

SYDNEY NORTH PLANNING PANEL

Panel Ref No	2017SNH013
DA Number	LDA 2016/0378
Local Government Area	City of Ryde
Proposed Development	<p>Demolition and construction of a mixed use development comprising 7 buildings accommodating retail, commercial and residential uses. The development will contain:</p> <ul style="list-style-type: none"> • 11,449.4m² of retail space; • 3,629.6m² of commercial space (including office, gym and medical centre) • 409 residential apartments consisting of 97 x 1 bedroom, 249 x 2 bedroom & 63 x 3 bedroom apartments. • 4 levels of basement car parking accommodating 1,035 vehicles. • Building heights ranging from 6 to 13 storeys. • Two open air through-site pedestrian links between Rowe and Rutledge Streets, and • Landscaping works within the site.
Street Address	152-190 Rowe Street and 3-5 Rutledge Street, Eastwood
Applicant/Owner	<p>Applicant: Yuhu Property (Australia) Pty Ltd</p> <p>Owner: Yuhu Property (Australia) Pty Ltd</p>
Number of Submissions	<p>Notification:</p> <p>Round 1: 5 submissions received</p> <p>Round 2: 12 submission received</p> <p>Round 3: 7 submissions received</p>
Recommendation	Deferred commencement approval
Regional Development Criteria (Schedule 7 of SEPP (State and Regional Development 2011))	<p>General Development over \$30 Million</p> <p>\$20 million (being the CIV applicable for applications lodged but not determined prior to 1 March 2018 under clause 23 transitional provisions of this SEPP).</p>
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning Instruments • Environmental Planning and Assessment Regulation 2000; • Environmental Planning and Assessment Act 1979; • State Environmental Planning Policy (State and Regional Development) 2011; • State Environmental Planning Policy No. 55 – Remediation of Land; • State Environmental Planning Policy (Building Sustainability Index: BASIX); • State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development; • State Environmental Planning Policy

	(Infrastructure) 2007; <ul style="list-style-type: none"> • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; Development Control Plans <ul style="list-style-type: none"> • Ryde Local Environmental Plan 2014; • City of Ryde Development Control Plan 2014; and • Section 94 Development Contributions Plan 2007: Planning Agreements A Voluntary Planning Agreement has been submitted with the application.
List all documents submitted with this report for the panel's consideration	1. Conditions of consent 2. Political donations and gifts disclosure statement 3. Clause 4.6 variation request to Clause 4.3 Height of Buildings standard.
Report by	Alison Davidson - Planning Ingenuity, Consultant Planners
Report date	28 September 2018

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**

Conditions

Have draft conditions been provided to the applicant for comment? **Yes – agrees to conditions**

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

The following report is an assessment of a development application for the construction of a mixed use development at 152-190 Rowe Street and 3-5 Rutledge Street, Eastwood.

The proposed development (as amended) involves demolition and construction of a mixed use development comprising 7 buildings accommodating retail, commercial and residential uses. The development will contain:

- 11,449.4m² of retail space;
- 3,629.6m² of commercial space (including office, gym and medical centre)
- 409 residential apartments consisting of 97 x 1 bedroom, 249 x 2 bedroom & 63 x 3 bedroom apartments.
- 4 levels of basement car parking accommodating 1,035 vehicles.
- Building heights ranging from 6 to 13 storeys.
- Construction of a bridge link between two residential buildings.
- Two open air through-site pedestrian links between Rowe and Rutledge Streets, and
- Landscaping works within the site.

The applicant has offered to enter into a Voluntary Planning Agreement with Council for the following works:

- Rowe Street Mall upgrade works;
- Provision of 5x1 bedroom affordable housing apartments;
- Works in kind in surrounding streets (other than Rowe Street Mall).

The application was placed on public notification on three (3) occasions and received a total of 24 submissions.

First notification period from 14 June 2016 to 26 October 2016, Council received 5 submissions.

Second notification from 10 May 2017 to 10 June 2017, Council received 12 submission.

Third notification period from 4 July 2018 to 18 July 2018, Council received 7 submissions.

The submissions raised various concerns including:

Table 1: Submissions			
Concern	Round 1	Round 2	Round 3
Insufficient provision of commercial and oversupply of residential	✓	✓	✓
Request for specific end users and amenities	✓	✓	

Request for provision of car share parking and additional bicycle parking	✓	✓	
Need for inclusion of bike lanes on West Parade and Rowe Street	✓	✓	
Provide wayfinding signage to link development to public transport hubs, bike networks, heritage walks and local amenities.	✓	✓	
Adverse traffic impacts (access, parking, congestion, safety)	✓	✓	✓
Flood impacts on basement carpark	✓	✓	✓
Excessive Height	✓	✓	✓
Impact on local schools to accommodate extra residents	✓	✓	✓
Insufficient parking	✓	✓	✓
Overdevelopment		✓	✓
Construction will generate air pollution, health concerns	✓	✓	✓
Impact on adjoining commercial premises		✓	✓
DA seeks work on other property without owners consent (demolition of ramp)	✓	✓	✓
Reduced traffic safety and limiting access to other properties	✓	✓	✓
Development should be staged to enable business transition		✓	
Reduction in retail and office, excess in food related uses – lack of diversity		✓	
VPA should include replacement of paving		✓	
Insufficient infrastructure to accommodate population increase		✓	
Inappropriate change to area character, social impacts			✓
Reduced amenity – light and overshadowing			✓
Support for application			✓

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

- Minor variation to building depth, separation, solar access, and first floor ceiling height provisions under the Apartment Design Guide (ADG);
- Variation to Height of Buildings control under provisions of RLEP2014 (variation requested pursuant to Clause 4.6);
- Variation to 3m street setback (required above 9.5m) and to colonnade/awning height to The Street which exceeds 4.5m under RDCP2014.

Clause 7 of SEPP 55 Remediation of Land requires the consent authority to consider if the land is contaminated and if it is contaminated, is it suitable for the proposed development. A preliminary Environmental Site Assessment has been submitted with the development application and this report has concluded that the site would be suitable for the proposed development subject to appropriate conditions of consent.

Following an assessment of the development application, it is considered that these non-compliances are acceptable on planning grounds. Consideration of various design matters by Council's technical departments has not identified any fundamental issues of concern with the proposal. Consequently this report concludes that the proposal is acceptable in terms of its design, function and relationship with its neighbours.

This report recommends that consent be granted to this application in accordance with conditions provided in **Attachment 1**. These conditions have been reviewed by the applicant who has agreed with all of the conditions.

2. APPLICATION DETAILS

Name of applicant: Yuhu Property (Australia) Pty Ltd

Owner of site: Yuhu Property (Australia) Pty Ltd

Estimated value of works: \$276, 753, 423.00

Disclosures: A disclosure with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made by the applicant. A copy of the information has been attached. (See attachment 2).

3. SITE DESCRIPTION

The subject site is located on the corner of Rowe and Rutledge Streets, known as Nos. 152-190 Rowe Street and 3-5 Rutledge Street, Eastwood. The site has a total area of approximately 12,755m² and comprises 20 lots.

The site is currently occupied by a retail shopping centre known as Eastwood Shopping Centre, consisting of approximately 12,500m² of retail space and 2,400m² of commercial space. Buildings currently existing at the site range in height between 1 to 8 storeys with taller buildings fronting Rowe Street Mall. Also existing at the site is a Masonic Temple fronting Rowe Street.

Existing parking available at the site includes a total of 426 spaces (289 publicly available) within a multi-level shopping centre car parking accessed from Rutledge Street. **Figures 1 and 2** below provide an aerial view of the site (outlined in red) and its context, whilst photographs of the site and surrounds are provided at **Figures 3 to 8**.



Figure 1: Aerial photo of the site



Figure 2: Site and surrounds



Figure 3: Looking east along Rowe Street Mall



Figure 4: Looking south-west from West Parade

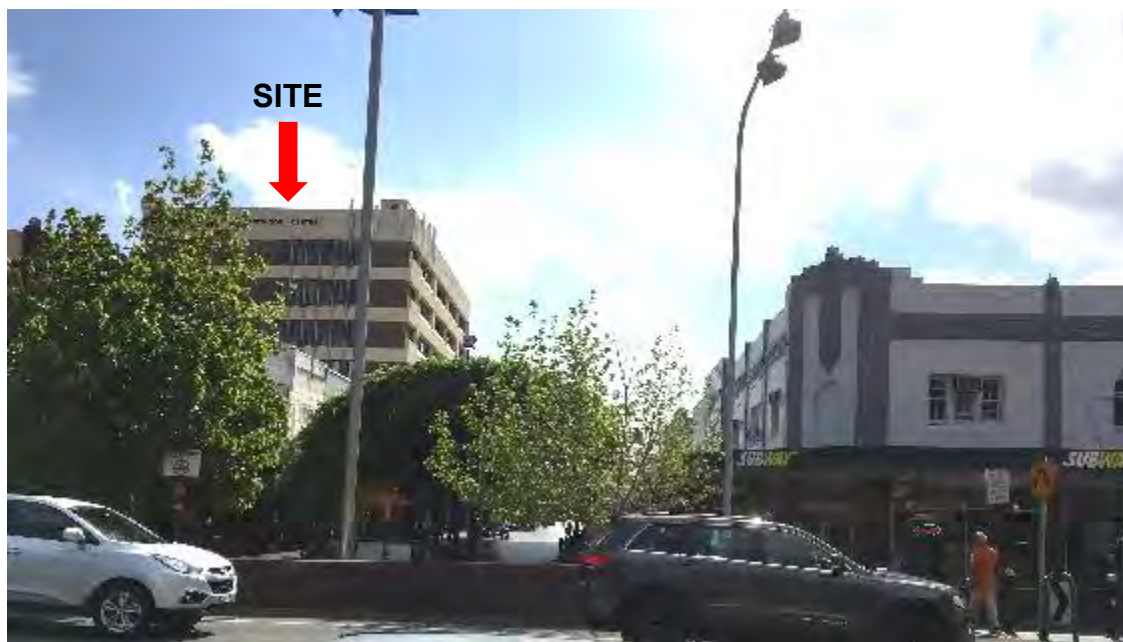


Figure 5: Looking west towards Rowe Street Mall from West Parade



Figure 6: Looking north from Rutledge Street to ramp accessed from Trelawney



Figure 7: Looking north-east from Rutledge Street to site



Photo 8. Rutledge Street. The development at 7-9 Rutledge Street is visible adjacent to the site.

4. SITE CONTEXT

The site is located at the southern side of the Eastwood Town Centre as identified under the City of Ryde DCP 2014, within the Eastwood Village Precinct.

To the north of the site is the Rowe Street Pedestrian Mall including retail, medical and commercial uses. The northern side of Rowe Street is characterised by low 1-2 storey shop frontages. Further north again is Eastwood Park including sporting fields and playgrounds.

To the east of the site, beyond West Parade is the railway line servicing Eastwood Railway Station (approximately 300m from the site). Further east are more commercial uses including Aldi and Eastwood Police Station.

To the south of the site across Rutledge Street is low density residential development and a child care centre. Further south, development is essentially characterised by low density residential uses within the suburb of Denistone.

To the immediate west of the site is an adjoining parcel known as 7-9 Rutledge Street. This parcel is the subject of development consent for a Staged Development for mixed used development (LDA2011/0612). Further west, across Trelawney Street, is Eastwood Public School which extends to Shaftsbury Road (west) and Rowe Street (north).

5. PROPOSAL

The scope of works for which consent is sought comprises demolition of existing site improvements and construction of a mixed use development comprising 7 buildings accommodating retail, commercial and residential uses. The development will contain:

- 11,449.4m² of retail space;
- 3,629.6m² of commercial space (including office, gym and medical centre)
- 409 residential apartments consisting of 97 x 1 bedroom, 249 x 2 bedroom & 63 x 3 bedroom apartments.
- 4 levels of basement car parking accommodating 1,035 vehicles.
- Building heights ranging from 6 to 13 storeys.
- Two open air through-site pedestrian links between Rowe and Rutledge Streets, and
- Landscaping works within the site.

As detailed above, the development proposes the erection of 7 buildings. The location of these buildings is demonstrated in Figure 9.

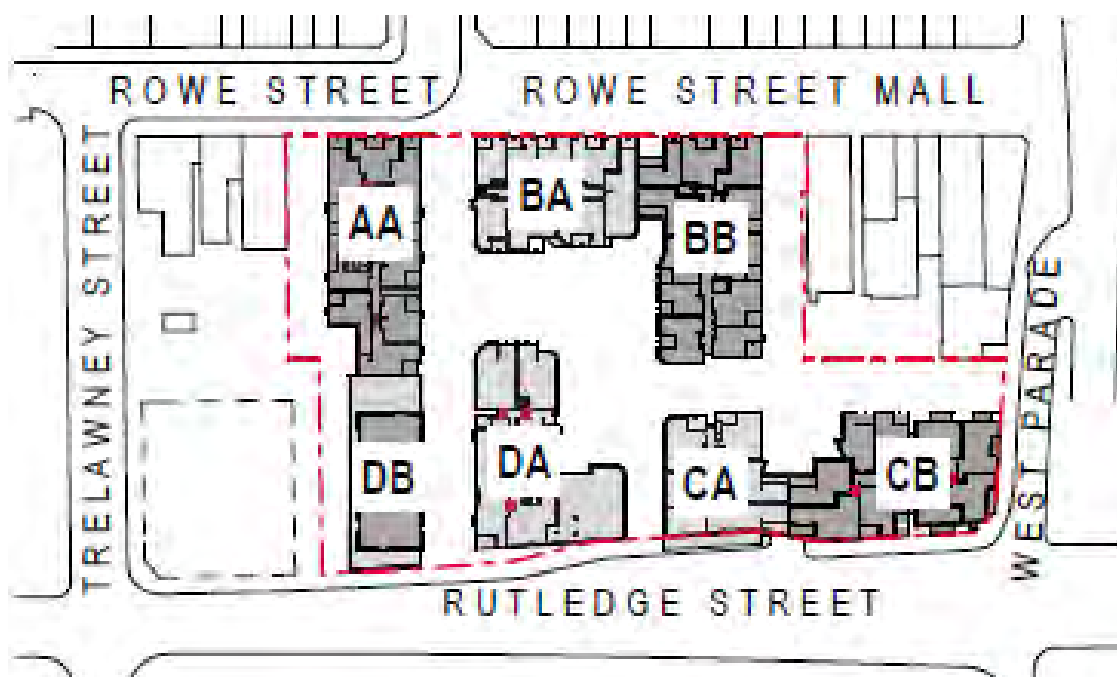


Figure 9 Site Plan showing the location of the proposed buildings.

A Voluntary Planning Agreement (VPA) has been endorsed by resolution of Council on 27 February 2018 to provide significant upgrades to Rowe Street Mall and works in kind in surrounding streets to create an enhanced public domain surrounding the site and the dedication of 5 x 1 bedroom units to Council for affordable rental housing for essential workers.

The plans that form the basis of this assessment report are referenced as **dated 1 June 2018**.

The development proposes 11,449m² of retail space which will be located on the lower ground floor, ground floor and part of level 1, the uses will include:

- Lower ground floor – a major supermarket and a number of fresh food and speciality retail fronting an internal pedestrian street known as ‘The Street’ which provides connection from Rowe Street through to Rutledge Street.
- Ground floor – individual shop fronts directly accessible from Rowe Street, Internal to the site it is proposed to include a mini major supermarket, kiosk spaces and a number of fast and slow food tenancies located around a central market hall area. Speciality shops are proposed adjacent to ‘The Street’.
- Level – Level 1 has direct access to Rutledge Street. Retail tenancies will include a mini major Yum Cha, a medical centre and pharmacy. A gym is proposed on the south eastern corner of the site, which will front both Rutledge Street and West Parade.

The hours of operation are detailed below:

Proposed Use	Days of week	Operating Hours
Supermarket	Monday to Sunday	6.00am to midnight

Retail premises (shops, restaurants)	Monday to Sunday	6.00am to midnight
Medical Centre	Monday to Sunday	7.00am to 9.00pm
Gymnasium	Monday to Sunday	24 hours

Commercial suites will be located on 4 levels of the building located in the south western corner of the site. The ground floor of the commercial floor space will have access directly from Rutledge Street.

3 vehicular access points are provided to the basement carpark. This includes:

- Rutledge Street – left in / left out vehicle entry point is consolidated towards the eastern end of the site. This access accommodates a deceleration lane along the street frontage.
- Trelawney Street – The existing in and out vehicle access remains in the same location but has been reconfigured to allow safe vehicle movements and separation of two way traffic.
- West Parade – The two existing access points have been reconsolidated to provide one entry / exit point with a left in, right out onto West Parade for loading dock access only.

Photomontages of the proposed development internal and external to the site are provided below in **Figures 10, 11 and 12.**



Figure 10: Photomontage of proposed development



Figure 11: Photomontage of proposed development



Figure 12: Photomontage of proposed development

6. **BACKGROUND**

The subject development application was lodged on 1 September 2016.

The application was notified on three (3) occasions. The first round was from 14 September 2016 to 26 October 2016, with 5 submissions being received during this period. The second round was from 10 May 2017 to 10 June 2017, with 12 submissions received (including 1 in support). The third round was from 4 July 2018 to 18 July 2018 with 7 submissions being received including 1 in support.

