

Item 4
27 Railway Road, Meadowbank - LDA2021/0372
Construction of a three-storey commercial development

Report prepared by: Senior Coordinator - Development Assessment

Report approved by: Manager - Development Assessment

Director - City Planning and Environment

**City of Ryde
Local Planning Panel Report**

DA Number	LDA2021/0372
Site Address & Ward	No. 27 Railway Road, Meadowbank Lot A within DP 27200 Central Ward
Zoning	B4 Mixed Use under RLEP 2014
Proposal	Construction of a three-storey commercial development
Property Owner	Kiu Foong P/L
Applicant	Sasco Developments P/L
Report Author	Kimberley Kavwenje – Senior Coordinator Development Assessment
Lodgement Date	28 October 2021
No. of Submissions	Twenty-four (24) submissions received
Cost of Works	\$2,007,345.00
Reason for Referral to LPP	Contentious development – (b) in any other case – is the subject of 10 or more unique submissions by way of objection. <i>Schedule 1, Part 2 of Local Planning Panels Direction</i>

Recommendation	Deferred Commencement Consent
Attachments	Attachment 1: Draft Deferred Commencement Consent Attachment 2: Ryde DCP compliance table Attachment 3: Clause 4.6 Written Variation to Clause 4.3 Height of Buildings Attachment 4: Sydney Trains Concurrence Advice Attachment 5: Architectural Plans

1. Executive Summary

This report considers a development application under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act on land at No. 27 Railway Road, Meadowbank, which is legally described as Lot A within DP 27200.

The subject application (LDA2021/372) was lodged on 28 October 2021 and seeks consent for construction of a three-storey commercial development which contains a basement and a ground level café with outdoor dining. The ground level will also include a commercial tenancy and upper levels commercial tenancies.

In accordance with the *Environmental Planning and Assessment Act 1979*, Section 9.1 – Directions by the Minister, this application is reported to the Ryde Local Planning Panel for determination as it constitutes a contentious development. The DA has received more than 10 submissions objecting to the development.

The development contravenes Clause 4.3 of Ryde Local Environmental Plan 2014 (RLEP 2014) which establishes the maximum height development standard of 9.5m. The proposal results in a height of 10.34m, representing an 8.4% departure from the standard. The applicant has submitted a written Clause 4.6 written justification (**Attachment 4**) to justify the proposed variation. The roof form and the lift overrun result in the height exceedance. The proposed variation is satisfactory in this instance as the proposed development with its three-storey form would not be out of proportion with or uncharacteristic with other surrounding developments found within the immediate locality.

The Development Application was notified between 1 November and 22 November 2021. Twenty-four (24) individual submissions were received during the notification period. The concerns raised primarily relate to how the proposed development would affect the operation of the existing right of carriageway (ROC) located on the northern end of the subject site which benefits the adjoining commercial properties to the north. This property is a heritage item and concerns have also been raised with respect the impacts that the development would have on the item. Concerns have also been raised in relation to car parking, traffic congestion and lack of infrastructure being present within the Meadowbank Precinct which would be further contributed too with the proposed development and with a number of other developments that have been recently approved or lodged in the locality. There are concerns that the development would not be consistent with the existing or future desired character of the area.

A variation to Council’s parking DCP is proposed as the proposal would not provide for any onsite car parking whilst the DCP requires a minimum of 15 car parking spaces. However, the variation is supportable as the subject site would accommodate a small-scale commercial development which has excellent public transport available being close to Meadowbank railway station and a ‘car free’ commercial development ought to be supported in this instance.

The proposal would not result in any unacceptable impacts upon the Shepherd’s Bay, Meadowbank precinct or the amenity of surrounding properties. The subject site would be better utilised in the manner proposed rather than it is currently being used for as a car park. The proposal does not raise any issues that would be contrary to the public interest and it is a suitable form of development for the site.

It is recommended Development Application No. LDA2020/0375 be granted deferred commencement consent relating to the concurrence requirements of Sydney Trains.

2. The Site & Locality

The site is legally described as Lot A within DP 27200 and is known No. 27 Railway Road, Meadowbank. The site is on the north western side of Railway Road and has a total area of 342.6m². The subject site is triangular in shape with a frontage of 48.685m to Railway Road, a 14.555m northern boundary and a western boundary adjacent to the railway corridor 50.55m in length.

The site is relatively level with a modest fall of some 300m from south to north. The site is occupied by a sealed bitumen area currently used as a private car park. Vehicle access to the site is currently provided via three crossovers from Railway Road. There are five trees located along the western edge of the site. A 3.05m wide right of carriageway (ROC) encumbers the northern end of the site.



Figure 1 Aerial photograph of the site and locality



Figure 2 Subject site



Figure 3 View northwards along Railway Road towards the subject site

The site is located within the Shepherd's Bay, Meadowbank locality, an area that formerly generally comprised of industrial sites however has undergone significant redevelopment in recent years evolving into a high-density mixed-use area. The site itself is not mapped within any precinct however is adjacent to the 'Station Precinct' (Figure 4).



