor Certification – A registered surveyor must certify that necessary easements have been created for all services and structures which encroach into adjacent lots and that all remaining services, dwelling and structures are contained wholly within their respective allotments.
- b) Sydney Water (Section 73 Compliance Certificate) - A compliance certificate must be obtained from Sydney Water, under Section 73 of the Sydney Water Act 1994. Sydney Water will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains.
- c) Other Utility Providers – Written confirmation confirming compliance with the requirements (including financial costs) of electrical and telecommunication providers (e.g. AusGrid, Telstra).

(Reason: To ensure the newly created lots have access to and can maintain essential services.)

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

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

And

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

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

(Reason: Statutory requirement).

161. **Official Property Addressing.** The property addressing displayed on the administration sheets of a strata plan, must be in accordance with the official property addressing allocated by Council's Land Information Section.

(Reason: To assist in way finding).

162. **Requirements of the NSW Police.** Prior to the issue of any Occupation Certificate, CCTV is to be installed, operating and permanently recording at the entrance to the building and within the car park areas, including the entrance and egress points, as required by the NSW Police. It is the responsibility of Strata to ensure that video footage is to be of suitable quality, retained for at least 30 days and made available to the NSW Police upon request.

(Reason: To ensure that safety and security measures required by the NSW Local Police are provided).

End of consent.