An UDRP meeting took place on 27 September 2017. A number of issues were raised by the Panel, primarily in regard to:

- Extent of level change in stair flights;
- A wider link should be pursued. 19m to align and extend the Avenue is a better proportion in relation to the vertical scale of adjacent building and level change between Rowe and Rutledge Streets. Would provide safer public realm and accommodate awnings for weather protection.
- The link should be open to the sky for its full length and bridging between buildings DB and DA should be removed.
- Resolution of sightlines and weather protection need to be resolved.
- Concern with safety and security of the through site links and the functionality of the market garden after retail hours.
- Preference for a more flexible-use public space located on Rowe Street that functions equally as a town square.
- Co-locating the new space with the existing mall would benefit new retail activities on the site.
- Rowe Street building would better fit within the context if it included a strong 2 storey datum, expressed in the façade.
- Inconsistent consideration of how the proposed building form will transition along Rutledge Street.
- Further design resolution required to demonstrate quantum development is a positive built form and open space outcome for site.
- It is reasonable to expect the proposal will achieve the minimum targets established by the ADG.
- The achievement of cross ventilation at internal corners and using angled windows is questioned.
- The Panel is unconvinced with the publically accessible open space in the hanging garden above the market square – limited access and segregated from active retail areas, potential safety concerns.
- If market space below hanging garden is relocated, that space could house retail facilities and the hanging garden level could serve as central COS, available to residents and guests (not public).
- Amenity concerns include:
 - Internal corners,
 - units under bridging levels between Buildings DA and DB
 - Deep narrow balconies
 - Excessive deep notches to the corridor in Building CB
 - Outlook of units at Level 1 facing market relies on landscaping.

A letter dated 25 January 2017 was sent to the applicant seeking a response to the Panel comments and further information and/or revised plans in respect of the following matters:

- Further justification for building height non-compliance;
- Inconsistent “hanging garden design” between Architectural and Landscape Plans;
- Additional supporting documentation required to demonstrate or confirm compliance with ADG in relation to:
 - Building depth;
 - Communal open space;
 - Visual privacy;
 - Solar access;
 - Ceiling heights;
 - Apartment layout; and
 - Storage.
- Inconsistency with allocation/provision of car parking;
- Additional information to address Eastwood Town Centre DCP in relation to:
 - Private open space; and
 - Setbacks to both Rowe and Rutledge Streets.
- Request for Public Arts Plan;
- Response to referral comments in relation to:
 - RMS;
 - Drainage & Development Engineering;
 - Traffic;
 - Public Domain upgrades;
 - Waste Management provisions;
 - Health – contamination;
 - Landscape treatment; and
 - Input on NSW Police comments.

Amended plans, **dated 22 March 2017** prepared by HDR Rice Daubney and additional information was submitted to Council on 19 April 2017.

The key amendments to the architectural plans included:

- Amendments to the Rowe Street Mall elevation – reinforcement of the 2 storey façade element and integration with the adjoining buildings on Rowe Street Mall, including introduction of a steel ‘portal’ to create a double height perception at street level, and the use of different materials and finishes to break the building into fine grain shop fronts (refer to comparison of Revision 1 and 2 in **Figures 13 and 14**).

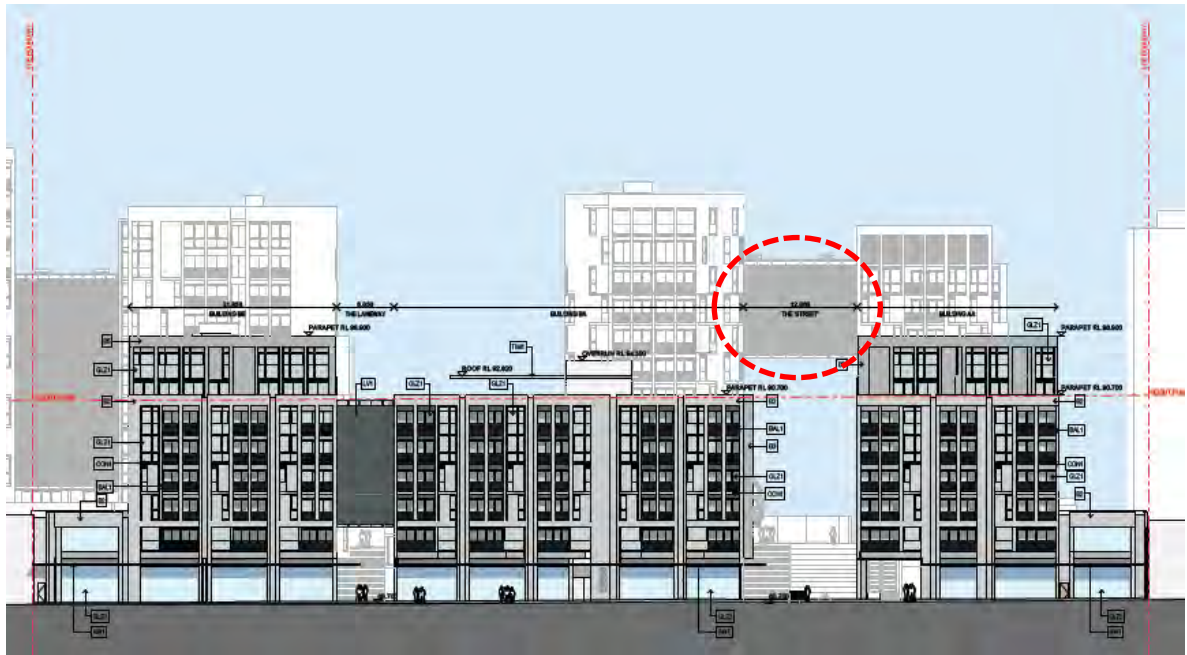


Figure 13 Rowe Street Elevation (Plan 1501, Revision 1)



Figure 14 Rowe Street Elevation (Plan 1501, Revision 2)

- Amendments to Rutledge Street elevation – removal of bridge link, reduction in building height (at link between Buildings CA and CB) and reinforcing the 5 level street wall façade of the buildings to avoid ‘sheer’ building wall (refer to comparison of Revision 1 and 2 in **Figures 15 and 16**).

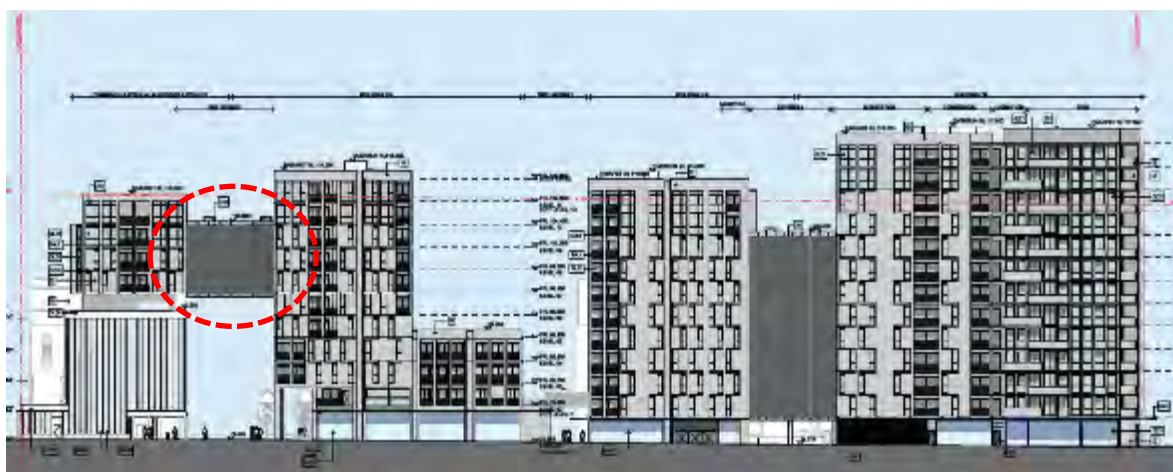


Figure 85 Rutledge Street Elevation (Plan 1502, Revision 1)



Figure 96 Rutledge Street Elevation (Plan 1502, Revision 2)

The amended plans also incorporated the following improvements:

- Additional screening measures within the “hanging garden” to ensure privacy to Level 1 units;
- Improved safety through deletion of public access to the “hanging garden”, passive surveillance opportunities and the use of glazes awnings to enable clear and unobstructed sightlines;
- A Public Art Strategy Plan, identifying art opportunities within Rowe Street Mall, a gateway artwork to buildings fronting Rowe Street Mall, laneway art, and a green gallery sculpture and planting along the site link.

On 17 May 2017, the amended plans were considered by the UDRP and it was concluded that the Panel generally supported the revised scheme on the following basis:

- The link has been reconfigured to be open to the sky for its full length and the bridging between buildings DB and DA has been removed in line with the Panel recommendation.
- In light of incorporated design modifications, the Panel can support the narrower 12m link.

- The building now introduces a strong 2 storey retail datum, expressed in the façade.
- The Panel supports the design refinements evident, including:
 - Elimination of the bridging floors between buildings DA and DB
 - Reduction in height of bridging floors between CA and CB to 6 storeys
 - Establishment of datum that continues a 5 storey datum at buildings DA and DB.
- The Panel notes the provision of additional rooftop communal open space (COS) on Building AA, ensuring all residents have direct access to areas of COS.
- The proponent has introduced a design strategy that introduces a diversity of brick types and other facades materials.

On 14 June 2017, further amendments resulting in revised plans, **dated 26 May 2017** were submitted. The amendments addressed some minor outstanding concerns raised with the Applicant at the UDRP meeting on 17 May 2017 in relation to resolving the screening treatment to the communal open space above the market hall and its interface with the adjacent units.

Also on 14 June 2017, a briefing session on the development application was presented to the Sydney North Planning Panel.

On 27 February 2018, a Voluntary Planning Agreement was endorsed by Council. The VPA provides upgrades to Rowe Street Mall and surrounding streets to enhance the public domain surrounding the subject site and dedication of 5 x 1 bedroom units to Council for allocation as affordable housing for essential workers in the local community.

On 12 March 2018, a meeting was held between Council and the Applicant to discuss the last remaining issues, primarily the significant matter of vehicular access and traffic safety. Also discussed at this meeting were façade changes to incorporate bay window elements to increase duration of direct sun to glazing on the eastern and western elevations, presented as amended plans, **dated 2 March 2018**.

On 26 March 2018, as a result of unresolved traffic and access, additional traffic modelling was provided to Council and RMS. Input was provided by Council's Independent Traffic Consultant on matters of Road Safety and liaison between Council, RMS and the Applicant resulted in a final meeting to discuss any implications of the alternate site access which included a deceleration lane and resulting increased building setbacks to Rutledge Street.

On 21 June 2018, final amended plans, **dated 1 June 2018** were submitted to Council and all unresolved matters have now been addressed including the granting of RMS concurrence. These plans form the subject of this assessment.

Changes contained within the final plans under assessment include:

- Reduction in the overall number of residential units from 443 to 409;
- Altered apartment mix to provide 24% 1 bed, 61% 2 bed and 15% 3 bed;
- Alteration to the vehicular access to the site from Rutledge Street to include a deceleration lane required by RMS;

- Reduction in the number of car spaces and changes to the basement level parking layouts; and
- Alteration to the building forms fronting Rutledge Street and in the centre of the site to accommodate the deceleration lane.

7. APPLICABLE PLANNING CONTROLS

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- Statement Environmental Planning Policy (State & Regional Development) 2011;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX);
- State Environmental Planning Policy (Infrastructure) 2007;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;
- Ryde Local Environmental Plan 2014; and
- City of Ryde Development Control Plan 2014.

8. PLANNING ASSESSMENT

8.1 Environmental Planning and Assessment Act 1979

Section 4.15 Evaluation

All relevant matters for consideration under Section 4.15 have been addressed in the assessment of this application.

Section 7.4F Planning Agreements

As part of the development application, the applicant has offered by letter to enter into a VPA with Council. The VPA will require the applicant to provide public benefits as summarised below:

- Rowe Street Mall Upgrade Works - \$5,060,587
 - 5 x 1 bedroom affordable housing apartments - \$3,900,000
 - Works in kind in surrounding street (other than Rowe Street Mall) - \$4,225,091.
- Council at its meeting held on 27 February 2018 accepted the letter of the applicant to enter into a VPA in relation to the Development Application.

It is intended to impose a deferred commencement condition which would require the applicant to enter into a VPA for the delivery of the public benefits as identified within the letter of offer.

8.2 Environmental Planning and Assessment Regulation

This application satisfies Clause 50(1)(a) of the Regulation as it is accompanied by the nominated documentation for development seeking consent for a mixed use development, including:

- A design verification statement from a qualified designer;
- An explanation of the design in terms of the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development; and
- Relevant drawings and montage.

8.3 State Environmental Planning Policy (State and Regional Development) 2011

The Sydney Planning Panel (SPP) is the consent authority for all development with a capital investment value (CIV) of over \$20 million (being the CIV applicable for applications lodged but not determined prior to 1 March 2018 under clause 23 transitional provisions of this SEPP). As the DA has a CIV of \$276,753,423. Council is responsible for the assessment of the DA and determination of the application is to be made by the SPP.

8.4 State Environmental Planning Policy No 55 – Remediation of Land

The requirements of State Planning Policy No. 55 – Remediation of Land apply to the subject site. In accordance with Clause 7 of SEPP 55, the consent authority must consider if the land is contaminated and, if so, whether it is suitable, or can be made suitable, for the proposed use.

A preliminary environmental site assessment was prepared by Environmental Investigation Services (EIS) (RefE30595KMrpt). A review of the site's history indicates that the site has been used primarily for commercial purposes since at least 1943. The report found potential sources of contamination to be:

- Fill material;
- Fuel storage facilities;
- Hazardous building materials;
- Historical commercial / industrial activity; and
- Nearby former contaminated service station.

The report concludes that the historical land use and potential sources of contamination identified would not preclude the proposed development and

recommended that (1) a preliminary intrusive investigation be undertaken to assess soil and ground water contamination conditions and (2) A hazardous building materials survey be undertaken prior to demolition.

Council's Environmental Health officer is comfortable that the site will be excavated to bedrock, effectively removing any contamination. Furthermore, the site can be made suitable for the proposed development based on the Stage 1 contamination testing, however a Stage 2 assessment has been requested in order to enable more detailed investigation that is not possible until the existing development on the site is demolished. That work will inform the specific measures required for remediation and site validation. Appropriate conditions of consent have been imposed. (See condition numbers 116 to 120).

8.5 State Environmental Planning Policy (Building Sustainability Index: BASIX)

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building. As such, a BASIX Certificate (739803M_04, dated 18 June 2018) has been prepared for the development which provides the development with a satisfactory target rating.

Appropriate conditions will be imposed requiring compliance with the BASIX commitments detailed within the Certificate. (See condition numbers 5, 115 and 181).

8.6 State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP applies to the subject site given the development is classified as a 'Traffic Generating Development' pursuant to Schedule 3 of the SEPP due to the development having access to classified road or to a road that connects to classified road (if access within 90m of connection, measured along alignment of connecting road) comprising more than:

- 75 dwellings for residential use;
- 2,500m² of commercial floor space;
- 50 parking spaces; and
- more than 500m² of shops.

Accordingly, the development application was referred to Roads and Maritime (RMS) and concurrence was granted on 9 July 2018.

Table 2 below contains the provisions of the Infrastructure SEPP applicable to this DA:

Table 2: Infrastructure SEPP		
Provision	Comments	Comply?

Table 2: Infrastructure SEPP		
Provision	Comments	Comply?
Clause 104 Traffic generating development <ul style="list-style-type: none"> Before determining a DA for which this clause applies the consent authority must: <ul style="list-style-type: none"> Take into consideration any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless before the 21 days have passed, the RTA advises that it will not be making a submission), The accessibility of the site concerned, and Take into consideration any potential traffic safety, road congestion or parking implications of the development. 	<p>RMS has raised no objection to the proposal subject to conditions (See conditions numbers 25, 127, 141, 142 and 220)</p> <p>Suitable site access and movement is provided.</p> <p>Required parking is provided and no traffic safety or congestion issues anticipated as a result of provision of deceleration lane.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
Clause 87 Impact of Rail Noise or Vibration on Non Rail Development <ul style="list-style-type: none"> The consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LA_{eq} levels are not exceeded: <ul style="list-style-type: none"> In any bedroom in the residential accommodation – 35dB(A) at any time between 10.00pm and 7.00am Anywhere else in the residential accommodation – 40dB(A) at any time. 	<p>The development application was accompanied by an acoustic report. This report has confirmed that the development will achieve the required noise levels. A condition of consent has been included to ensure that the development complies with this report. See condition number 121.</p>	<p>Yes</p>
Clause 45 Determination of development applications – other development <ul style="list-style-type: none"> Before determining a development application the consent authority must give written notice to the electricity supply authority for the area and take into consideration any comments received within 21 days. 	<p>The development application was referred to Ausgrid on 15 September 2016. No response has been received.</p>	<p>Yes</p>

8.7 Deemed State Environmental Planning Policy Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Deemed SEPP 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.

As the site is not located on the foreshore or adjacent to the waterway, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development.

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

This Policy aims to improve the design quality of residential flat development. This proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

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


8.8.1 Urban Design Review Panel

As detailed in Section 6, the original scheme and amended schemes were considered by the UDRP on 27 September 2016 and 17 May 2017. The final comments provided indicated general support by the Panel in light of the design changes and improvements incorporated into the final scheme, in response to earlier Panel comments.

SEPP 65 Design Quality Principles

There are nine design quality principles identified within SEPP 65. The following table provides an assessment of the proposed residential flat building (RFB) against the nine design principles of the SEPP.