Figure 4 Site within Shepherd's Bay: Meadowbank Locality Source: Figure 4.2.02 Precinct Plan Part 4.2 of RDCP

Nos. 58-64 Constitution Road adjoins the site to the north (**Figure 5**) and contains a two storey building with commercial uses at the ground floor with associated office/storage space above. This building is identified as a local heritage item (No. 37) and is known as 'Meadowbank shops'. The Northern Line ('T9') railway line connecting Hornsby and Epping to Gordon via Sydney CBD and North Sydney adjoins the site to the west in a north-south direction. Meadowbank railway station is located approximately 50m from the subject site with a main entrance adjacent to Nos. 58-64 Constitution Road.

A hard-surfaced entry to the station and small car park is accessed via Constitution Road including a turning path and bus stop for local buses located due north of the site. Nos. 1-20 Railway Road and 50 Constitution Road is located on the opposite eastern side of Railway Road from the subject site (**Figure 6**). This currently contains a mixture of one, two and three storey industrial and commercial buildings, some of which face Railway Road. This site is subject to a development application (LDA2020/0199) for demolition of existing structures and construction of a mixed-use development comprising four six or seven storey buildings containing 133 apartments (Buildings A, B and C), 162 boarding rooms (Building D) and commercial floor space over 3 levels of basement parking. The application is currently before the Land and Environment Court in a Class 1 appeal. Nos 21-24 Railway Road is a relatively new seven storey residential apartment building and is located due south-east of the subject site on the eastern side of Railway Road (**Figure 8**).

On the northern side of Constitution Road, approximately 100m north of the site is TAFE NSW Meadowbank campus (**Figure 9**). The northern side of the campus is earmarked for redevelopment as part of the Meadowbank Education and Employment Precinct with new purpose-built education facilities due to open in 2022.



Figure 5 Nos. 58 - 64 Constitution Road and the entrance to Meadowbank Railway Station



Figure 6 No. 1 - 20 Railway Road and 50 Constitution Road viewed from the intersection of Railway and Constitution Road



Figure 7 Nos. 1 - 20 Railway Road and 50 Constitution Road viewed from intersection of Railway Road and Underdale Lane



Figure 8 No's 21 - 24 Railway Road



Figure 9 TAFE NSW Meadowbank on the northern side of Constitution Road

- Excavation works associated with the basement.
- Basement RL17.85 (**Figure 12**) comprising storage, six (6) bicycle parking, bins, lift, fire stairs, plant room, accessible WC and diesel pump room. The proposal does not include off street parking.

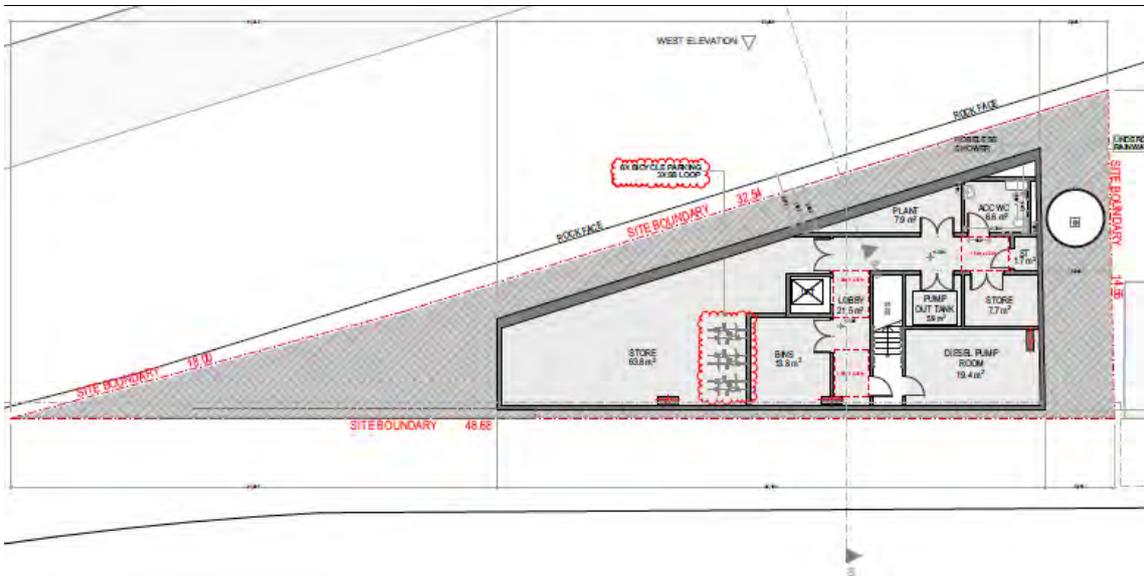


Figure 12 Basement level

- Ground Floor RL21.10 (**Figure 13**) containing café and commercial tenancy. Accessible WC, lift and fire stairs.
- The building is triangular in form to respond to the shape of the site with a cantilevered element on the southern end allowing for outdoor dining opportunities. The café would be on the central and the southern end.
- The ground level commercial tenancy would be located on the northern end.
- The café is 112.16m² in area and the commercial tenancy is 58.46m² in area.