Table 3: SEPP Design Quality Principles	
Planning Principle	Comment
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic 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 occupies the majority of one of the larger blocks in the town centre. A key aspect of the scheme is the extension of The Avenue, through the site to provide a direct pedestrian connection between Rowe and Rutledge Streets. The extension is referred to as The Street and at ground level is 12m in width. Also proposed is a parallel pedestrian lane to the east through the site which also connects these streets, referred to as The Laneway which is 6m in width.</p> <p>The through site link represents a positive change to the town centre pedestrian network and enhances and connects the public domain.</p> <p>In relation to the through site link/shopping centre access, the view corridor through the site is open to the sky for its full length (following amended design and Panel advice), and it will assist in integrating the desirable through site link space into the town centre</p>

	<p>and reduce perceived bulk and scale of the proposal.</p> <p>The secondary link to the east of the market provides improved permeability through the site and to the central market and retail precinct with a suitable scale and alignment.</p> <p>A hierarchy of spaces is formed through the site links, and within these links sits the market hall (central retail space) and hanging garden above (residential open space). Each of these spaces offer a role in the context of the site and their connection to the broader locality through landscaping and built form.</p> <p>Figure 17 shows the location of these spaces.</p>  <p>Figure 17. Location of the Mall, the Street and the Laneway.</p>
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</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>Rowe Street</p> <p>Rowe Street is the main retail street and public realm focus of Eastwood Town Centre and is characterised by 2 storey, fine grain shopfronts. The proposed 6 storey street edge has been modified to balance a strongly articulated vertical rhythm with regular ground floor shopfronts defining the street interface. The building design now introduces a strong 2 storey retail datum, expressed in the façade, which is supported by the Panel. (See Figure 13).</p> <p>Rutledge Street</p> <p>Rutledge Street is the boundary between the town centre and the R2 residential zone to the south. The proposal includes 11 and 13 storey buildings built to the southern boundary, with sheer walls to the full height proposed.</p> <p>The Panel supports the following design refinements evident in the latest scheme:</p> <ul style="list-style-type: none"> • Elimination of the bridging floors between buildings DA and DB. • Reduction in height of bridging floors between CA and CB to 6 storeys. • Establishment of a datum that continues a 5 storey datum at buildings DB or DA.
<p>Density</p> <p>Good design has a density appropriate for a site and its context, in terms of the number of units or residents.</p>	<p>There is no FSR applicable on the site. Consequently, the primary control influencing the density of development is established through</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>building height. The Panel initially raised some issues with the height non-compliance as the proposal is already testing established limits for density, such as bridge link elements and a narrower-than-anticipated through site link.</p> <p>The Panel's view is that the development in its revised form achieves a maximum supportable density relative to the permitted building heights.</p> <p>The proposal includes 409 units across seven buildings of varying heights. The proposal generally meets the ADG requirements, offering acceptable levels of privacy, solar access, ventilation, and diversity.</p>
<p>Sustainability</p> <p>Good design involves design features that provide positive environmental and social outcomes.</p> <p>Good sustainable design includes use of natural cross breezes 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>The applicant has provided BASIX Certificate No (739803M_04, dated 18 June 2018)] which indicates that the residential component of the buildings will meet the energy and water use targets set by the BASIX SEPP.</p> <p>A Waste Management Plan for the demolition of the existing buildings has been submitted and is considered acceptable by Council's Waste Officer.</p> <p>The design has also ensured the development will comply with the passive solar design principles and cross ventilation as provided in the Apartment Design Guide.</p> <p>The Panel questioned the achievement of cross ventilation at internal corners alongside 'notches' and using angled windows. In light of this the Applicant engaged a sustainability expert (ARUP, dated 28 August 2018) to review the application.</p> <p>The peer review concluded that the south L Shaped apartments and single aspect apartments alongside notches do not achieve ADG compliance for natural cross ventilation. Notwithstanding the final revised cross ventilation achieved across the development is 60% (216/361 units up to Level 9) and therefore complies.</p>
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction,</p>	<p>The amended plans now limit access to the hanging garden to residents only, which is supported by the Panel. Through design changes recommended by the Panel, privacy between dwellings and the hanging garden have been adequately resolved through adjustable/operable screening on the dwelling balconies which enables privacy to be controlled by residents. Figure 18 shows the location of the hanging garden.</p>

equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.



Figure 18. Location of the hanging garden on level 1.

The development provides a variety of landscape contributions :

- Upgrade of adjacent streets;
- The Street (through site link between Rowe and Rutledge Streets)
- The hanging garden (resident COS); and
- Private and communal open spaces.

The landscaping of the communal open spaces as well as other design features such as seating, swimming pool and rooftop gardens will ensure that these spaces provide useable an protected recreational and passive areas for future residents.

Each unit is also provided with ADG compliant private balcony areas sufficient for recreational use and amenity benefit.

Amenity

Good design positively influences internal amenity for residents and external amenity for neighbours. Achieving good amenity contributes to positive living environments and resident well-being.

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.

Adequate internal amenity can be achieved within dwellings and communal open spaces. All residents are afforded direct access to areas of communal open space from respective buildings.

The development complies with the controls and/or objectives contained in the Apartment Design Guide in respect to apartment sizes, access to sunlight, ventilation, acoustic privacy, storage layout and access requirements.

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 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.

The development is consistent with the CPTED principles as follows:

- The entrance to each apartment building will be clearly legible and well lit.
- Appropriate signage to be provided to the buildings' entrance with appropriate lighting.
- Lighting, both internal and external, will be provided in accordance with Australian Standards.

The proposal was referred to NSW Police who has reviewed the proposal and provided support for the

	<p>proposal subject to conditions (See Condition numbers 169 to 172).</p> <p>The NSW Police referral also recommended that the sale of alcohol should be prohibited from the commercial/retail premises.</p> <p>This request is not considered appropriate and has not been included. The applicant provided a response seeking to not have a blanket prohibition on the sale of alcohol enforced as a condition of consent. Noting that any liquor premises will be subject to the usual licensing process to ensure the responsible sale and service of alcohol.</p> <p>As submitted by the applicant, it is agreed that the sale of liquor from a licensed premises will not detract from the quality of the development or area. The sale of alcohol is a standard offering and even expectation from customers and would be an unreasonable burden placed on the applicant.</p> <p>The request and this response was provided as a new referral to NSW Police, however no further comment have been provided.</p>
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed 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, providing opportunities for social interaction amongst residents.</p>	<p>The proposed development provides a mix of 1, 2 and 3 bedroom apartments (represented as 24%, 61% and 15% respectively).</p> <p>As endorsed by Council (through VPA agreement), 5 x 1 bedroom units will be dedicated to Council for affordable rental housing.</p> <p>The proposal provides 49 accessible units across the development which represents 12% of the total 409 units.</p> <p>The development provides a variety of communal spaces for residents to interact and socialise. In addition, the residential lobbies are located along active street frontages including the proposed Street and Laneway links to encourage social interaction appropriate with the sites context within a town centre.</p>
<p>Architectural Expression</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 well-designed apartment buildings responds to the existing or future local context, particularly desirable elements and rhythms of the streetscape.</p>	<p>The Panel notes the revised architectural expression of the buildings and a number of requested modifications including reinforcement of the 2 storey façade element along Rowe Street through 2 storey base, finer grain shop fronts, and architectural treatments such as different brick tones, landscaping, metallic architectural materials, and an art wall.</p> <p>The significant design change as supported by the Panel is the deletion of the bridge crossing The Street which previously linked 3 levels of Buildings DA and DB and reducing the height of the link between Buildings CA and CB to 6 storeys (from 8).</p> <p>The Rutledge Street elevation has been provided with a 5m datum line to Buildings DA, DB, CA and CB through materiality. This provides the commercial</p>

	<p>Building DB with improved scale relationship with the Level 5 podium elements along Rutledge Street.</p> <p>The conclusion of the Panel was that the proposal is much improved as a consequence of incorporating the above design changes into the scheme and the inclusion of the design strategy that introduces a diversity of brick types and other facade materials.</p>
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8.8.2 Apartment Design Guide

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. **Table 4** below provides an assessment of the proposal against the matters in the ADG:

Table 4: SEPP NO. 65 Apartment Design Guide - Compliance Table		
DESIGN CRITERIA	PROPOSAL	COMPLIES
Part 2: Development Controls		
Building Depth Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line	Building: AA – 10m to 21m BA – 20m to 23m, BB – 9m, and 16m, to 21m CA – 8.5m to 21m CB – 18m to 22.5m DA – 12m to 18m DB – 14m	No Refer to discussion
Building Separation Minimum separation distances for buildings are: <u>Up to 4 storeys:</u> <ul style="list-style-type: none"> 12m (Habitable) 9m (habitable/non-habitable) 6m (non-habitable) <u>5-8 Storeys</u> <ul style="list-style-type: none"> 18m (Habitable) 12 (habitable/non-habitable) 9m (non-habitable) 	<u>NB – Rowe Street commences at Ground Floor, Rutledge at Level 1</u> <u>Up to 4 storeys</u> 12m+ except for: L1, L2, L3 – 10.5m-12 between AA and BA L1, L2, L3– 6m between BA and BB (blank wall) L2, L3 – 9m between CA and DA (blank wall) L4 (Rutledge) – 9m between CA and DA <u>5-8 storeys</u> 18m+ except for: L4 (Rowe), L5 – 6m between BA and BB (Blank wall) L5 – 10.5m-12m between AA and BA L5 - 11-12m between DA and AA L6, L7 – 11-12m between DA and DB (blank wall) L5, L6, L7 – 12m between BB and CA L8 (Rutledge) – 11m between DA and DB (blank wall)	No* Yes Yes No* Yes No* No* Yes No* Yes

<p><u>9+ storeys</u></p> <ul style="list-style-type: none"> • 24m (Habitable) • 18m(habitable/non-habitable) • 12m (non-habitable) <p><u>No separation is required between blank walls.</u></p>	<p>L5, L6, L7 – 11-16.5m between CB and CA (blank wall) L8 (Rutledge)– 11m between CB and CA</p> <p><u>9+ storeys</u> L9 – 11m between DA and DB (blank wall) L9, L10, L11 – 23m between CA and DA (blank wall) L8 (Rowe & Rutledge) – 12m between BB and CA (Blank wall) L9, L10, L11 – 11m between CB and CA</p>	<p>Yes</p> <p>No*</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>No*</p> <p>*Refer to discussion below</p>
Part 3 Siting the development Design criteria/guidance		
<p><u>Communal and Public Open Space</u></p> <p>Communal open space has a minimum area equal to 25% of the site.</p> <p>Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter)</p>	<p>The proposal provides 3,244.26m² of communal open space which equates to a total of 25.4% of the site area.</p> <p>52.12% of open space receives >2hours sunlight.</p>	<p>Yes</p> <p>Yes</p>
<p><u>Deep Soil Zones</u></p> <p>Deep soil zones are to meet the following minimum requirements:</p> <p>Site area greater than 1,500m² = 7%</p>	<p>900m² which equates to 7.17% deep soil area</p>	<p>Yes</p>

<p><u>Visual Privacy</u></p> <p>Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <ul style="list-style-type: none"> Up to 12m (4 storeys) 6m (habitable) / 3m (non-habitable) Up to 25m (5-8 storeys) 9m (Habitable) / 4.5m (non-habitable) Over 25m (9+ storeys) 12m (Habitable) / 6m (non-habitable) 	<p>Internal to site: refer to 2C Building Separation</p> <p>External to site:</p> <p>Minimum 9m separation to adjoining buildings at up to 8 storeys;</p> <p>A 9m setback is provided from Building AA to the western boundary. Currently, the building at this property (fronting Rowe Street) is 2 storeys in height. Building AA contributes greater than 50% of the separation requirement.</p> <p>A 6m setback is provided from Building DB to the western boundary. Building DB contributes 50% of the separation requirement.</p> <p>A 9m setback is provided from Building CB to the eastern boundary. Currently, the building at this property (fronting Rowe Street Mall) is 2 storeys in height. Building CB contributes greater than 50% of the separation requirement.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>
<p><u>Car parking</u></p> <p>For development in the following locations:</p> <ul style="list-style-type: none"> on sites that are within 800 metres of a railway station; or within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, <p>the minimum parking for residents and visitors to be as per RMS Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less.</p>	<p>Addressed under DCP Compliance.</p>	<p>N/A</p>
<p>Solar Access and Daylight</p> <p>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas</p> <p>No more than 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.</p>	<p>72.1% receive in excess of 2 hours of sunlight to living room windows and private open space areas during mid-winter.</p> <p>(As confirmed by Steve King Report, dated 28.6.17)</p> <p>15.2% (62 units of 409) (As confirmed by Steve King Report, dated 28.6.17)</p>	<p>Yes</p> <p>No Refer to discussion</p>
<p>Natural Ventilation</p>		

At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed	60% (as confirmed by ARUP, dated 28.8.18)	Yes
Ceiling Height Measured from finished floor level to finished ceiling level, minimum ceiling heights are: <ul style="list-style-type: none"> Habitable Rooms – 2.7m Non-habitable rooms – 2.4m If located in a mixed use area - 3.3m for ground and first floor to promote future flexibility 	All habitable rooms have minimum 2.7m ceiling heights. Non-habitable rooms contain ceiling heights that are at least 2.4m Ground floor 4m to 5m (Rutledge and Rowe Street) First floor building height is 2.7m	Yes Yes Yes No Refer to discussion
Apartment Layout Apartments are required to have the following minimum internal areas: <ul style="list-style-type: none"> Studio - 35m² 1 Bedroom - 50m² 2 Bedroom - 70m² 3 Bedroom - 90m² The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m ² each Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space) Bedrooms have a minimum dimension of 3m (excluding wardrobe space) Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> 3.6m for studio and 1 bedroom 	All units comply with minimum unit sizes. (Confirm by unit schedule DA 1906) All units comply with the exception of: Unit AA0603 – 2B + 2Bath : 74.2 Unit AA0704 – 2B + 2Bath: 74.2; and Unit AA0801 – 2B + 2Bath: 74.1 The above represents very minor departure from the requirement of 75m ² for additional bathroom. This represents less than 1% of units and the variation of unit size is also minimal being less than 1%. Complies Minimum 10m ² or 9m ² (excluding wardrobe) Minimum 3m.	Yes On merit Yes Yes Yes Yes

apartments • 4m for 2 and 3 bedroom apartments	Minimum 3.6m or 4m.	
Private Open Space All apartments are required to have primary balconies as follows: <ul style="list-style-type: none"> • Studio - 4m² • 1 Bedroom - 8m² (Minimum depth of 2m) • 2 Bedroom - 10m² (Minimum depth of 2m) • 3 Bedroom - 12m² (Minimum depth of 2.4m) 	All units comply with minimum private open space area. (Confirmed by POS schedule DA 1906)	Yes
Common Circulation Space The maximum number of apartments off a circulation core on a single level is 8. <i>Guidance Note: 8 or Max. 12</i> For buildings of 10 storeys and over the maximum number of apartments sharing a single lift is 40.	6 to 11 apartments per circulation core, refer below. Complies with guidance note 2 lifts per circulation core Except Building DB which services 12 units only).	- Yes Yes
Storage In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <ul style="list-style-type: none"> • Studio - 4m² • 1 Bedroom - 6m² • 2 Bedroom - 8m² • 3 Bedroom - 10m² At least 50% of the required storage is to be located within the apartment	Compliant storage is provided within each unit and within the basement levels. (Confirmed by storage schedule DA 1908) Storage is provided within each unit and the basement levels. At least 50% of required storage is located within apartments. (Confirmed by storage schedule DA1908)	Yes Yes

As indicated by the above ADG table, the proposed development does not meet the design criteria relating to building depth, building separation, solar access, and first floor ceiling height.

Each of these issues is discussed further below.

Building Depth

Part 2E of the ADG seeks a range of appropriate maximum apartment depths of 12-18m from glass line to glass line. The proposed development provides a range of building depths across the 7 buildings (AA, BA, BB, CA, CB, DA and DB), as follows:

- AA – 10m to 21m
- BA – 20m to 23m,
- BB – 9m, and 16m, to 21m
- CA – 8.5m to 21m
- CB – 18m to 22.5m
- DA – 12m to 18m
- DB – 14m

The location of the buildings are demonstrated below:

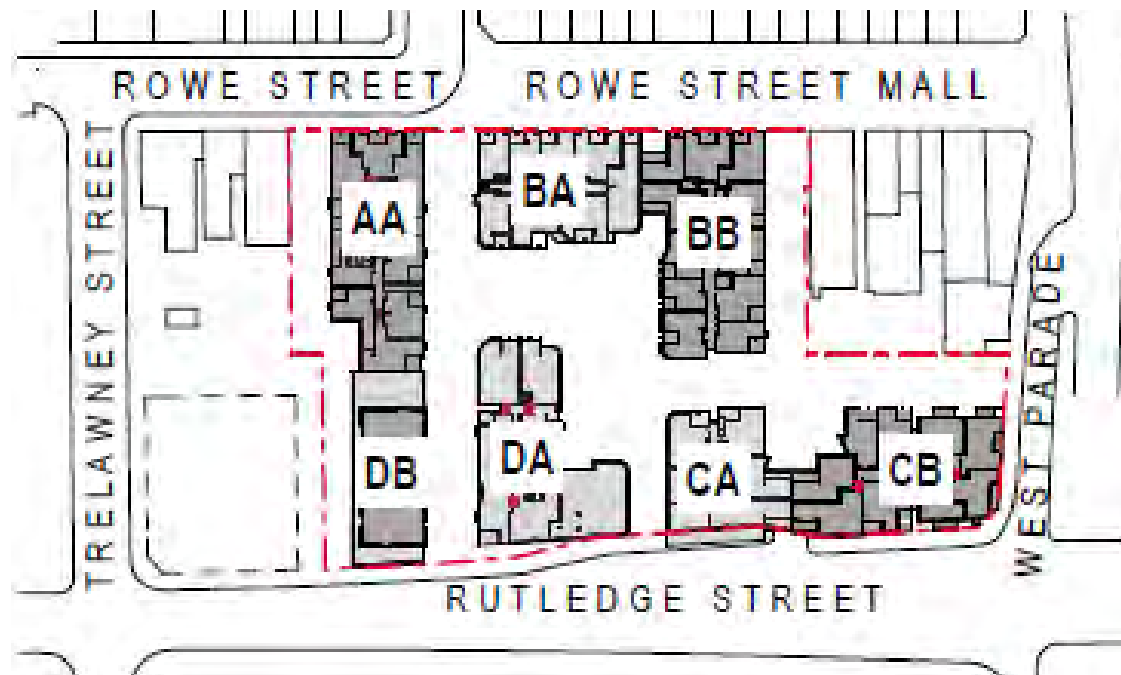


Figure 19. Site Plan showing the location of the proposed buildings.

Notwithstanding the numeric departure to the ADG recommended building depths, the residential units perform well with respect to solar access, natural light and ventilation to habitable rooms due to the optimisation of the floor plan where the centre of the floor plate, being the area where the light and ventilation supply could be poor, are occupied by double loaded common corridors, vertical circulation and ancillary rooms for the common area and for units.