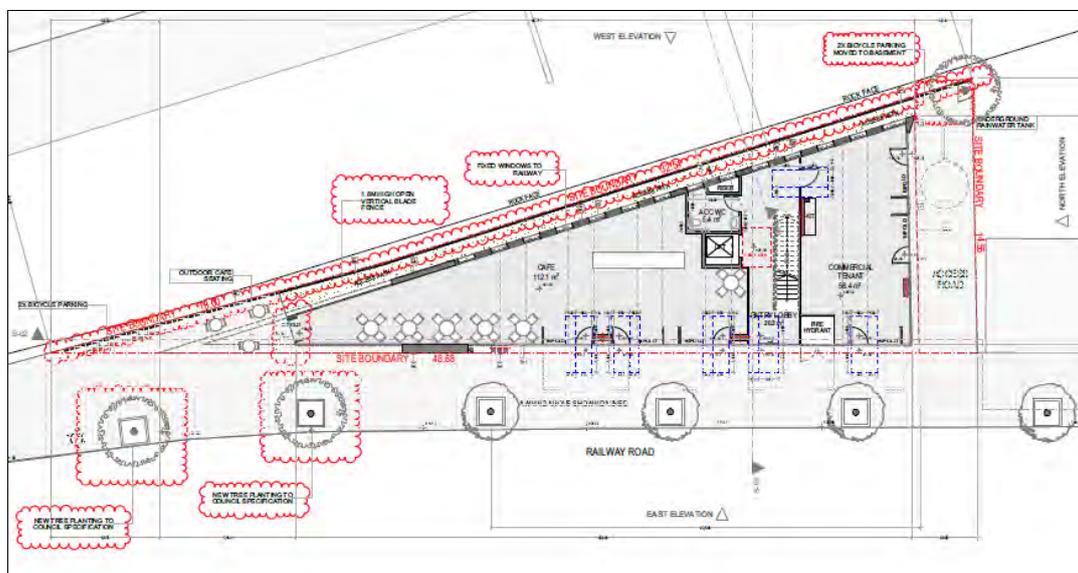


Figure 13 Ground Floor level containing cafe and commercial tenancy

- First Floor RL24.40 (**Figure 14**) and Second Floor RL24.40 (**Figure 15**) both comprise two commercial tenancies, 61.4m² and 112.6m². An accessible WC is also proposed.

- A central lift and stair lobby provides access to each of the tenancies.

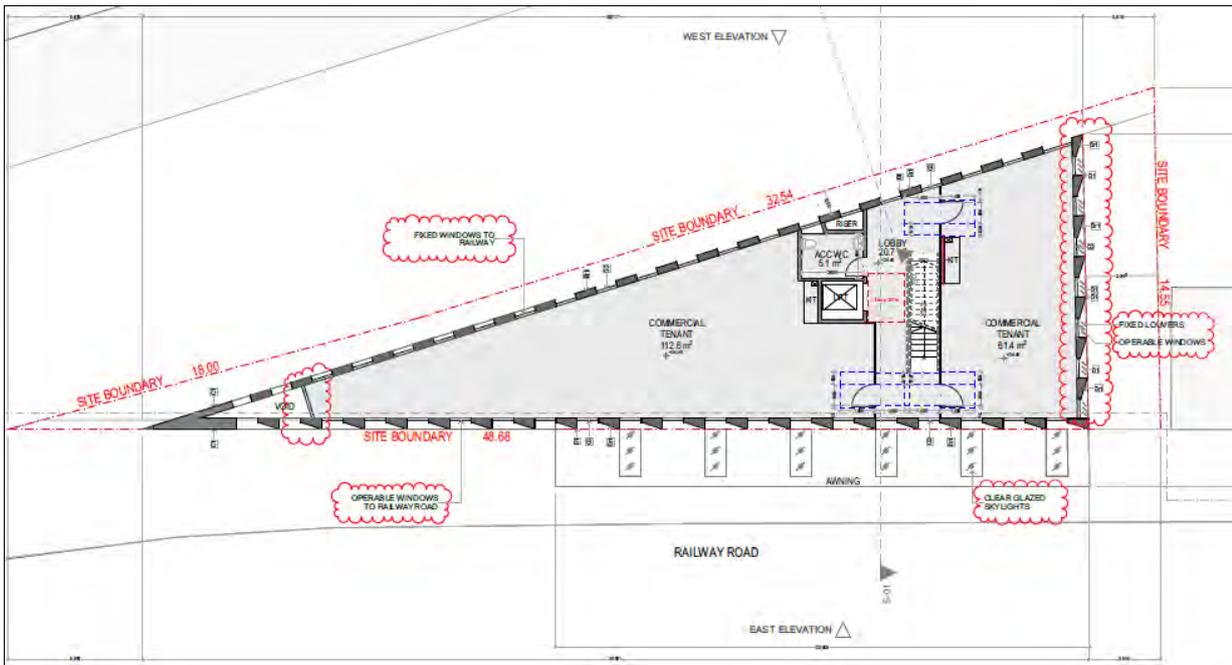


Figure 14 Proposed First Floor

- The main pedestrian entry including lift and stair lobby is located centrally and would be accessed directly from the Railway Road footway. The building also includes an awning above part of the footway along Railway Road.
- Bicycling parking is proposed with two spaces located on the northern end of the site and two at the southern end. These would be available to staff and visitors.
- Waste collection is proposed on Railway Road kerbside at ground level by building management where they would be collected by a licensed private waste and recycling collection contractor.
- The air conditioning units are located on the western side of the development.