There is no significant bulk perceived from the proposed deeper buildings due to the articulated facades and breaks in mass provided by the through site linkages between Rowe and Rutledge Streets. Accordingly, the proposed building depths are acceptable for both building performance and presentation.

Building Separation

Part 2F of the ADG requires the following separation between buildings:

Building height	Separation Distance
Up to 4 storeys	6-12m
Up to 8 storeys	9-18m
9 storeys and above	12-24m

It is noted that no separation is required between blank walls. It is also noted that the Rowe Street Elevation commences at ground level and due to the changes in levels between Rowe Street and Rutledge Street, the Rutledge Street frontage commences at Level 1. Therefore, these levels differences have been accounted for in consideration with the separation controls which refer to storeys.

In term of the proposed development, up to 4 storeys adjacent buildings internal to the site comply or provide a blank wall with the exception of:

- L1, L2, L3 – 10.5m-12 between AA and BA

This represents a minor non-compliance which results in the provision of a bay window to achieve solar compliance. The openings face north/south on Building AA with a blank wall opposing Building BA as such there are no direct privacy impacts.

- L4 (Rutledge frontage) – 9m between CA and DA

This represents a minor non-compliance which results in the provision of a bay window to achieve solar compliance. The openings face north/south on Building CA with a blank wall opposing Building DA as such there are no direct privacy impacts.

At the height of 5-8 storeys, adjacent buildings internal to the site comply or provide a blank wall with the exception of:

- L5 – 10.5m-12m between AA and BA

The predominant setback is 12m with a reduction resulting from bay window (AA) and an angled window (BA). With the combination of north/south openings to the bay windows, the angled opening and offsetting of windows in addition to a privacy screen (refer to Condition 1(e)) required to dining window of Unit BA0507 or AA0504, the privacy relationship is considered to be acceptable.

- L5 - 12m between DA and AA (windows oppose balcony – highlight opening required to Unit DA505)

The lounge room opening to Unit DA505 is setback 12m from the balcony edge of Unit AA507. As these are opposing openings, a Condition will be required for the provision of a highlight opening to the lounge room window to Unit DA505 (refer to Condition 1(e)).

- L5, L6, L7 – 12m between BB and CA (windows oppose balcony – highlight opening required to Units BB503, BB603 and BB703)

The southern bedroom windows to Units BB503, BB603 and BB703 are setback 12m to dining room of CA505, C605 and CA705. As these are opposing openings a Condition will be required for the provision of a highlight opening to the bedroom windows within BB (refer to Condition 1(e)).

- L8 (Rutledge frontage)– 11m between CB and CA

The 3 bedrooms within Unit CB806 does not show any windows. The absence of windows are contrary to Part 4D of the ADG and will be required by condition of consent (refer to Condition 1(f)). To assist with the reduced separation with the habitable windows to Building CA at Levels 8 the required openings will need to be a highlight windows.

At the height of 9+ storeys, adjacent buildings internal to the site comply or provide a blank wall.

Subject to the conditions referred above, the proposed development is considered to provide suitable internal building separation.

Solar access

Part 4A permits a maximum of 15% of apartments in a building to receive no direct solar access between 9am and 3pm in mid-winter.

The proposed results in 62 units not receiving direct solar access between the requisite hours which equates to 15.2%. These figures are confirmed by Solar Access Analysis prepared by Steve King (report dated June 2017). The 0.8% exceedance represents 2 additional units which is considered acceptable. The applicant's position, that the site is a north-south site with a large expanse of building facing south to Rutledge Street, combined with the lower height limits provided to the north is accepted. As stated in the Solar Report, *this exceedance is largely due to a more or less irreducible shading of otherwise favorably oriented apartments on lower levels and in my view is a predictable outcome of the heights and density of the development. In my considered opinion, and extremely successful review and redesign process has resulted in what is effectively a fully complying amended design.*

The non-compliance is also accepted given the development performs well (generally) and in terms of solar access being provided at midwinter for greater than two hours to 72.1% of the residential units which exceeds the minimum ADG requirement.

Ground Floor Ceiling Height

Part 4C seeks a ceiling height of 3.3m (if located in mixed use areas) for ground and first floor of buildings to promote future flexibility of use.

The development proposes street front activation with retail and commercial uses to all streets interfacing with the site with the exception of the nominal areas taken by driveways required for services and publicly accessible areas within the ground floor levels fronting streets.

The buildings generally have a height above that required by the ADG. For example 5.5m is provided to the Rowe Street frontage. Due to the topographic conditions, the Rutledge Street and West Parade frontages varies from 5m to 4m floor ceiling height, with an average height above the minimum ADG design criteria. The retail areas vary from speciality and kiosks to mini-major and major supermarkets and provide a considerable level of adaptability for a variety of retail and commercial uses. Most of the residential buildings are sitting on top of two levels of retail with a height of 5.5m and are designed to provide a reasonable level of privacy and security.

The applicant's position is reasonable and it is accepted that the residential strata will make it very difficult to combine residential and commercial premises sharing common vertical circulation, lift lobby, main building entry, and common area at the residential level like common corridors and recycle rooms. As such, the first floor level is proposed to remain with the minimum 2.7 metres for residential units, as adaptation for non-residential uses is considered impractical and unlikely.

Apartment sizes

3 of the two bedroom and two bathroom apartments do not comply with the minimum apartment size of 75m². These apartments have an area of 74.1m² and 74.2m². The variations are numerically small with a variation of approximately 1% from the minimum size. Also, this non-compliance on the affects 3 of the 409 apartments. This represents less than 1% of the number of apartments. In these circumstances, the variation is considered to be acceptable.

8.9 Ryde Local Environmental Plan 2014

The following is an assessment of the proposed development against the applicable provisions from the Ryde Local Environmental Plan 2014.

Clause 2.3 Zone Objectives and Land Use Table

The land is zoned B4 Mixed Use under Ryde LEP 2014.

The proposal constitutes a mixed use development comprising residential and commercial uses. The proposed development is permissible as "*commercial premises*", "*medical centres*" and "*shop top housing*" is permissible in the zone and "*residential flat building*" is not listed as a prohibited form of development in the B4 zone.

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives for the B4 zone are as follows:

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

- 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 subject site forms part of the Eastwood Town Centre precinct under the Ryde DCP 2014. The proposal generally meets the objectives of the B4 zone by providing a suitable mix of retail floor space and residential units. The site is located with close proximity public transport, public open space and community services.

Clause 4.3 Height of Buildings

The height of a building on the subject land is not to exceed the maximum height of 21.5m along Rowe Street and 33.5m along Rutledge Street.



Figure 20: LEP Height of Buildings Map. R1 – 21.5m and U4 – 33.5m.

Building height is defined in this planning instrument as meaning the vertical distance between ground level (existing) at any point to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The proposed development includes 7 buildings incorporating the following maximum building heights:

Table 5: Building Heights					
Location	Building	HOB (m)	Proposed Storeys	Proposed height	Difference (m)
Rutledge Street	CA	33.5	11	35.9m to 38.3m	+2.4 to 4.8
	CB	33.5	13	42.4m to 44.4m	+8.9 to +10.9
	DA	21.5 33.5	11	36.85m to 39.65m	+15.35 to +18.15 +3.35 to +6.15
	DB	33.5	10	33.85m to 35.8m	+0.35 to +2.30
Rowe Street	AA	21.5	Part 6 Part 9	21.2 to 31.9	-0.3 to +10.4
	BA	21.5	6	20.35 to 21.95	-1.15 to +0.45

	BA	21.5	Part 6 Part 9	21.4m to 32.31	-0.10 to +10.81
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Figure19 below provides a blanket diagram to demonstrate a building massing comparison to the height of building standards and demonstrates proposed variations in storeys and metres.

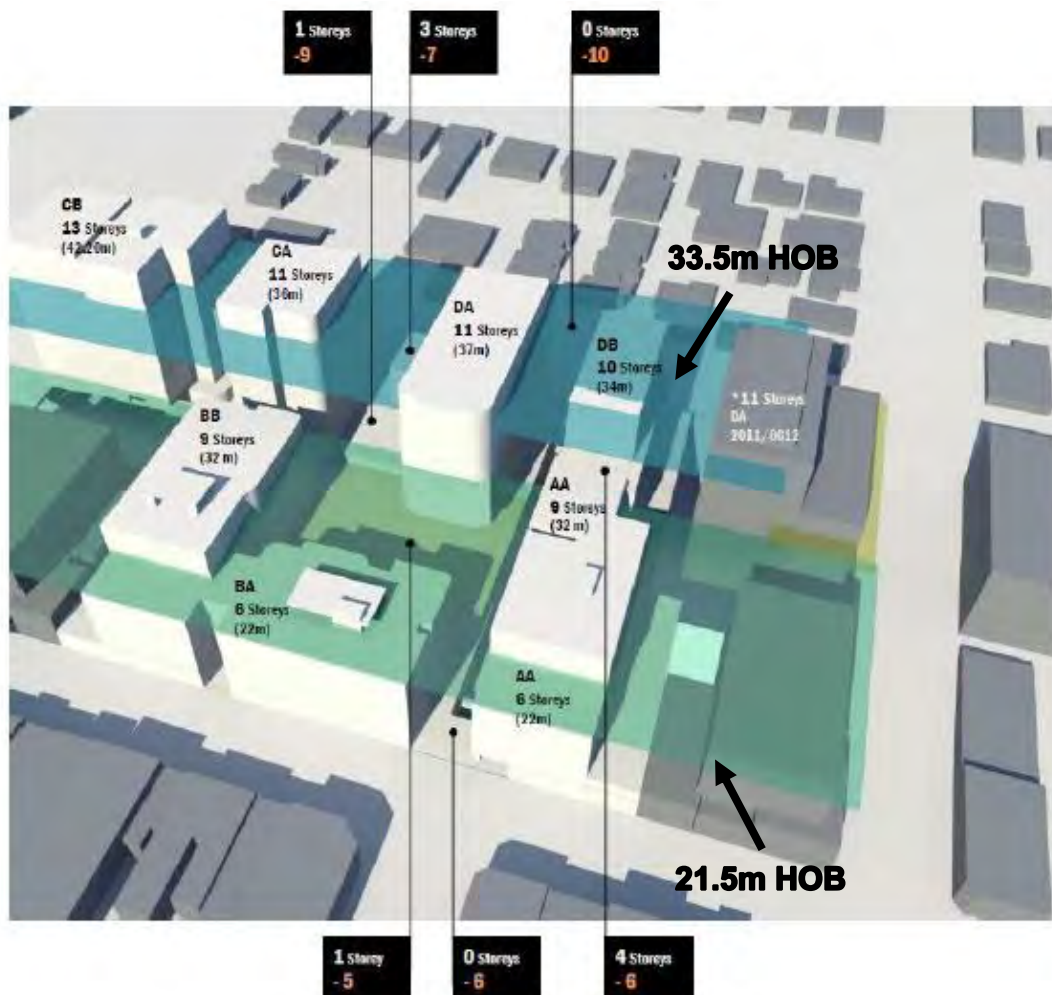


Figure 21 Building height comparison with HOB. The blue represents the 33.5m LEP maximum building height and the green the 21.5m LEP maximum building height.

Figure 22 to 26 shows sections through each of the buildings and the breach to building height.

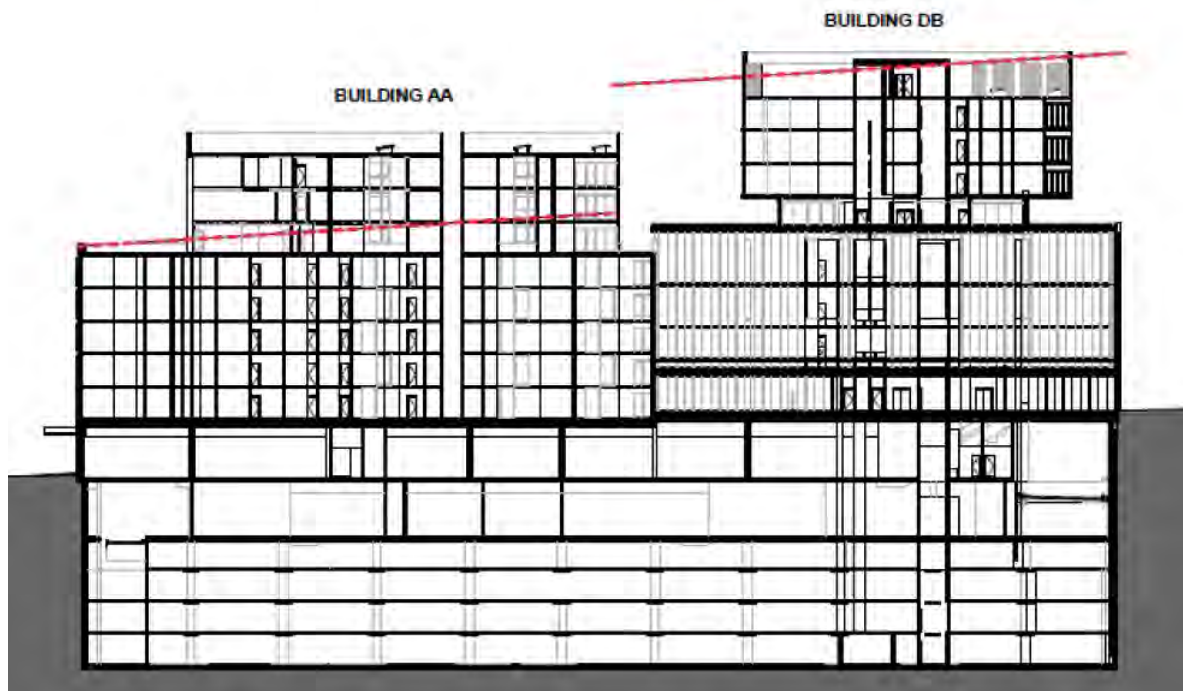


Figure 22 Section through Building AA and DB showing the height variation. The red line represents the applicable height control.

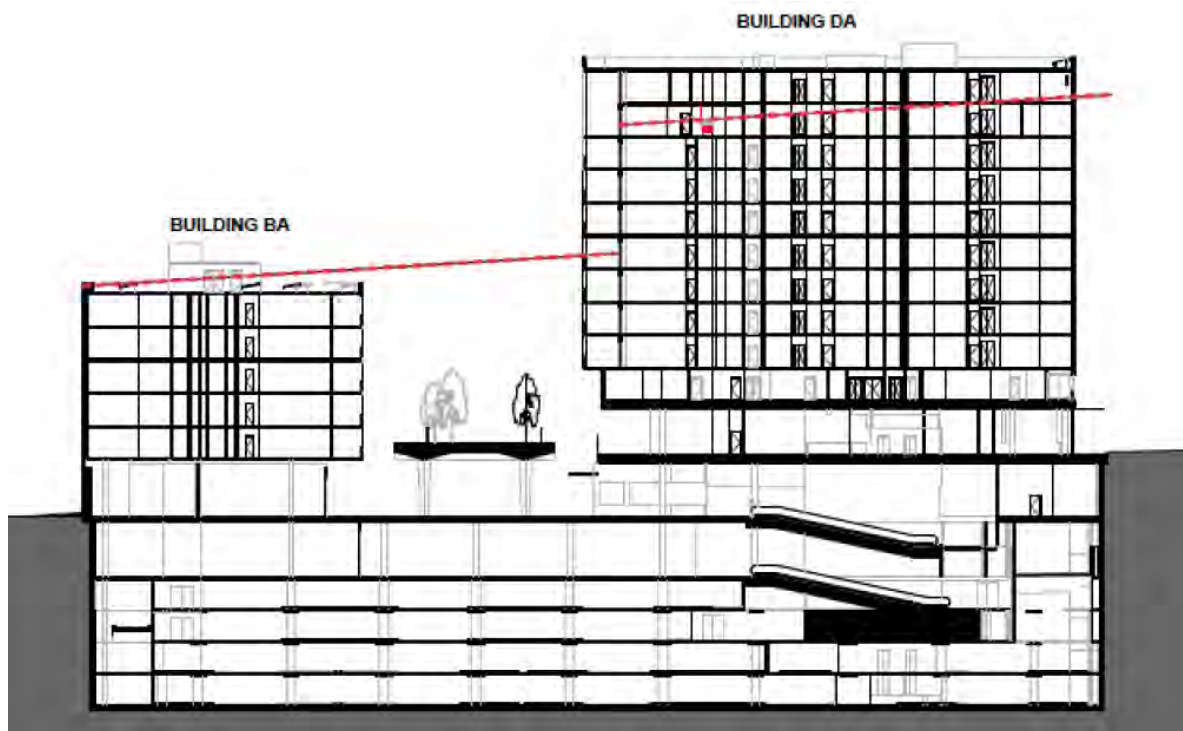


Figure 23. Section through Buildings BA and DA showing the height variation. The red line represents the applicable height control.

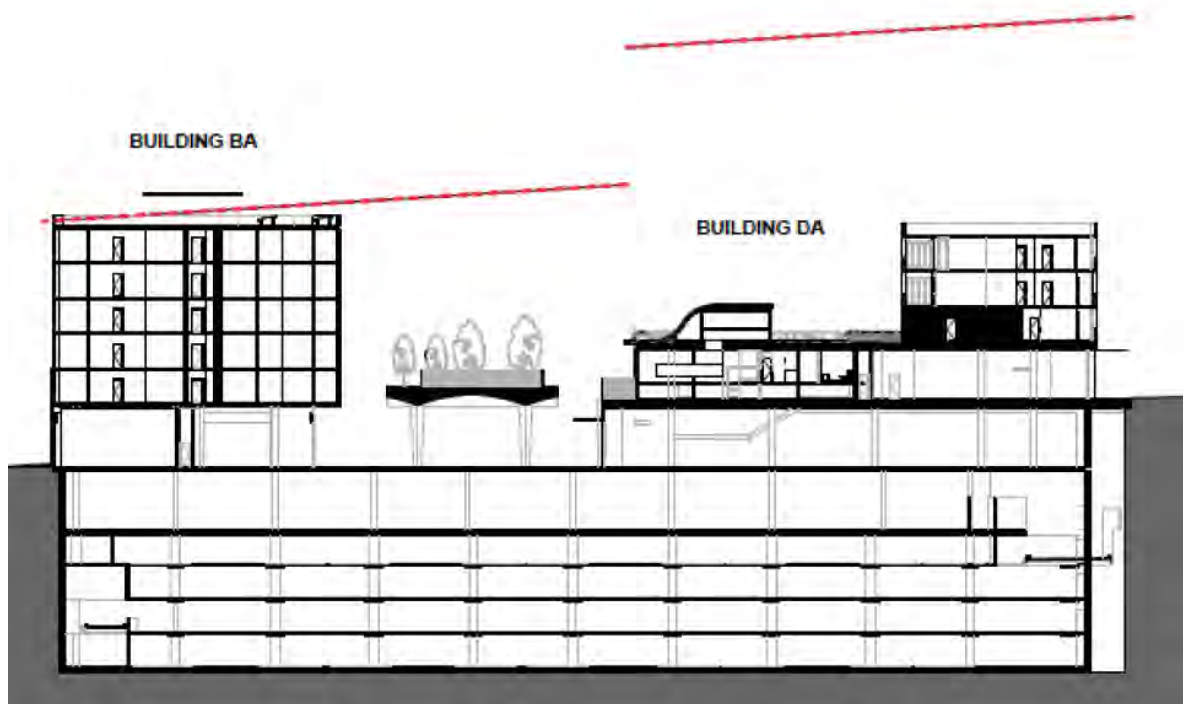


Figure 24 Section through Buildings BA and DA showing the height variation. The red line represents the applicable height control.



Figure 25. Section through Buildings BB and CA showing the height variation. The red line represents the applicable height control.

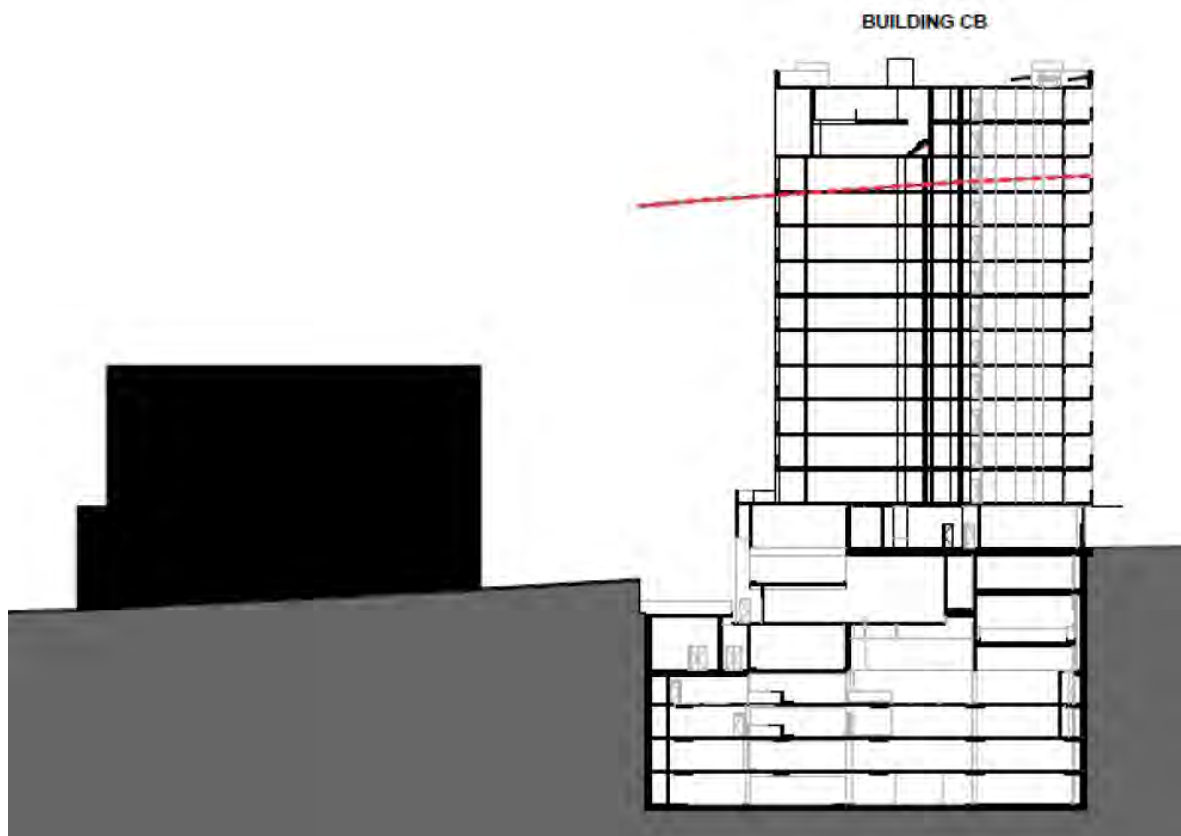


Figure 26. Section through Building CB showing the height variation. The red line represents the applicable height control.

The applicant has provided a Clause 4.6 Variation Statement which in summary states:

- *The proposal includes additional building height above that permitted in carefully considered appropriate locations across the site. The proposed variation is a deliberate strategy to bring about a superior urban design outcome for the Eastwood Town Centre.*
- *The additional building height at specific locations across the site is offset by the lower buildings and in some cases, absence of built form that as envisaged by the LEP controls and introduction of open spaces and through site linkages, which are accessible to the public creating public benefits,*
- *The proposal represents a better urban design outcome than a compliant scheme as it provides greater areas of public space in the form of site links and plaza spaces and space between buildings to allow views into the site*
- *The proposed built form and height is consistent with the desired future character of the Eastwood Town Centre,*
- *Variations do not result in unreasonable adverse amenity impacts;*
- *The non-compliance does not hinder the development's ability to satisfy the objectives of the B4 Mixed Use zone.*

The assessment against the applicant's request to vary the LEP height control is provided under Clause 4.6 (Exceptions to Development Standards) below.

Clause 4.6 Exceptions to Development Standards

Clause 4.6 of LEP 2014 allows exceptions to development standards. 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 that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

The consent authority must be satisfied that the applicant's written request has satisfied the above criteria and that the proposed development will be in the public interest and it is consistent with the zone objectives as well as the objectives of the particular development standard. In addition, consent cannot be granted unless the concurrence of the Director-General has been obtained. These matters are discussed below.

1. Written request provided by the applicant.

The applicant has provided a revised written request seeking to justify the variation to the development standard based on the amended plans. A copy of the request is attached to this report as **Attachment 2**.

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

The applicant's written request has demonstrated that compliance with the development standard would be unreasonable and unnecessary as the development complies with the objectives of the standard. The written request has also considered the environmental planning grounds that are particular to the circumstances of the proposed development. In part the applicant's submission is as follows:

- *The proposal achieves the objectives of the development standard as provided in clause 4.3 of the LEP as the proposal does not result in unreasonable impacts on adjacent land in terms of view loss, overshadowing, building bulk impacts, and loss of privacy.*
- *The proposed variation to the maximum height of buildings development standard does not hinder the proposals ability to achieve the objectives of either the B4 Mixed Use zone or those objectives set out in the Eastwood Town Centre DCP at Section 1.2. In particular, the proposal will contribute to the revitalisation of the Town Centre through provision of a mix of land uses to service the needs of the catchment within a high quality redevelopment of well-considered build form and open space areas that respond to the surrounding character of the area.*
- *The proposal directly aligns with the Future Character Statement for Eastwood Town Centre set out at Section 2.2.2 of the DCP. Specifically, the proposal provides a high level of aesthetic amenity at street level though key pedestrian*

links and active frontages, provides safe, attractive and convenient public spaces, a vibrant and viable contribution to the retail and commercial offering of the centre, provides robust and attractive passive recreation spaces, and will result in a well balanced mix of complementary land uses that can serve the surrounding residential population.

- *An alternate design that complies with the height of building standards has been prepared, which has regard to the relevant planning controls in terms of compliance with the HOB standards and SEPP 65.*
- *The alternate design demonstrates that more floor space could be achieved on the site and comply with the HOB development standards, although it will not deliver the better environmental planning outcomes that are achieved with the approval of the proposed development, being the publicly accessible through site linkages and plaza;*
- *The proposal includes additional building height above that permitted in carefully considered appropriate locations across the site. The proposed variation is a deliberate strategy to bring about a superior urban design outcome for the Eastwood Town Centre.*
- *This request seeks to support a better environmental planning outcome than a proposal that strictly complies with the height of building standards. The proposal seeks to distribute buildings with good separation and introduce new publicly accessible ways through the site that are generally open to the sky. The proposed building footprints do not utilise the full site or entire height envelopes.*

The submitted Clause 4.6 Variation Statement provides satisfactory arguments to depart from the maximum building height control and sufficient justification is provided by the applicant to demonstrate that strict compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case.

It is worth noting that Council have in the past approved height increase to LDA2011/0612 for the adjoining site to the south west (No. 7-9 Rutledge Street) for a mixed use development. The site straddled two HOB standard bands, 33.5m and 18.5m and Council supported the proposed development that included variations to both HOB standards applying to the site, as follows:

Allotment	HOB Standard	proposed height	Approved variations to HOB Standards
Western Lot	18.5m	41.30m	22.8m over (123% variation)
Eastern Lot	30.5m (RLEP 2010) 33.5m (RLEP 2014)	38.06m	7.5m over the maximum under LEP2010 (24.6% variation) 4.56m over the maximum under LEP2014 (13.6% variation)

Note: The above figures have comes from the reports to Council in respect to LDA2011/0612.

3. There are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has addressed the environmental grounds to justify the non-compliance as follows:

There are sufficient environmental planning grounds to justify the contravening development. These include:

- *A superior outcome for the community with a preferred built form arrangement that aligns with the vision for the strategic importance of the Eastwood Shopping Centre site. This is achieved by introducing new pedestrian linkages, which will enhance pedestrian connectivity between Rowe Street and Rutledge Street.*
- *This report and the accompanying shadow analysis demonstrates that any impacts associated with the proposed development are acceptable, particularly since there are no significant solar access impacts on neighbouring properties or the public domain as a result of the height variation.*
- *The additional building height at specific locations across the site is offset by the lower buildings and in some cases, absence of built form that was envisaged in the LEP controls and introduction of open space and through site linkages, which are accessible to the public creating public benefits.*
- *The variation does not result in unreasonable adverse amenity impacts on adjacent land.*
- *The variation does not diminish the development potential of adjacent land.*
- *Despite the additional building height, the scale of development is considered appropriate given the significance of the site as supporting the continued growth of the Eastwood Town Centre.*
- *The proposed development has been designed to contribute to local housing needs, availability and affordability.*
- *The proposal replaces the existing commercial office building, with a new commercial office building, that is better integrated with the overall mix of uses. The location of the new office space fronting Rutledge Street, allows for improved activation of Rowe Street with high quality retail tenancies.*

The above justification is considered to provide sufficient environmental planning grounds to justify contravening the development standard to the degree proposed. The location of the proposed variation would not result in unreasonable adverse amenity impacts for adjoining development and the specific site attributes (orientation and location) allowing an acceptable variation to the prescribed height for the site.

The applicant has indicated the shortcomings of alternate (compliant) scheme that would result in a far less superior development that would not integrate and connect with the town centre and miss opportunities for creating a hierarchy of spaces and a unique mixed use development across the largest land holding in the town centre.

Were the subject site to be redeveloped in increments (ie. not as a large consolidation as proposed), the opportunities for provision of generous publicly accessible spaces and through-site links would be eroded and the overall built form would not have the same opportunity for variation in built form and distribution of massing so as to deliver the significant public benefits of the current scheme. Whilst the 2014 master plan has not been translated into a change to the current planning controls, it is acknowledged that this master plans also saw the benefits in additional height being allowed in the town centre.

As such is it accepted that the variation of the maximum building height and redistribution of building mass as proposed with a hierarchy of taller and shorter building forms across the 7 buildings and primary and secondary linkages between Rowe and Rutledge Street results in a superior planning outcome in terms of a better streetscape (to both frontages), better internal and external amenity, and significant public domain contribution compared to a compliant form without detrimental impacts. Furthermore, a detailed solar analysis identified that the proposed scheme provides meaningful solar gain opportunities to properties to the south of the site as a result of the siting and variety in tower heights. These benefits are far greater than the impacts that would present from a strictly compliant scheme. These are considered to be sound environmental planning grounds.

4. The 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 subject site forms part of the Eastwood Town Centre precinct under the Ryde DCP 2014. The proposal generally meets the objectives of the B4 zone by providing a suitable mix of retail floor space and residential units. The site is located with close proximity public transport, public open space and community services and contributes positively to the town centre through permeability and a mixture of residential and commercial offerings.

The proposal is not inconsistent or incompatible with the ability to achieve the objectives relating to the promotion of links between the Macquarie University campus, which is 4 kilometres from the site, and the research institutions and businesses located within the Macquarie Park corridor.

The objectives of the height clause in LEP 2014 are as follows:

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

Comment: The site has frontage to both Rowe Street to the north and Rutledge Street to the south.

Rowe Street is characterised by 1-2 storey traditional shop fronts, and the 8-10 storey existing shopping centre and commercial office tower on the subject site. The proposal seeks to transition building heights by providing matching low scale buildings at either end of the site's Rowe Street frontage to transition between the existing streetscape and the proposed new built form.

The higher development within the centre of the site emphasises the presence of the shopping centre and clearly identifies the town centre. Although new buildings toward the centre of the Rowe Street frontage will be higher than the traditional shopfronts, reference to the existing street wall will be demonstrated within the development through upper level setbacks, the use of matching and complementary materials and building articulation and modulation (refer to Figure 14 earlier in report).

It is noted that the building heights on Rowe Street are generally in keeping with the maximum building heights prescribed by the LEP on this section of the site (21.5m) with the portions above being setback.

The Rutledge Street frontage is currently utilised for car parking, back of house activities and vehicle access. The street façade on the northern side of Rutledge Street is dominated by the presence of blank walls, open car parking structures and vehicle access. In this respect, the character of this street frontage is undefined and the redevelopment of the site presents an opportunity to create a new proportion and character for Rutledge Street.

The more recently approved 11 storey development on the south western corner of the block, at the intersection of Rutledge Street and Shaftsbury Road also provides context for the integration of any new built form proposed on the subject site.

Lower scale properties on the southern side of Rutledge Street are well separated from the site. The proposed additional building height above that specified in the LEP, in this case 2.5 storeys, will not be readily discernible given the scale of buildings permitted by the LEP on the northern side of Rutledge Street, at 33.5m. Further, the large separation distances afforded to the residential properties on the southern side will ensure the built form does not dominate the streetscape.

The proposal has sought to define this frontage and create a streetscape representative of a key site within the town centre which identifies the scale and importance of the function of the site and its contribution to Eastwood. The proposal includes a range of building heights 10 – 13 storeys in height which have been designed to respond to the width of Rutledge Street and ensure a robust built form presence at this interface. The buildings on this frontage are broken up horizontally across the length of Rutledge Street to create modulation in the streetscape and provide views into the site, otherwise not afforded currently.

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

Comment: The applicant has provided shadow diagrams for 9.00am, 12noon and 3.00pm in midwinter. Also provided are comparative diagrams to demonstrate the difference of the proposal with a height compliant proposal.

The diagrams show solar gains made by alternate distribution of building mass and the contribution to solar gain provided to properties south of Rutledge Street between 9am and 3pm as a result of the through site links and deletion of bridging between buildings. These are demonstrated in light of the shadow extent from LEP maximum heights.





Figure 27: Shadow diagrams showing shadow extent, LEP maximum and solar gains through alternate design

The submitted diagrams demonstrate that notwithstanding the height variation, acceptable overshadowing will occur in midwinter with respect to the properties on the southern side of Rutledge Street. That is, a more skillful design results in the greatest shadow length beyond the LEP maximum height to occur from building CB at the corner of Rutledge Street and West Parade at 3pm which will extend over West Parade and the Railway lines. The solar gain will avail good and notable additional solar access at midday for southern properties fronting Rutledge Street including the pre-school. These gains as clearly demonstrated above in Figure 27 (Plans 8009(1) and 8010(1)) are considered to provide more benefit than the impact of the shadows from the additional height. As demonstrated above, the additional height above the LEP maximum (illustrated by dashed line) will occur at 9am, impacting 2 properties at the centre of the street block which as a whole and contemplating available shadow by noon are acceptable. These impacts are discussed in further detail below under DCP Compliance discussion.

It is also noted that the proposed development will not result in any notable solar impacts for southern properties during Equinox or Summer Solstice.

The presentation of the development from both Rowe and Rutledge Streets are a suitable mix of residential and commercial uses, a mix supported by the UDRP. The redevelopment of the site for mixed use development of the nature proposed will improve the appearance of the site on Rutledge Street and provide connection from Rutledge Street to the town centre.

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

Comment: The proposal does not require consolidation of allotments. The proposal will provide a mix of commercial and residential uses at the site which is located adjacent to existing public transport infrastructure including Eastwood Train Station (200m east) and a major road corridor with a high level of bus services to the City and other key areas. No issues arise in relation to consistency with this objective being achieved.

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

Comment: The applicant has demonstrated that the development has been informed by a detailed site context analysis and design impact assessment. Through plan amendments guided by Council and the UDRP, the final proposal represents a site design that has identified, on balance, an appropriate development response to the site and immediate locality. The proposal performs well in respect of the ADG separation requirements and is compatible with the surrounding town centre context, including future development of 7-9 Rutledge Street and existing lower scale buildings.

The tallest proposed Building (CB) is well separated from residential land uses and the increased height will not have significant additional impacts on solar access for properties on the southern side of Rutledge Street. The location of the additional building height benefits from the non-sensitive train line to the east and will allow for the realisation of a marker building to identify the Eastwood Shopping centre site.