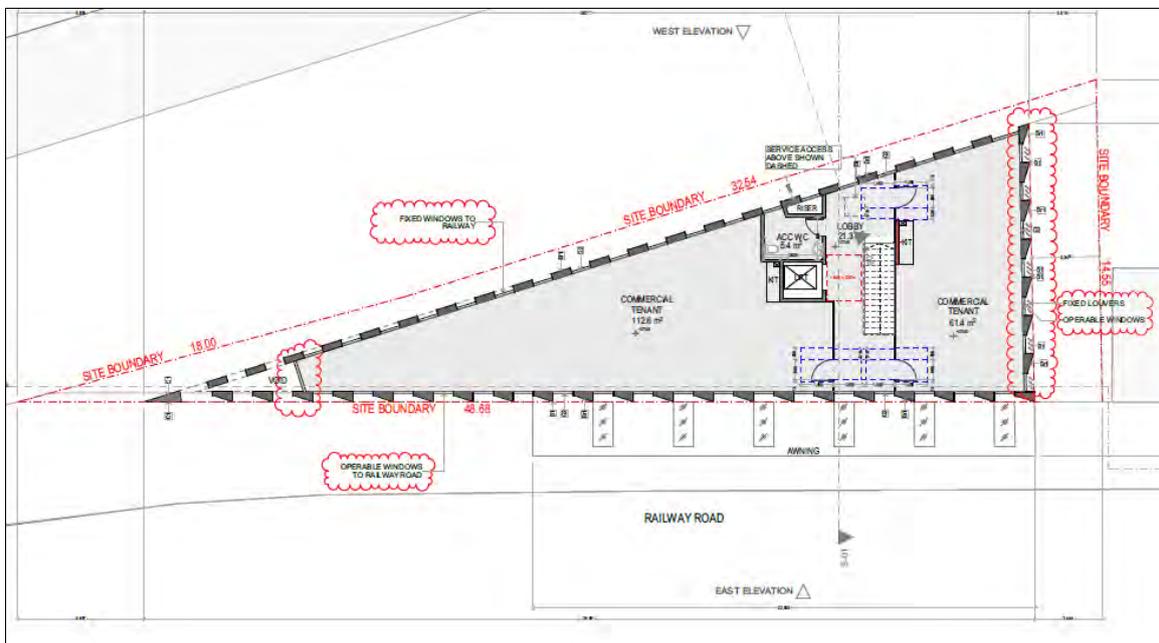


Figure 15 Proposed Second Floor

- Landscaping works (**Figure 16**) including the removal of five (5) trees, existing street trees are to be retained on Railway Road. The proposal includes provision of two (2) additional street trees including one (1) tree at the northwest corner of the site. Due to the constrained nature of the site, minimal soft landscaping is proposed with a strip of deep soil proposed along the western side of the site to enable low level planting.
- A 1.8m high open blade fence is proposed along the western boundary adjacent to the railway cutting.
- The development incorporates paving at the ground level including the outdoor dining area on the southern side and the access road on the northern side.

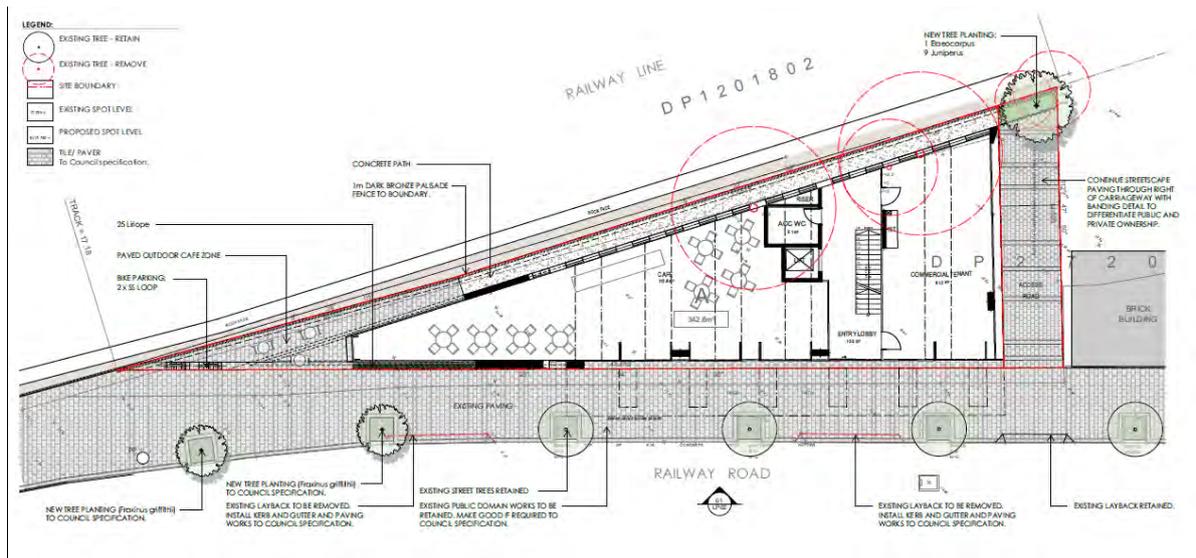


Figure 16 Landscape plan

- Stormwater works are proposed including stormwater runoff from roofs would flow into a rainwater tank underneath the rear access road at ground level. The development would be connected to Council’s drainage infrastructure on Railway Road.