Additional upper level setbacks and building modulation ensure the visual bulk, privacy, overshadowing and view impacts are further mitigated. Again, the gaps in the proposed buildings at the site create both through site linkages for the locality and also benefits through open spaces within the development, solar access gains (of greater benefit than a compliant scheme without building corridors), and an orderly distribution of building mass.

The proposal will also contribute to an improved and revitalised public realm surrounding the site and created within the site for public benefit.

(e) to emphasise road frontages along road corridors.

Comment: The site also has frontages to Rowe Street, West Parade and Rutledge Street. The proposed development is considered to result in a built form that suitably emphasises the road frontages and achieves an appropriate and sympathetic bulk and scale appropriate to the hierarchy of streets. In particular, the existing development at the site turns its back on Rutledge Street with unsightly blank walls and car park balustrades. The proposal will provide a deceleration lane into the site from Rutledge Street, open and connect the site with Rutledge Street to connect the southern side of the street with the existing mall through the site links that provide gaps in the buildings and an interesting town centre scaled development viewed from the road corridor.

In accordance with the above, the development recognises and adequately address each of the objectives of Clause 4.3. Accordingly, the proposal meets the objectives of the height control and is in the public interest.

5. Concurrence of the Director General.

As the height variation exceeds 10% it is not possible to assume the concurrence of the Director-General. Concurrence can now only be assumed if the consent authority has first considered the following issues:

- *Whether contravention of the development standard raises any matter of significance for state or regional environmental planning.*

There are no matters of significance for state or regional environmental planning as a consequence of the variation.

- *The public benefit of maintaining the development standard.*

The applicant has provided the following in respect of this issue:

The proposed development achieves the objectives of the HOB development standards and B4 Mixed Use Zone objectives despite the numerical non-compliances. This report has established there is a lack of significant adverse environmental impacts and the environmental benefits that arise from the proposed arrangement of buildings on the site, and introduction of new publicly accessible pedestrian linkages and a plaza that arise from not complying with the standard.

As articulated in the description of the urban design principles employed for the proposed development, overall, the distribution of built form on the site will enhance the Eastwood Town centre, when compared to, options considered to maintain an enclosed shopping centre in a podium with residential towers above.

Accordingly, there can be no quantifiable or perceived public benefit in maintaining the standard.

The above commentary by the applicant is supported.

The other consideration is whether there are any other matters which are required to be taken into consideration before granting consent. In the opinion of Council's Officers there are not considered to be any other matters that are required to be taken into consideration.

Planning Assessment

The applicant has demonstrated satisfactorily that the development complies with the objectives of the Building Height standard and the objectives of the B4 zoning. It is agreed that the proposed development is in the public interest because the objectives of the control are met and the variation does not result in any significant adverse impacts and therefore strict compliance with the Height of Buildings standard would be unreasonable and unnecessary.

In this instance, there is sufficient environmental planning grounds to justify contravening the development standard. It is accepted that the public interest is better served through support of alternate distribution of building heights across the site and that the proposed scheme results in a development appropriate to the town centre that no longer turns its back on Rutledge Street and connects the south to the north (Rowe Street Mall) in a meaningful and integrated way. The 13 storey building (CB) at the corner of Rutledge Street and West Parade provides a marker to the town centre in light of its gateway location through a hierarchy of building heights. As such some flexibility is considered suitable in this particular instance.

The proposed height breach will not have an adverse impact on surrounding residential development and the distribution of building mass across the site with focus at the corner achieves a suitable built form for the locality, recognised as a better outcome than a compliant scheme. The applicant has provided sufficient argument and environmental planning grounds in this instance to justify contravening the development standard and significant additional impacts have not been identified. In consideration of Clause 4.6(3), it is provided that it is considered both unreasonable and unnecessary to enforce strict compliance when the scheme provides an acceptable (and improved) alternative and does not result in any adverse or unreasonable additional impacts. Secondly, there are sufficient environmental planning grounds to support the variation due to the measureable benefits in the redistribution of building mass as proposed. The proposed scheme delivers a hierarchy of taller and shorter building forms across the 7 buildings and linkages between Rowe and Rutledge Street resulting in a superior planning outcome in terms of a better streetscape, better internal and external amenity, and significant public domain contributions.

The variation to the Height of Buildings standard is supported in planning terms.

Other LEP provisions

The table below (**Table 6**) considers other provisions relevant to the evaluation of this proposal:

Table 6: RLEP 2014 Provisions	
Provision	Comment
Clause 5.1 Relevant acquisition authority	No part of the site is mapped as being reserved for acquisition for public purposes.
Clause 5.10 Heritage conservation	<p>The site is not identified as being listed as a heritage item or within a heritage conservation area. The Eastwood Masonic Temple (previously known as Item No. 106) at the site was removed from the former heritage schedule of the Ryde LEP 2010, superseded by the Ryde LEP 2014 and is therefore not protected by the existing LEP heritage provisions.</p> <p>The site is located in the vicinity of a heritage listed item located at Nos. 119, 123 and 136 Rowe Street. This item (No. 105) is of local significance under Schedule 5 of the LEP.</p> <p>A Heritage Impact Statement prepared by Extent Heritage was submitted with the DA in relation to the adjoining Heritage Item Summer Hayes and the broader heritage values of the Eastwood Area. A series of protective and mitigation measures have been provided to protect the heritage aspects of the site and surrounds during all stages of development. These recommendations will be reflected in Conditions of Consent in addition to those provided by Councils Heritage Advisor (see Condition No. 24, 62 and 63).</p> <p>Council's Heritage Advisor has reviewed the proposal in light of the adjacent heritage item and former Item No. 106 at the</p>

Table 6: RLEP 2014 Provisions	
Provision	Comment
	site and concluded that the development is considered suitable as it will not result in any material affectation to significant heritage fabric and the heritage items (Summer Hayes) will continue to feature as prominent 'bookends' to Rowe Street and will retain their setting and character, evidencing the earlier two-storey scale of commercial buildings in Rowe Street.
Clause 6.2 Acid Sulfate Soils	The site is not identified as containing acid sulfate soils under the LEP Maps.
Clause 6.2 Earthworks	<p>The proposed development includes excavation for a basement car park. A sediment and erosion control plan has been submitted. The application was supported with a Geotechnical Report prepared by Jeffrey and Kataouskas.</p> <p>The application has been reviewed by Council's Structural Engineer and found that the Geotechnical report was adequate for conceptual design of foundations and retentions systems. However, before final design works are carried out a more comprehensive report will be required. This will be reflected in a Condition of Consent. (See Condition numbers 72).</p>
Clause 6.4 Stormwater management	<p>Sufficient information has been provided to determine suitability of the proposed stormwater management for the site in relation to Clause 6.4.</p> <p>The application has been reviewed by Council's Drainage Engineer and found to be satisfactory subject to conditions (See Condition numbers 18, 19, 99, 107, 160, 184, 185 and 187).</p>
Clause 6.6 Environmental sustainability	<p>This clause applies as the site area exceeds 1,500m² and is located in a business zone. Sufficient information has been provided to determine suitability of the proposed stormwater management for the site in relation to Clause 6.6.</p> <p>The application has been reviewed by Council's Drainage Engineer and found to be satisfactory subject to conditions (See Condition numbers 18, 19, 99, 107, 160, 184, 185 and 187).</p>

8.10 City of Ryde DCP 2014

The following sections of DCP 2014 are of relevance, being:

- 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 Management
- Part 8.3 - Driveways

- Part 9.2 - Access for People with Disabilities
- Part 9.3 - Car Parking

With regard to Parts 7.1 to 9.2, noting the advice received from the various technical departments within Council and the consideration of issues previously in this report, sufficient information has been provided to carry out a thorough assessment of these matters and suitable conditions have been included in the consent where required. Parts 4.1 and 9.3 are considered below.

Part 4.1 – Eastwood Town Centre

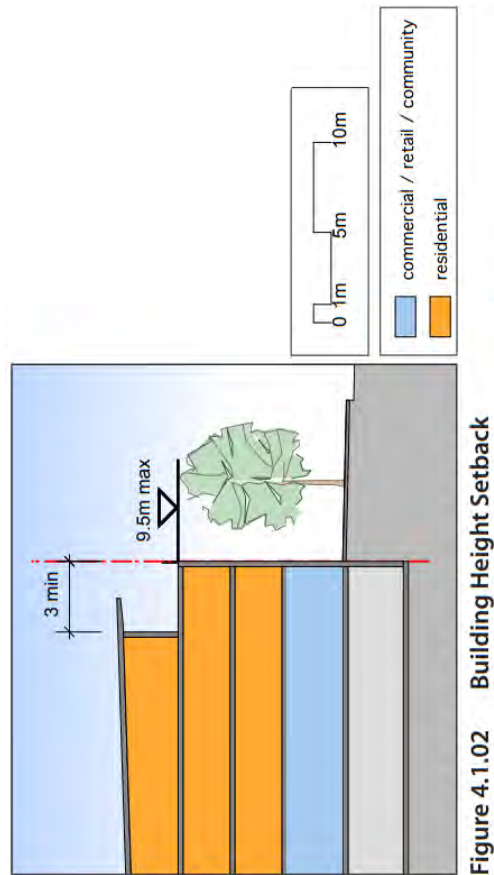
Part 4.1 of DCP 2014 is the primary section of the DCP applicable to development within the Eastwood Town Centre. The relevant provisions of the DCP are outlined in **Table 7** below:

Table 7: DCP Provisions		
Control	Comment	Compliance
3.0 DEVELOPMENT CONTROLS – EASTWOOD Urban VILLAGE PRECINCT		
3.1 Mixed Use		
a. Active public uses, such as restaurants, cafes, community facilities, entries to business premises and retail should be located at street level.	Variety of active public uses are provided at ground level including restaurants, takeaway, retail – accessed from Rowe Street. In addition, a gym, medical centre, pharmacy, restaurant uses are located at ground level – accessed from Rutledge Street.	Yes
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 gymnasia, cinemas, theatres, places of worship and meeting rooms. Residential dwellings that include home offices may also be accommodated on this level.	No commercial units are proposed at ground level to Rowe Street frontage. Two (2) commercial units are proposed at ground level, accessed from Rutledge Street. These commercial suites will provide a small frontage to Rutledge Street. The primary ground level presence to Rutledge Street is public in nature with a though link, parking, landscape terrace, a central park and connection with Rowe Street.	Yes
c. Residential land uses are discouraged at the street level within the Eastwood Urban Village Precinct. Residential development may be provided at upper levels.	Residential uses are proposed to upper levels not street level.	Yes
d. Buildings are to be designed to overlook public and communal streets and other public areas to provide casual surveillance.	Suitable degree of casual surveillance proposed from buildings above to public spaces.	Yes
e. Private living spaces and communal or public spaces should be clearly identified and	Public/private spaces are	Yes

defined.	clearly defined, however restricted access to hanging garden (for residents only) is unclear. This will be confirmed by a condition of consent. (refer to Condition 64)	(Condition)
f. Sufficient lighting is to be provided to all pedestrian ways, building entries, driveways and car parks to ensure a high level of safety and security for residents	By condition (refer to condition 67 and 85).	Condition
g. Pedestrian and communal areas to be well lit and designed to minimise opportunities for concealment.	Per above	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.	Separate residential lobbies are provided.	Yes
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.	Potential for outdoor seating along Rowe Street adjacent to proposed "slow food" premises.	Yes
3.2– Flooding & Stormwater Management		
a. A stormwater inundation impact assessment and stormwater management strategy is to be submitted for all developments to the satisfaction of Council.	Stormwater management measures and water quality treatment measures have been integrated into the stormwater management system.	Yes
b. Floor levels within any new development should be a minimum of 300mm above the calculated flood level for the 100 year ARI event.	The submitted Stormwater Drainage Concept plan has been reviewed by Council's Senior Coordinator Development Engineering Services and found to be satisfactory subject to conditions.	Yes
c. Developments should comply with Part 8.2 Stormwater Management and Part 8.6 Floodplain Management of this DCP for flood controls for Eastwood/Terry's Creek Flood Plain.	Per above.	Yes
d. Where development is considered to constitute minor modifications or does not intensify the use of the property. A stormwater impact assessment or stormwater management plan may not be required.	Not applicable – major works.	NA
3.3 Architectural Characteristics		
3.3.1 Setbacks		
a. Buildings must comply with the maximum	The proposed development	Refer to LEP

height limit shown on the Height of Buildings Map under Ryde Local Environmental Plan 2014.

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.



c. New buildings are to have street frontages built predominantly to the street alignment (front boundary) for up to 9.5 m measured from the street level.

d. Buildings may be constructed to the side and rear boundaries for up to 9.5m from

exceeds applicable LEP height limit. Clause 4.6 variation Statement accompanies application.

Rowe Street (priority street – per DCP, Section 3.5) – setback to upper level provided (10m at level 6). Reinforcement of the 2 storey façade element and integration with the adjoining buildings on Rowe Street Mall. Including introduction of a steel portal to create a double height perception at street level and the use of different materials and finishes to break the building into fine grain shop fronts

Rutledge Street – NA as it is not an identified “priority street”. In any case, and reinforcing the 5 level street wall façade of the buildings Rowe Street – 9.5m parapet to the eastern and westernmost portions of buildings to reflect adjoining built form scale. Remainder (majority) of frontage is built to street alignment to Level 6 (21m), with setbacks beyond this height.

Rutledge Street – Built to street alignment with openings providing 2x through site links – 24m and 5m in width, and driveway opening – 11.5m wide. Building scale ranges from 15m-42m across the frontage to Rutledge Street.

Results in suitable street presentation through articulation and façade treatment.

Rowe Street – constructed to side boundary to 9.5m then setback from side boundaries 10m (east) and 9m (west).

Rutledge Street – To the east – NA as site fronts West Parade (not a side boundary) and building is sited on the street alignment which forms a suitable continuation of building alignment wrapping

Compliance table & Cl. 4.6 Assessment


Yes

Yes

On merit

Yes

street level.	<p>around from Rutledge Street. This alignment is maintained to parapet height.</p> <p>To the west – a nil setback is provided to 4m, then a setback of 6m is provided. Remaining Levels (7, 8, 9) above are predominantly 9m with minor encroachments (angled fin window, stair).</p> <p>North (Rowe Street) – nil setback to 21m.</p> <p>East – Nil setback to parapet height – 42m</p> <p>South (Rutledge Street) – Nil setback to 17m.</p> <p>West – Nil setback to 4m, then 6m setback provided.</p> <p>Not applicable as buildings proposed to street alignment to all frontages.</p>	<p>Yes</p> <p>No (Refer below)</p> <p>No (Refer below)</p> <p>No (Refer below)</p> <p>NA</p>
<p>e. Buildings (including balconies) must be setback a minimum of 3m from all boundaries above 9.5 m from street level.</p> <p>f. Buildings may be setback from the street alignment where:</p> <ul style="list-style-type: none"> 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; ii. The new development contributes an appropriate public space at the street frontage. 		
3.3.2 Urban Design/Exterior Finishes		
a. Building exteriors are to be designed to avoid extensive expanses of blank glass or solid wall.	Suitable materials and finishes proposed and no excess blank glazing/solid walls.	Yes
b. Balconies and terraces should be provided, particularly where buildings overlook public spaces.	Provided and achieve suitable passive surveillance to public areas.	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.	These matters have been addressed through the report. The development represents a suitable design response.	Yes

<p>b. Active uses contribute to personal safety in the public domain and comprise:</p> <ul style="list-style-type: none"> 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. <p>c. Where required, active uses must comprise the street frontage for a depth of at least 10m.</p> <p>d. Vehicle access points may be permitted where active frontage is required if there are no practicable alternatives.</p> <p>e. Blank roller- shutter type doors are not permitted on ground level shop fronts.</p> <p>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.</p>	<p>Active street frontage provided along Rowe Street at ground level including restaurants, takeaway, retail – accessed from Rowe Street. In addition, a gym, medical centre, pharmacy and restaurant uses are located at ground level – accessed from Rutledge Street. Through site link between Rutledge and Rowe Street also encourage active uses and permeability.</p> <p>Rowe Street – active frontage extends greater than 10m in depth for the whole site frontage (excluding pedestrian links). The pedestrian links enable continuation of active uses between Rowe and Rutledge Streets.</p> <p>No vehicle access points proposed along Rowe Street.</p> <p>None proposed – confirmed by condition. (Condition 7)</p> <p>Proposal does not include serviced apartments, hotels or motels.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>NA</p>
<p>3.5.2 Circulation</p> <p>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 streets / areas and incorporate adjoining active retail and / or commercial edges.</p>  <p>Figure 4.1.95 Circulation Strategy</p>	<p>Through link provided at 2 points across the site linking Rowe Street and Rutledge Street. Given the difference in levels of each street (Rowe at RL 68.7 and Rutledge at RL 74.2, the western pedestrian thoroughfare (“the street”) is 12m in width and provides pedestrian access to a “retail street” level which provides a level walkway to Rowe Street and provides adjoining active retail edges.</p> <p>Additional pedestrian access (via escalator or stairs) is provided to the Lower Ground Level retail street at RL 63.2 with access up to Rowe Street.</p> <p>The eastern through link (“the laneway”) is narrower at</p>	<p>Yes</p> <p>-</p> <p>-</p>