4. History

4.1 Site History

<p>8 May 2018</p>	<p>Rezoning review (2018SNH004) on Nos. 1-5A, 9-11, 13-17, 18-20 & 27 (the subject site) Railway Road and 50 Constitution Road, Meadowbank refused by the Sydney North Planning Panel. The proposal sought to increase the permitted building and floor space ratio.</p> <p>Part of the reason was that whilst the panel accepted that the existing B4 zoning of the area around Meadowbank Station had failed to produce mixed developments resulting in purely residential buildings and that it would be desirable for the site to be developed for a mixture of residential, commercial and retail uses, none of this warranted a proposed 27 storey tower proceeding to Gateway. The panel recommended that Council review its B4 zoning to produce mixed developments.</p>
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	<p>The subject site was proposed under the planning proposal to be developed as a bicycle hub and community meeting space with a café which would have been dedicated to Council. The upper two levels would have been limited to a 'cold shell'.</p>
<p>18 March 2021</p>	<p>A pre-Development Application meeting was held with Council and the proposal was considered by the Ryde Urban Design Review Panel. The core issues raised by the UDRP and Council included:</p> <ul style="list-style-type: none"> • The importance of a traditional low scale character adjacent to Meadowbank Station. • The Panel supports the proposed uses, scale and strong formal characteristics of the proposal. • The applicant to demonstrate that the easement is properly maintained volumetrically. • At the southern, sharp corner of the site, the proposed building lifts and cantilevers to offer greater transparency and drama at street level in this location. • The ability of the proposal to benefit from light and air to the north and west needs to be confirmed by the proponent, along with any associated fire protection issues. • Further detail is required to confirm how any mixed mode mechanical system might work and what other sustainability targets might be accommodated within the project - water and energy efficiency in particular. • A landscape architect should be involved to confirm street tree species and spacings, along with the details of any proposed public domain works, including the treatment of the ground level easement along the northern boundary. • The configuration of the ground level retail uses and their access to outdoor space along Railway Road and along the northern easement being positive. • Confirmation of the management and operational regime proposed for the northern easement to ensure conflicts between service vehicles and pedestrians are avoided, and to ensure this space is safe and secure out of operational hours. • The material palette draws on brick in a slim format with raked joints. This is supported and should be committed to through the provision of details and samples. • Encourages the use of a brick with a more saturated colour - not to replicate the strong orange colour evident in the heritage buildings - but to differentiate the brick elements from the white roughcast rendered concrete elements elsewhere in the proposal whilst tying into the streetscape more generally. • The apparent visual weight and 'heft' of the cantilevered awning along Railway Road and encourages the further investigation and refinement of this awning element to mitigate against possibly undue visual mass. • Height of the ground floor to ceiling height of 4m needs to be justified given the height breach. • Potential for excavation to impact structural integrity of adjacent heritage item. • Contamination assessment required. • Concerns about building over the ROC.

4.2 Application History

28 October 2021	Local Development Application LDA2021/0372 was lodged with Council.
1 November 2021 to 22 November 2021	The Application was notified to adjoining property owners and occupiers. Twenty-four (24) unique submissions were received.
17 November 2021	<p>Sydney Trains issue a stop the clock letter raising the following concerns:</p> <ul style="list-style-type: none"> • Concerns regarding proposed boundary fencing adjoining the rail corridor • Further design details of proposed fencing which may necessitate owners consent from TAHE • Geotechnical and Structural report/drawings including rail specific potential impacts • Construction methodology with details pertaining to structural support during excavation. • Detailed Survey Plan showing the relationship of the proposed development with respect to rail land and infrastructure. • Cross sectional drawings (all horizontal, RL and vertical measurements are to be verified by a Registered Surveyor): • Drainage/civil drawings and details. • Drawings/details showing anti-throw mechanisms for openings (windows, balconies, and the like) within 20m and facing the rail corridor. • Sydney Trains may also require the preparation of a numeric modelling analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.
16 December 2021	<p>An initial request for additional information was sent to the Applicant, requesting:</p> <ul style="list-style-type: none"> • Concerns regarding inconsistencies with the Meadowbank Education and Employment Precinct Master Plan (MEEP). A new plaza with outdoor dining has been envisaged and such an outcome could be achieved by consultation by relevant landowners. There was no consideration in the design how a new connection to Meadowbank Station could be achieved to satisfy the requirements of the masterplan. • Right of Carriageway (ROC) details. Whilst the proposed building has been relocated outside the ROC, it is noted that there are works proposed within the easement such as paving, an underground rainwater tank and two bicycle spaces. • Advice that 24 submissions had been received
23 December 2021	<p>Further letter sent to the applicant to address the following urban design amendments as follows:</p> <ul style="list-style-type: none"> • Clarification whether the openings in the awning are glazed to provide weather protection to the public domain. • Recommendation that the southern end of the building the glass line be pulled back approximately 2.5m, to enable a

	<p>wider door opening and an expanded outdoor dining area that is more usable.</p> <ul style="list-style-type: none"> • As shown on the east elevation, the glazed wall to the south is leaning inward, it is unclear how the bifold doors will operate practically. • The applicant is to clarify whether the proposal provides any openable windows on the first and second floor levels to enable natural ventilation. Openable windows are preferably provided on the north and east elevation due to the noise impacts from the railway corridor. • Consideration should be given for mitigating the heat from the western sun. For instance, the west elevation would benefit from having a higher density of brick columns or a higher solid to void ratio to reduce the solar gain and increase the acoustic insulation to alleviate the noise impact from the railway corridor. • Concerns regarding visual privacy as a result of the residential zoning of properties to the north and the proposed 3m setback from the north which is insufficient for the building separation required to maintain privacy. To eliminate any potential privacy impacts on the neighbours, the windows on the north elevation on the first and second floor levels are to redirect views to Railway Road or the railway line. Alternatively, fixed angled louvres are to be provided to avoid direct views to the north. • The applicant advised to consider creating a tapered edge to the awning to help reduce the visual weight of the structure. • Recommended to reinstate the design of the roof silhouette from the pre-lodgement scheme but retain the brown tone for the brick columns. • The cantilevered blade element at the southern corner of the frame is also expressed with substantial thickness and weight. It would be beneficial to express it with greater openness and transparency so that it appears to be lighter and less obtrusive over the outdoor dining area.
<p>17 January 2022</p>	<p>A further letter was sent to the applicant requesting the following additional traffic and public domain information as follows:</p> <ul style="list-style-type: none"> • The exact use of the ROW needs to be confirmed and clarification is required on whether the ROW will be used by any vehicles. Should the ROW be used by vehicles, the ROW should be appropriately designed to safely accommodate the type and frequency of vehicles using the ROW without compromising the safety of other road users within adjoining public road (including verge). • The applicant should consider providing appropriate pedestrian and cyclist infrastructure to compensate for the loss of parking. • On many of the submitted drawings including the Survey Plan the road is noted as Railway Parade – the name needs to be corrected as Railway Road. • Public Domain concur with the Traffic colleagues' comments about the future use of the strip marked as a ROW along the

	<p>northern site boundary. This will define the pavement design needed to accommodate the traffic requirements.</p> <ul style="list-style-type: none"> • The proposal is to preserve the existing street trees along the Railway Road frontage. They are “Fraxinus griffithii” (Ash), marked with numbers 1-4 in the Arborist Report and the advice is: they are in good health and to be preserved. Since two of the three existing driveways in Railway Road will be made obsolete, additional space along the road frontage can be made available to plant few more trees.
<p>27 January 2022</p>	<p>The applicant submitted amended plans and further information was submitted which included:</p> <ul style="list-style-type: none"> • Amended Statement of Environmental Effects (SEE) addressing the ‘Stations Centres’ section of the MEEP • Right of Carriageway (ROC) details. Amended plans were provided to relocate the bicycle parking from the ROC to basement storage areas within the basement of the development. • The amended Architectural Plans include the following changes: <ul style="list-style-type: none"> - an annotation to illustrate that the openings in the awning are glazed. - the tapered glass façade to the south has been amended to straight allowing the bifold doors to open without complexity whilst also widening the aperture. - 900mm expressed brick columns have been designed to meet the ground on the western railway façade whilst colour back glass spandrels create a horizontal solidity achieving a combined solidity ratio of 50% which is substantial for a commercial building. - added angled 150mm wide vertical louvres to the north façade to provide privacy to the adjacent property. - the proposed sculptural 600mm awning is maintained - retention of the cantilevered corner element - two bicycle visitor spaces are provided at street level on the southern edge of the site, with six bicycle spaces located at basement level. - An updated Survey Plan has been provided within the amended Architectural Plans to correct the road name. - Amended landscape plan showing trees to be retained and new street trees.

5. PLANNING ASSESSMENT

5.1 Environmental Planning and Assessment Act

Objects of EP&A Act

Section 1.3 of the EP & A Act contains the following relevant objects:

1.3 Objects of Act (cf previous s 5)

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

(c) to promote the orderly and economic use and development of land,

(g) to promote good design and amenity of the built environment,

(i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,

(j) to provide increased opportunity for community participation in environmental planning and assessment.

The proposal achieves the objectives. The proposed development provides for an appropriate built form which is responsive to the site constraints and has been designed in response to the site's topography. The proposal is consistent with relevant Objects of the Act.