<p>b. Entry and exit points for vehicles are to be designed in a manner that reinforces the Circulation Strategy.</p>	<p>6m in width and provides a direct link between Rowe and Rutledge Streets, however is not accessible as it comprises a stair case.</p> <p>The proposed access/egress points for the overall development will not contravene the circulation strategy or high level permeability of the site.</p>	<p>Yes</p>
<p>3.5.3 Public Domain Finishes</p> <p>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.</p>	<p>Enforced through condition of consent. (Condition 85 and 86)</p>	<p>By Condition</p>
<p>Landscaping & trees</p> <p>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.</p> <p>b. Where appropriate, developments should incorporate landscaping into the upper levels to soften the building form and to contribute to privacy and amenity.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>	<p>Accompanying landscape plan has been prepared by a qualified landscape architect.</p> <p>Upper level landscaping proposed within public "hanging garden" and communal open space area and also Level 6 Communal Open space areas.</p> <p>Ground level entries are not obscured by landscaping to the extent that would create safety issues.</p> <p>(Refer to condition 85)</p> <p>As above.</p> <p>Both Rowe and Rutledge Streets exceed 40m in width. (Refer to condition 85)</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>By Condition</p> <p>By Condition</p> <p>By Condition</p>

all street frontages. Such utility modifications will be carried out to the satisfaction of the responsible authority (e.g. Energy Australia).		
3.5.5 Awnings & Weather Protection a. Buildings with frontage to any street must incorporate an awning or other form of weather protection along that boundary. b. The pavement level of a covered walkway shall be at the same level as the footpath to which it is adjacent. c. The height of a colonnade, awning or covered way shall not be less than 3 metres or greater than 4.5 metres measured to the soffit. d. The width of a colonnade, awning or covered way shall not be less than 3 metres. e. Any new awnings should: <ul style="list-style-type: none"> 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. 	Awnings are provided along both Rowe and Rutledge Street frontages. Pavement is at grade to both Rowe and Rutledge Streets. The height of the colonnade to "the street" is 24.5m. The width of the colonnade is 6m. Proposed awnings are consistent with the design requirements.	Yes Yes No (Refer below) Yes Yes
3.6 Signage a. Signage shall relate to the use of the building on which it appears. b. Architectural features of the building shall be considered in the design of the advertising sign or structure. Signs shall not obscure decorative forms or mouldings and should observe reasonable separation distance from the lines of windows, doors, parapets, etc. c. Signs should be of a size and proportion which complement the scale of the existing façade, as well as surrounding buildings and signs. Care should be taken in the design, size and positioning of signs above awning	Signage details do not form part of this development application. Applicant has indicated that retail tenants are yet to be confirmed and therefore signage will form part of a separate development applicant. Subject to future application.	NA -

level.		
d. Signage must comply with the following restrictions and dimensional requirements:	As above.	-
i. Under-Awning Signs Should not exceed <ul style="list-style-type: none"> a. One per five (5) metres of street frontage; and b. 2.4 metres in length and 0.3 metres in height. 	As above	-
ii. Flush Wall Signs Should not exceed a maximum of five (5) square metres.	As above.	-
iii. Clearance All signs should maintain a minimum clearance of 2.6 metres above footpaths or above any pedestrian areas.	As above.	-
iv. Multiple use of Properties A co-ordinated approach to the sign development on the site should be used by utilising composite signs	The subject application will facilitate potential signage zones for future retailers to provide integrated and suitable signage for key tenants.	Yes
v. Prohibited Signs <ul style="list-style-type: none"> 1. Flashing and moving signs; 2. Signs other than identification, business and directional signs; 3. Signs that would adversely affect traffic movement or safety or would interfere with the amenity of the neighbourhood; 4. Signs attached to and above awnings; 5. Illuminated signs on fascia of awnings; 6. Signs not permanently fixed to the site or which obstruct the footpaths or pedestrian area; 7. Pylon signs; 8. Roof signs; and 9. Blimps or airborne signs. 	Assessment of future applications for signage will apply this provision.	-
<u>3.7 Environmental Management</u> <u>3.7.1 Sunlight</u>		
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.	The Rowe Street Pedestrian Mall is located directly north of the site and will therefore maintain solar access without any impact from the proposed development. The shadow diagrams demonstrate that solar impacts occur over Rutledge Street, West Parade and the railway line.	Yes
b. In new residential developments, windows to north-facing living areas should receive at least 3 hours of sunlight between 9am and	Addressed under ADG compliance review above.	On merit & supported by

<p>5pm on June 21 over a portion of their surface.</p> <p>North facing windows to living areas of neighbouring dwellings should not have sunlight reduced to less than the above 3 hours.</p> <p>c. All development proposals of 2 storeys or more are to be accompanied by shadow diagrams that are to be submitted with the local development application.</p>	<p>Adjacent development to the south across Rutledge Street – refer to discussion below.</p> <p>Adjoining properties to the west will received 3 hours solar access between 9am and 3pm in mid-winter – with very limited impact from 12 noon onwards.</p> <p>Submitted with application, in addition to solar study elevations, and a Solar Analysis Report prepared by Steve King, dated June 2017.</p>	<p>Solar Report</p> <p>On merit (Refer below)</p> <p>Yes</p> <p>Yes</p>
<p>3.7.2 Wind Standards</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>A Pedestrian Wind Environment Study has been prepared by Windtech which provides an assessment of the impact of the proposal against the wind environment within and surrounding the site.</p> <p>The Study concludes that treatments are required for certain locations to achieve the desired criteria for pedestrian comfort and safety. The report provides recommendations for in-principle ameliorative treatments.</p> <p>These recommendations will form Conditions of consent.</p> <p>(Refer to Condition 69)</p>	<p>By Condition</p>
<p>3.7.3 Energy Efficiency of Buildings</p> <p>a. New buildings should be designed to ensure that energy usage is minimised.</p>	<p>An Energy Efficiency Statement prepared by ARUP was provided with development application. The Statement confirms that the development complies with the NCC Section J energy efficiency requirements. Also the residential component of work complies with the BASIX requirements for Class 2 apartments.</p>	<p>Yes</p>
<p>3.7.4 Vibration & Noise Mitigation</p> <p>a. In respect of proposals for new residential buildings:</p>	<p>Acoustic Assessment provided with development application.</p>	<p>Yes</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: - Australian Standard 367 1-1989: Acoustics – Road Traffic Noise Intrusion, Building Siting and Construction; and - Australian Standard 367 1-1987: Acoustics – Recommended Design Sound Levels and Reverberation Times for Building Interiors. - Environmental Criteria for Road Traffic Noise (EPA, 1999).</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>Key noise attenuations measures are identified and these recommendations will form part of any consent conditions.</p> <p>The site is located within 100m southwest of Eastwood of the railway line. As such the development will be conditioned to ensure it complies with this requirement.</p>	<p>Yes</p>
<p>3.7.5 Reflectivity</p> <p>a. The use of highly reflective glass is discouraged.</p> <p>b. New buildings and façades should not result in uncomfortable glare that causes discomfort or threatens safety of pedestrians or drivers.</p> <p>c. Visible light reflectivity from building materials used on the façades of new buildings should not exceed 18%.</p>	<p>Solar light reflectivity analysis has been prepared by Windtech Consultants. The report provides an analysis of the potential solar glare from the proposed development and identifies any possible adverse reflected glare conditions affecting motorists, train drivers, pedestrians and occupants of neighbouring buildings. The report provides recommendations to avoid such impacts in terms of nominating specific glazing treatment to certain windows.</p> <p>These recommendations will form conditions of consent.</p> <p>(Refer to Condition 70)</p>	<p>By Condition</p>
<p>3.7.6 External Lighting of Buildings</p> <p>a. Any external lighting of buildings is to be considered with regard to:</p> <p>i. The integration of external light fixtures with the architecture of the building (for example, highlighting external features of the building);</p>	<p>To comply with AS in lighting and Section J.</p> <p>Amenity impacts on lighting</p>	

<p>Non-residential</p> <p>Medical Centre (RMS rate)</p> <ul style="list-style-type: none"> 4 spaces per 100sqm (686.8sqm) <p><u>Medical centre requirement: 28 spaces</u></p> <p>Office and Business Premises</p> <ul style="list-style-type: none"> 1 space / 40 m² GFA (2,596.8sqm) <p><u>Commercial requirement: 65 spaces</u></p> <p>Recreation Facilities (indoor) / Gymnasium:</p> <ul style="list-style-type: none"> 1 – 1.5 spaces / 20 m² GFA (346sqm) <p><u>Gym requirement: 18-26</u></p> <p>Retail Premises and Industrial Retail Outlet</p> <ul style="list-style-type: none"> 1 space / 25 m² GFA <p>Restaurant / Function Centre</p> <ul style="list-style-type: none"> 1 space / 25 m² on all land zoned for Business activities <p>(11449.4sqm)</p> <p><u>Retail / food requirement: 458</u></p> <p><u>TOTAL BUSINESS PARKING: 569-577</u></p> <p>OVERALL TOTAL REQUIRED: 1,024-1,156</p>	<p>537 business spaces</p> <p>1,035 total spaces Conditions on minimum provisions provided (Refer to Condition 245)</p>	<p>Yes</p>
<p>Bicycles</p> <p>To be provided at rate of 10% of required parking:</p> <ul style="list-style-type: none"> Resident (37) Commercial (57) 	<p>23</p>	<p>No (Refer to Condition 245)</p>

Discussion on DCP Controls

Part 3 Eastwood Urban Village Precinct

3.3.1 Setbacks

Sub-clause (e) requires buildings (including balconies) to be setback a minimum of 3m from all boundaries above 9.5 m from street level.

Comment: The proposal complies with the aims of the setback control to Rowe Street. In this case, the upper three levels of Buildings AA and BB are setback in excess of the required 3m to provide a recessive building form that will not impact on the pedestrian scale of Rowe Street.

The setbacks of the buildings with a frontage to Rutledge Street vary from the DCP 3m setback above 9.5m height. The proposed alignment of building to Rutledge Street enhances this frontage through building articulation and modulation, breaks and separation of the building forms, the additional setback for the slip lane/deceleration lane and the activation of this frontage.

Building CB is built to the corner of Rutledge Street and West parade to strongly define this key street corner and a prominent approach to Eastwood Town Centre from the east.

3.5.5 Awnings and weather protection

Sub-clause (c) requires the height of a colonnade, awning or covered way not be less than 3 metres or greater than 4.5 metres measured to the soffit.

Comment: The height of the colonnade to “the street” exceeds 4.5m in height (at 24.5m) however is partly enclosed by the ground level walkway and bridged building component joining Building AA and BA. As such it is considered that acceptable weather protection is available despite the colonnade exceeding the permitted height.

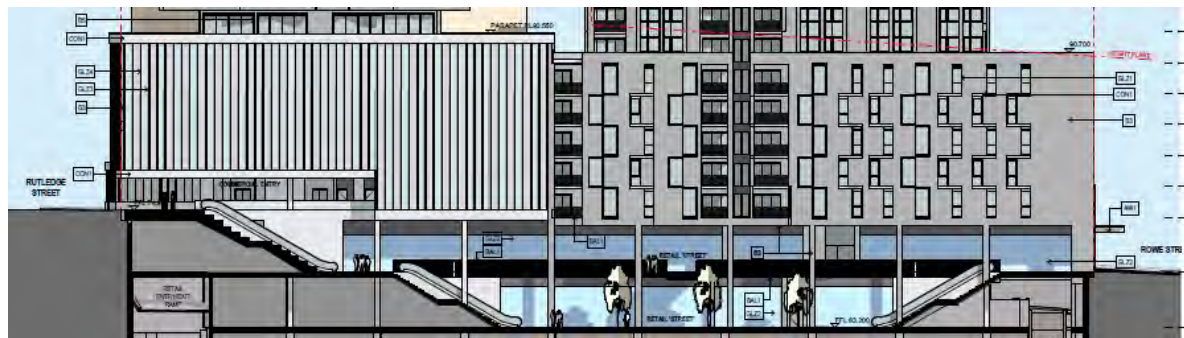


Figure 28. Internal section showing the layout of the Street.

In addition, the width of the through link is considered appropriate in that it presents as a continuation and appropriate scale to The Avenue to the north and facilitates good pedestrian circulation.

3.7.1 Sunlight

Sub-clause (b) requires north facing windows to living areas of neighbouring dwellings should not have sunlight reduced to less than 3 hours between 9am and 5pm on June 21.

There are several properties to the south across Rutledge Street and side streets Trelawney and West Parade with north facing windows facing the development. These are identified in Figure 28 below.

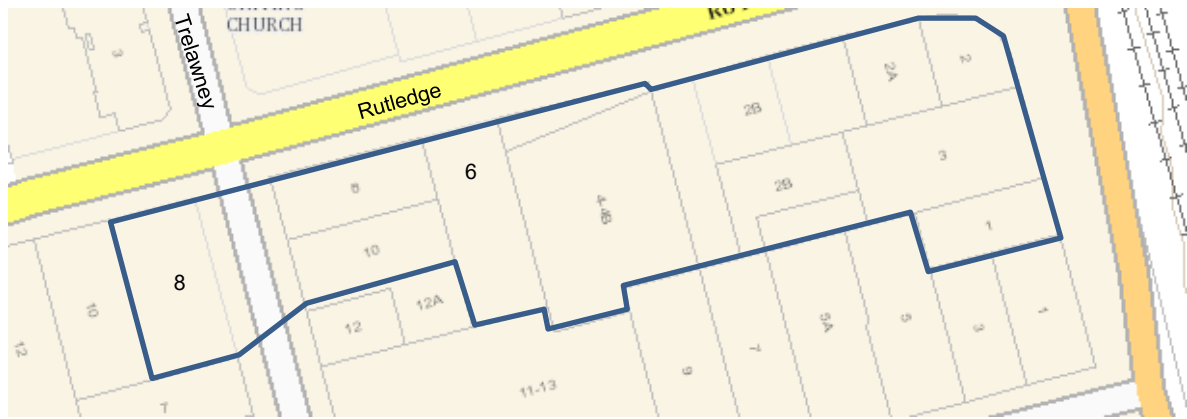



Figure 29 Properties receiving shadow impacts from the proposed development (outlined in blue)

As demonstrated from the submitted shadow diagrams, the following impacts will occur as a result of the proposed development.

Table 8: Solar Impacted properties south of site		
Property (street)	Impact to northern windows from development (Refer to Figure 27 of this report for solar diagrams or Plan DA 8009(1), DA 8010(1))	Compliance
8 Rutledge	No impact after 11am-5pm	Yes
8 Trelawney	No impact after 12noon-5pm Solar gain to rear yard at 12 noon	Yes
10 Trelawney	Majority of northern elevation with solar gain at 9am. No impact after 12noon-5pm	Yes
6 Rutledge	Increased height extends deeper into site at 9am, however existing self-shadow from boundary fence occurs and majority of rear yard not impacted.  <p>Figure 30 additional 9am shadow to No. 6 and 4 (circled red) No impact from 2pm-5pm (additional solar gain at 12noon)</p>	Yes

4 Rutledge (villas – 2 buildings with central driveway)	<p>Increased height extends deeper into site at 9am (refer to Figure 29 above), this will fall over central driveway, eastern and southern modulated elevations that appear to contain courtyards. However, existing self-shadow from boundary fence and building occurs.</p> <p>Very minor increase in shadow to western villa (no greater than extent of self-shadow) at 12 noon.</p> <p>Generous solar gain to eastern villa at 12 noon (likely 2 hours).</p> <p>At 3pm, less shadow from development compared with LEP height maximum, however villa development in shadow from building to west of subject site.</p> <p>NB – solar gains provided to properties further west.</p>	No
2B Rutledge (pre-school)	<p>Solar access at 9am, solar gain at 12 noon to centre of site, then in shadow with limited solar gain at 3pm.</p> <p>NB No additional shadow impacts from increased height. Existing shadow impact from trees on site.</p>	Yes
2A Rutledge	Solar access at 9am-11noon	Yes
2 Rutledge	Solar access at 9am-12noon	Yes
3 West	Solar access at 9am-12noon	Yes
1 West	Solar access at 9am-12noon	Yes
5 Clanalpine	Solar access at 9am-12noon	Yes
5A Clanalpine	Solar access at 9am-12noon	Yes

As identified in the table above, No. 4 Rutledge Street will not receive solar access for 3 hours between 9am and 5pm on June 21 (this will impact on 2 villas at the front of the single storey multi-unit development), however the remaining properties will achieve a suitable level of compliance. The shadow diagrams submitted with the application (and reproduced at Figure 27 of this report) demonstrate that the increased building height does not create the noted non-compliance and that a fully compliant scheme would also result in the non-compliance. The proposed development provides benefits in availing further solar gains through an alternate distribution of building mass to create meaningful solar access gains for a number of properties, particularly in the middle of the day.

Notwithstanding the above stated non-compliance, the proposed development is considered to provide a better solar distribution and the resulting impacts are reasonably anticipated for properties located due south of a mixed use development within the B4 zone.

Part 9.3 Parking Controls

2.0 Parking Required for specific uses

The parking requirements for residential and commercial uses are detailed in the above table.

Resident Requirements	Minimum 371 Maximum 497
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Resident Visitor	82
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Detailed parking analysis of the various uses, proposed areas and parking allocation has been undertaken and the parking provisions have been reviewed by Councils Development Engineer, providing the following comments:

- The allocation of resident spaces (451) is 46 spaces below the maximum permitted and therefore not unreasonable.
- The resident visitor parking is allocated on 47 spaces on basement Level 3, implying that the remaining 36 spaces will be accommodated in the retail parking levels. There is merit in this as the visitor parking demand typically evening periods on the Friday and Saturday nights do not clearly overlap the retail parking demand (weekday afternoons and Thursdays evening) and are certainly clear of the peak commercial parking periods (weekday business hours). Accordingly the arrangements accepted.
- The allocation of commercial spaces is noted to be comprised on 15 spaces on Basement Level 3 (assumed to staff) and, like visitor parking, it would appear the remainder of spaces are to be accommodated on the combined retail / commercial parking level of basement level 3. Council's DCP does not require differentiation between staff and customer parking. Despite this, the level of parking allocated to staff is modest. It is acknowledged that with a mixed use application, parking is typically unallocated (given it is difficult to enforce such an arrangement) and therefore the proposed pool of parking would suffice.
- The reduction in car parking for the retail and commercial

A condition of consent will be imposed to nominate the minimum parking required for residents, visitor, retail, commercial and staff (Refer to Condition 237). Also, a condition will require additional resident parking and provision of public bicycle parking is made available at a rate of 10% of the minimum required parking (ie. 37 resident bike storage and 57 public bike storage). (Refer to Condition 237).