5.2 State Environmental Planning Instruments

Instrument	Proposal	Compliance
State Environmental Planning Policy Resilience and Hazards 2021		
Chapter 4 Remediation of Land		
The object of this Chapter is to provide for a Statewide planning approach to the remediation of contaminated land. The aims are to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.	Pursuant to Clause 4.6(1) consideration has to be given as to whether the land is contaminated. The site and adjoining sites have contained a number of industrial and commercial users, some of which are still in operation on the site. As such, a Detailed Site Investigation (DSI) has been prepared and identifies potential contamination on the subject site. The DSI concludes that the site can be made suitable for the proposed development, subject to recommendations outlined in the report. This includes a recommendation for the implementation of a Remediation Action Plan (RAP) to	Yes

	<p>manage the environmental concerns raised within the DSI. Accordingly, a RAP has been prepared in accordance with the DSI recommendation and accompanies the development application.</p> <p>The RAP outlines the remediation strategy, as well as remediation works and validation proposed to make the site suitable for the proposed development. Subject to the implementation and validation of the RAP, it is concluded that the site can be made suitable for the proposed development. Council's Environmental Health Officer has assessed the proposal and has raised no objections subject to appropriate contamination related conditions. This would provide appropriate remediation of the site, consistent with the requirements of the SEPP. The site is therefore suitable for the proposed development with respect to the provisions of SEPP Resilience and Hazards.</p>	
<p>State Environmental Planning Policy Biodiversity and Conservation 2021</p>		
<p>Chapter 2 Vegetation in non-rural areas</p>		
<p>The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.</p>	<p>The proposal seeks removal of five (5) trees. Details of their removal have been provided in the submitted Arborist Report. The trees to be removed are not of high retention value and are not mapped as having any biodiversity value. Three (3) of the trees to be removed are weed species and there are four (4) healthy street along Railway Road that are to be retained or protected. Council's Landscape Architect has assessed the proposal and raised no objections subject to appropriate tree conditions including additional on-site and street tree plantings.</p> <p>The proposal includes provision of one (1) tree and associated landscaping at the north-western end of the ROC. Section 1.9A(1) of RLEP this provision suspends covenants, agreements and instruments to enable development on land in any zone to be carried in accordance with the RLEP.</p>	<p>Yes</p>

	It is considered that the proposed development does not unduly impact upon any existing biodiversity or trees or vegetation on the site.	
Chapter 10 Sydney Harbour Catchment		
This Plan applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.	Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal. The site is not located on the foreshore or adjacent to the waterway and therefore, with exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of DCP 2014.	Yes
State Environmental Planning Policy Transport and Infrastructure SEPP 2021		
Division 15 Railways		
Subdivision 2 – Development in or adjacent to rail corridors and interim rail corridors		
Clause 2.97 Development adjacent to rail corridor	The clause requires the consent authority to give written notice of the application to the relevant rail authority for the proposed development being located adjacent to the existing rail corridor and to take into consideration any response received. As such, Sydney Trains has been consulted during the development application process and their concurrence requirements would be incorporated as a condition of consent.	Yes
Clause 2.98 Excavation in, above, below or adjacent to rail corridors	<p>This Clause applies to development that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25m (measured horizontally) of a rail corridor.</p> <p>The depth of excavation on the site is approximately 3.5m and is located adjacent to the railway corridor adjoining the site to the west. The proposal has been setback from the western boundary shared with the corridor to ensure that development does not adversely impact the adjacent railway infrastructure.</p> <p>Pursuant to Clause 2.98, the concurrence of Sydney Trains is required, which has been issued on 18 February 2022 and the conditions have been incorporated into the consent.</p> <p>Conditions Part A Condition 1,</p>	Yes

	Condition 1(b), 49 – 53, 102 – 113, 133, 134, 173 and 205 – 209.	
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5.3 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. The subject site is identified as being within the B4 Mixed Use zone under the provisions of RLEP 2014. The proposal for the purposes for 'Commercial premises' and/or 'Food and drink premises' are permissible with development consent.

Clause 2.3 – Zone Objectives

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

- *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 proposed development is consistent with the objectives of the zone by providing a high-quality commercial development that is compatible with surrounding land uses and within a highly accessible location. The proposed development will provide short and long-term employment, through the construction and operational phases.

It will promote sustainable transport, being located adjacent to Meadowbank Railway Station and providing improved public domain and an enhanced pedestrian environment adjacent the site.

Further, the proposal will provide opportunities for much needed commercial uses within the B4 zone in the Shepherd's Bay, Meadowbank Precinct where recent developments have been predominately residential in nature. The proposed development meets the relevant zone objectives of the LEP.