8.11 Section 7.11 Development Contributions Plan 2007 (Amendment 2010)

Development Contributions Plan – 2007 (2010 Amendment) allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density / floor area. The contributions that are payable with respect to the increased floor area are based on the following figures relating to Ryde.

Table 9: Section 7.11 Contributions		
Contribution Plan	Contributions	Total
Community and Cultural Facilities	\$1,121,584.22	
Open Space and Recreation Facilities	\$2,827,894.80	
Civic and Urban Improvements	-	
Roads and Traffic Management Facilities	\$116,328.53	
Cycleways	\$78,277.83	
Stormwater Management Facilities	\$239,930.74	
Plan Administration	\$21,094.81	
Grand Total		\$4,405,110.92

Notes:

- The June 2018 rates have been applied to the development.
- In accordance with the VPA, a credit has been given for the civic and urban improvements. The VPA also proposes 5 affordable units which will be dedicated to Council. Section 7.11 contributions have not been charged for these dwellings.

Condition 73 requiring the payment of a Section 94 contribution has been included in the recommendation of this report which will further be indexed at the time of payment if not paid in the same quarter. This condition has required the Section 7.11 Contribution to be paid prior to the issue of any Construction Certificate for the buildings.

9. LIKELY IMPACTS OF THE DEVELOPMENT

Most of the impacts associated with the proposed development have already been addressed in the report. The matters related to traffic have been resolved through provision of suitable access arrangements including Rutledge Street vehicular access and West Parade access being restricted to a loading dock only.

From a traffic perspective, it has been concluded that the proposed access arrangements provide the least impact on the operation of intersections along Rutledge Street and RMS have provided its concurrence to the proposal. The adjustment of signal phasing/timing will be governed under RMS jurisdiction.

Having been reviewed by Council's UDRP, earlier iterations of the development have been improved through detailed design progression and response to likely impacts raised by the Panel which now present a far superior scheme and one that performs well in relation to the design guidance under the ADG. The outcome is

one that will provide a high level of amenity to future residential occupants. Solar access has been assessed in detail with the earlier scheme having been reviewed by Solar Consultant, Steve King and the final design being informed by solar analysis and improved solar compliance. Furthermore, the cross-ventilation performance of the development has been reviewed and confirmed by Building Sustainability Consultant, Tim Elgood. As a result of a sound review process it was confirmed that the proposal meets the requisite number of apartments having genuine cross-ventilation.

Whilst the development proposes a form that results in a taller building height across the site, and one which exceeds the maximum LEP height, the likely impacts of additional height have been assessed throughout this report, including in the assessment and analysis of the submitted Clause 4.6 variation request. In essence, the additional height is supported as the outcome does not introduce unreasonable additional impacts and there are genuine benefits identified from the proposed redistribution of building mass across the proposed 7 buildings which incorporate a through site link and laneway, extend and link the public domain, create a gateway development for the Town Centre and introduce meaningful solar gains to properties south of the site.

Construction, traffic and environmental management matters will be governed through conditions of consent to ensure that likely impacts from the construction phases of the development can be mitigated and managed in the best possible manner with least possible destruction to the surrounding business and residential uses.

In conclusion, the likely impact of the proposed development will be a positive contribution and public benefit to the Eastwood Centre providing much needed street address to Rutledge Street, revitalization, permeability and strengthening of the town centre.

10. SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The proposed development is considered suitable for the subject site with respect to the B4 – Mixed Use zoning under RLEP 2014 and the associated planning controls.

The proposal will revitalise the existing shopping centre and inject a vibrancy appropriate to a town centre through providing connections, creative public spaces and a variety residential and business opportunities that will further contribute to the mixed use zone. The scale and form of the development is entirely suitable for the site and the design response is one that has been derived from a robust analysis of the site, its constraints and opportunities. Whilst not strictly meeting the height limitations prescribed for the site, through extensive consultation with Council, the UDRP and RMS both at pre-lodgement and DA stages the final scheme has

developed and responded to provide a positive and suitable design approach for the site and locality.

11. THE PUBLIC INTEREST

The development is considered to be in the public interest as it is reasonably consistent with the relevant planning controls and allows the redevelopment of the site as anticipated by relevant controls. Subject to conditions, assessment of this application has not identified any significant compliance issues, unresolved matters or amenity impacts for adjoining development.

12. REFERRALS

The following table (**Table 10**) provides a summary of internal and external referrals undertaken for this application:

Table 10: Referrals	
Internal	
Heritage Advisor	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 24, 62 and 63).
Environmental Health Officer	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 16, 30 to 52, 108 to 117, 165 to 170, 214 to 223, 229 to 236).
Development Engineer	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 14, 15, 20 to 23, 97 to 103, 106, 176 to 182).
Public Works (Drainage) CWI	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 18, 19).
Public Works (Traffic) CW	<p>No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 60, 61, 104, 150).</p> <p>A Traffic Modelling Independent Peer Review, dated 3.8.17 was carried out by Bitzios Consulting. This review assisted Council's Traffic Engineers in determining the adequacy of the modelling provided by the applicant prior to final consideration and comment.</p>
Public Works (Public Domain) CW	No objection has been raised to the

	development subject to appropriate conditions of consent. (See condition numbers 84 to 91, 158, 183 to 195).
Public Works (Waste) CW	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 105, 123, 206 to 208).
Structural Engineer (Cardno)	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 72).
Public Art	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 71 and 240).
Landscape Architect (CPS Planning)	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 64 to 68).
VPA	<p>VPA offer has been endorsed by resolution of Council on 27 February 2018 to provide significant upgrade to Rowe Street Mall to create an enhanced public domain surrounding the site and the dedication of 5 x 1 bedroom units to Council for affordable rental housing for essential workers.</p> <p>No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 2, 172).</p>
External	
Roads and Maritime Services (RMS)	<p>Concurrence granted on 9 July 2018.</p> <p>No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 25, 119, 133, 134, 212).</p>
Sydney Trains	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 26 to 29, 120 to 122, 135 to 137).
Water NSW	No objection. Dewatering approval for the site not required as ground water will unlikely be encountered during excavation.
NSW Police (Ryde LAC)	No objection has been raised to the development subject to appropriate conditions of consent. (See condition numbers 161 to 164).

	<p>In addition, it was requested in referral advice that the sale of alcohol be prohibited from the commercial / retail premises.</p> <p>This request is not considered appropriate and has not been included. The applicant provided a response seeking to no have a blanket prohibition on the sale of alcohol enforced as a condition of consent. Noting that any liquor premises will be subject to the usual licensing process to ensure the responsible sale and service of alcohol.</p> <p>As provided by the applicant, it is agreed that the sale of liquor from a licensed premises will not detract from the quality of the development or area. The sale of alcohol is a standard offering and even expectation from customers and would be an unreasonable burden placed on the applicant.</p> <p>The request and this response was provided as a new referral to NSW Police, however no further comment have been provided.</p>
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13. PUBLIC NOTIFICATION AND SUBMISSIONS

The proposed development was originally notified and advertised in accordance with Development Control Plan 2014 – Part 2.1, Notification of Development Applications. The application was advertised on 14 September 2016 to 26 October 2016 in the *Northern District Times*. Following revised plans, the second round notification of the proposal was from 10 May 2017 to 10 June 2017. Following further revised plans, the third round notification of the proposed was from 4 July 2018 to 18 July 2018.

During the first notification round, 5 submission were received. During the second round, 12 submissions were received, and during the third round 7 submissions were received. The issues raised in the submissions included the following:

Round 1 – Submissions (14 September 2016-26 October 2016)

Round 2 - Submissions (10 May 2017 to 10 June 2017)

Issue 1: *There will be significant flooding ramifications if a 4 level basement car parking is located at the site.*

Comment: The proposed development is supported by Council's Drainage Engineer and suitable conditions of consent will be imposed, including geotechnical monitoring, site dewatering plan and OSD.

Issue 2: *Insufficient provision of retail space and excessive residential provision.*

Comment: The proposed development provides a suitable mix of retail, commercial, community and residential accommodation across the site, including the provision of a gym, medical centre and office space.

Issue 3: *Opposition to apartments in retail and commercial zone.*

Comment: Residential accommodation is both permitted and desired within the B4 Mixed use zone, close to public transport and services.

Issue 4: *The proposed 443 apartments constitute overdevelopment, will cause strain on existing infrastructure, and change the character of the area.*

Comment: The final scheme has now been reduced to 409 apartments. The residential provision within the development is suitable for the B4 zone and State and local controls include provisions commensurate with the scale of a development to ensure existing infrastructure is capable of absorbing new development or additional provisions are delivered / facilitated by the development.

The application has been through a rigorous assessment and consideration by RMS and the final scheme is one that has RMS concurrence. The proposal includes compliant parking and waste provisions, and all services have been endorsed by Council through a referral review process. Conditions of consent are imposed to ensure all checks and balances are undertaken to enable appropriate delivery of the development within the locality.

Issue 5: *13-storey buildings in this location are unacceptable.*

Comment: The proposed building height is discussed throughout this report and found to be acceptable for the town centre locality.

Issue 6: *Local schools cannot cope with more students.*

Comment: This is a matter for infrastructure planning and is a matter beyond the scope of assessment for this individual DA.

Issue 7: *Direct impact on 196-198 Rowe Street, including difficulty entering and exiting property due to increased traffic, impact during construction.*

Comment: This matter has been raised with the applicant. The following condition will be imposed (consistent with Condition No. 2 of Development Consent 2007/936 (previous consent at the subject site):

1. Revised ramp access from Trelawney Street
 - a. *Prior to issue of the relevant Construction Certificate, detailed architectural plans are to be submitted to, and approved by Council prior to the issue of a relevant Construction Certificate, which provide for a revised ramp design from Trelawney Street and incorporates the retention of the existing access to 196-198 Rowe Street, Eastwood.*
 - b. *Notwithstanding condition 1(a), the applicant may obtain a written consent to demolish and modify the ramped access from Trelawney Street from the*

neighbouring property owners. If the written consent(s) are obtained, the applicant shall submit those written consent(s) to Council for prior to issue of a relevant Construction Certificate.

Refer to Condition 1(a).

Issue 8: *Traffic Safety resulting from more cars using ramp on Trelawnley Street exit.*

Comment: Traffic safety has been reviewed and supported by Councils Traffic and Development Engineers and well as RMS who have provided concurrence with respect to access from Trelawney Street, Rutledge Street and West Parade.

Issue 9: *The development does not provide adequate number of car spaces.*

Comment: The proposal complies with required parking provisions under the DCP and has been supported following review and analysis by Councils Traffic Engineer. Conditions of consent are imposed to ensure minimum provisions and allocation. (Refer to Condition 237).

Issue 10: *Recommendation provided to require at least one food outlet as fresh fruit and vegetable outlet.*

Comment: The occupation of individual tenancies is driven by market demand and cannot be enforced by Council. The proposal does indicate occupation for “fresh food”.

Issue 11: *Need to provide access to drinking water fountains in communal open space, as well as provision for shared edible gardens.*

Comment: The proposal provides sufficient communal open space provisions in accordance with the ADG.

Issue 12: *More specific response on car-sharing required.*

Comment: The provision of parking has been assessed by Council's Traffic Engineer and found to be acceptable. DCP car share provisions are not applicable to the site.

Issue 13: *Additional bike parking should be provided for retail customers and these should be located separate from storage units.*

Comment: The provision of 23 bicycle spaces by the development is not suitable. A condition of consent will be imposed to require 10% of required parking. This will require 37 resident spaces and a further 57 spaces for public bike storage. (Refer to Condition 237).

Issue 14: *Provision of bike lanes on West Parade and Rowe Street.*

Comment: This is outside the scope of the DA.

Issue 15: *Development should incorporate way-finding for pedestrians and cyclists.*

Comment: The proposed development is considered to greatly enhance the permeability of the locality through provision of a through site link and lane that will connect Rutledge Street to the plaza. The public spaces provide clear and direct movement for pedestrians through the site. Signage and lighting will further contribute to ease of movement.

Issue 16: *The development should provide room for specialty shops.*

Comment: The commercial mix is supported and therefore considered to be suitable provision for a variety of specialty shops in combination with fresh food and other business opportunities.

Issue 17: *The proposal should provide more community facilities and commercial spaces to provide job opportunities rather than private spaces within the heart of the town centre. Residential uses should be located elsewhere.*

Comment: The subject site is privately owned land. The town centre is a mixed use zone which encourages a mix of residential, business and community uses close to facilities and public transport. The proposed development is entirely consistent with the zone objectives offering a good mix of uses and employment generation.

The development also provides a significant offering of public domain provisions and upgrade including a through site link, laneway and a variety of communal spaces that will positively contribute to the town centre.

Issue 18: *The developer should upgrade pavement in Rowe Street Mall as part of VPA.*

Comment: The Mall upgrade design is subject to a VPA. Furthermore, as imposed by conditions of consent, the development is subject to the standards and requirements of the City of Ryde Development Control Plan DCP 2014 Part 4.1 Eastwood Town Centre, Section 3.0 Eastwood Urban Village Precinct, and the City of Ryde Public Domain Technical Manual (PDTM) Section 3 – Eastwood.

For uniformity the footpath pavement along Rutledge Street and West Parade may need to be the same as for the approval requirements for 7-9 Rutledge Street and 3-5 Trelawney Street, this will require asphalt with granite strips and banding. It is expected the footpath pavement along Rowe Street to be upgraded to full width granite pavers.

Issue 20: *The proposed development will result in traffic gridlock. Eastwood already suffers from traffic congestion.*

Comment: The application was subject to a rigorous traffic impact assessment process, has been reviewed and found satisfactory by Councils Traffic Engineer, and concurrence has been provided by RMS.

Issue 21: *Health issues associated with demolition.*

Comment: Demolition will be subject to standard conditions of consent in accordance with POEO Act 1997.

Issue 22: *Need to stage development to allow businesses to remain open during construction.*

Comment: The application does not seek staging of construction and this is not something that Council have the power to enforce. Construction and traffic management requirements enforced through consent conditions will assist.

Issue 23: *The development will contribute to cumulative impacts of other development in the area.*

Comment: Each development is subject to development controls under state and local plans that anticipate and guide future development within a specific zone. Those controls are derived from strategic planning processes that identify the development capacity for a locality. Increased density and building height is anticipated under Council's controls for the site and surrounding locality being within a B4 Mixed use and town centre zone. The proposed development responds to the strategic vision for Eastwood and has been assessed on its own merits and ability to manage and accommodate increased density.

Issue 24: *Support provided for the development. Eastwood is well overdue for redevelopment.*

Comment: Noted.

Round 3 - Submissions (4 July 2018 to 18 July 2018)

Issue 26: *Numerous traffic concerns and questions relating to: congestion, trucks accessing loading dock, traffic delays, traffic flow, interrupted, traffic safety concerns, request traffic lights and pedestrian crossing, insufficient parking, insufficient infrastructure.*

Comment: Discussed above.

Issue 27: *Matters regarding Trelawney Street as raised in Round 1 and 2 notification, including demolition of ramp and potential flooding to No. 196-198.*

Comment: Recommended conditions relating to ramp is discussed above.

Issue 28: *Health issues associated with demolition.*

Comment: Discussed above.

Issue 29: *Request confirmation that there will be no change to the bus only right hand turn lane from Rutledge Street onto the slip way on West Parade (travelling east) as this will dramatically increase traffic on West Parade.*

Comment: This arrangement will remain unchanged. Further, no car access is available from West Parade (commercial vehicle access only) which was a requirement of RMS prior to issuing concurrence.

Issue 30: *There will be significant flooding ramifications if a 4 level basement car parking is located at the site.*

Comment: Addressed above.

Issue 31: *The proposed 443 apartments constitute overdevelopment, and will cause strain on existing infrastructure.*

Comment: Addressed above.

Issue 32: *13-storey buildings in this location are unacceptable.*

Comment: Addressed above.

Issue 33: *Local schools cannot cope with more students.*

Comment: Addressed above.

Issue 34: *Concerns are raised in terms of the wind tunnel effects and overshadowing to southern properties along Rutledge Street including low income earners and the pre-school.*

Comment: Each of these matters have been discussed in detailed within this report. Conditions of consent will include recommendations provided by the submitted Wind Environment Study to best manage any anticipate wind tunnel impacts. Solar access is considered acceptable and analysis has been provided in terms of the LEP permitted height impact versus the solar gains achieved from the design of the proposed development which incorporates a variety of building heights and building breaks to facilitate a better planning outcome in terms of solar impacts to the south. Notably, this includes increased solar access to the pre-school in the middle of the day.

14. CONCLUSION

This report considers an application for demolition of all buildings and structures on the site and construction of a mixed use development proposing 7 buildings (incorporating residential, retail and commercial uses and a pedestrian link at 152-190 Rowe Street and 3-5 Rutledge Street, Eastwood

The development generally complies with the design criteria in respect to the ADG with the exception minor variation to building depth, separation, solar access, and first floor ceiling height provisions that are suitably justified.

The proposed building height variation is supported pursuant to the submitted Cause 4.6 variation and the reduced street frontage setback above 9.5 is suitable in light of the site context and building treatment.

The proposed development, notwithstanding greater heights than anticipated by the controls is considered to provide a positive contribution to the Eastwood Centre through revitalisation of the centre, upgrade to the public realm, provision of a variety of housing choices, recreation, commercial and retail opportunities.

The proposed development is compatible with the objectives and vision for the Eastwood Town Centre which seeks to establish a mix uses, a safe, active and vibrant main street retail precinct with good pedestrian amenity and a sense of community.

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

15. RECOMMENDATION

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

- A. That the Sydney North Planning Panel grant consent to development application LDA2016/0378 at 152-190 Rowe Street and 3-5 Rutledge Street, Eastwood, subject to the recommended Conditions of Consent in Attachment 1 of this report.
- B. That those persons making a submission be advised of the decision.
- C. That RMS be advised of the decision.

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