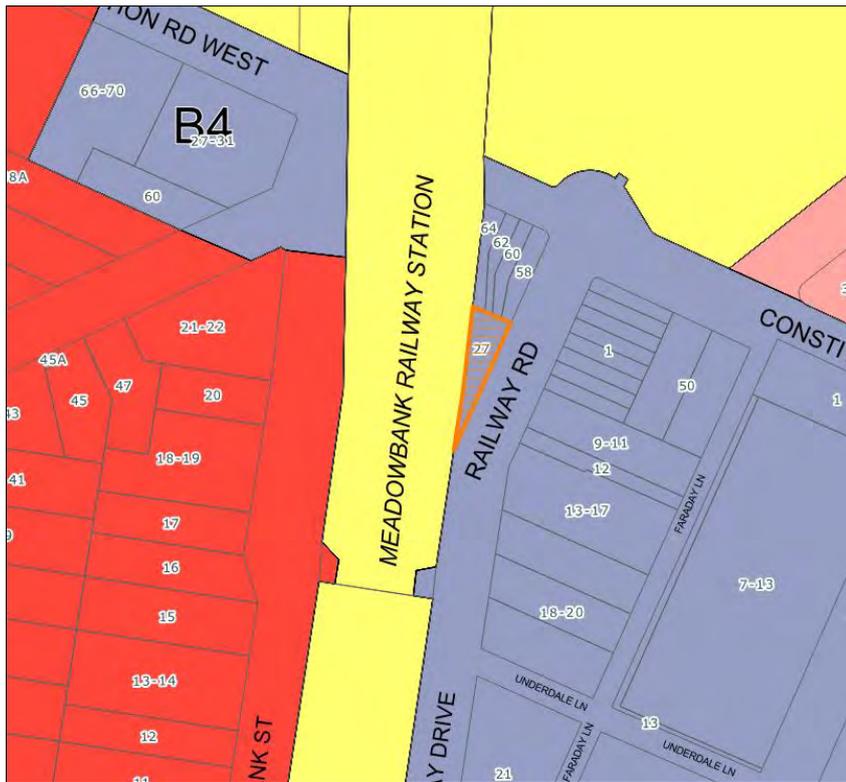
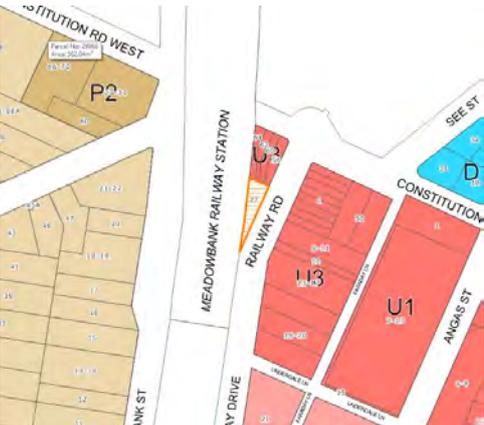


Figure 17 B4 Mixed Use Zoning Map

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

Clause	Proposal	Compliance
4.3(2) Height of Buildings		
9.5m	10.25m	No
4.4(2) Floor Space Ratio		
<p>No maximum FSR applies to the development site. Figure 18 below shows the site as referenced by the LEP Floor Space Ratio Map below.</p>  <p>Figure 18 FSR and no standard</p>	<p>On merit, the objectives of the FSR standard are as follows:</p> <p><i>(a) to provide effective control over the bulk of future development,</i> <i>(b) to allow appropriate levels of development for specific areas,</i> <i>(c) in relation to land identified as a Centre on the <u>Centres Map</u>—to consolidate development and encourage sustainable development patterns around key public transport infrastructure.</i></p> <p>The development is not inconsistent with the relevant objectives. The development is of an appropriate bulk for the site. As demonstrated throughout this report, the development proposes a built form which is not inconsistent with the emerging character and desired future character of the Meadowbank Urban Village Centre.</p>	Yes

Clause	Proposal	Compliance
	<p>The built form results in quality amenity to future users of the development with an accessible ground level café with outdoor dining and with attractive upper level commercial tenancies. The development adopts appropriate building setbacks to minimise its impacts onto adjoining developments. The development is appropriate for the reasons discussed throughout this report.</p>	
<p>4.6 Exceptions to development standards</p>		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>The proposal has a height of 10.34m and a variation of 8.4% sought to Clause 4.3(2). Refer to the discussion below.</p>	<p>Yes</p>
<p>5.10 Heritage Conservation</p>		
<p>Clause 5.10 is applicable and subclause 5 states the following:</p> <p>(5) Heritage assessment <i>The consent authority may, before granting consent to any development—</i></p> <p><i>(a) on land on which a heritage item is located, or</i></p> <p><i>(b) on land that is within a heritage conservation area, or</i></p> <p><i>(c) on land that is within the vicinity of land referred to in paragraph (a) or (b),</i></p> <p><i>require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.</i></p>	<p>There is one local heritage item in the vicinity of the site, being the Meadowbank shops at Nos. 58–64 Constitution Road (Item 37).</p> <p>A Heritage Impact Statement (HIS) has submitted and the report made the following concluding comments as follows:</p> <p><i>“The proposed design for a three storey, Commercial development prepared by Curzon + Partners Architects is sympathetic to the adjacent Meadowbank shops through the sensitive visual and physical transition between the two, in both the separation of the buildings and in the careful articulation and materiality of the façade.</i></p> <p><i>The siting of the proposal does not obscure any of the primary views of the Meadowbank Shops, and so the appreciation of the significance of the heritage item is retained and conserved.</i></p> <p><i>The architectural character and detailed fenestration of the new building has been strongly influenced by the proximity of the Meadowbank Shops, specifically in the proportions of the architectural design of</i></p>	<p>Yes</p>

Clause	Proposal	Compliance
	<p><i>the facade. The awning relationship supports the expansion of an active retail edge, which in turn is a continuum from the existing retail shop frontage that turns the corner onto Railway Road. The rhythm of the vertical façade elements, along with the overall height of the building, reference the proportions established by the brick pilasters and bay windows on the row of heritage shop buildings. The outcome is that whilst a contemporary design, it sits comfortably alongside the heritage building in the streetscape.</i></p> <p><i>The visual impact and proximity of the new building to the adjacent heritage item has an acceptable heritage impact.”</i></p> <p>The proposal has been considered by Council’s Heritage Advisor who considers the proposal to be acceptable subject to recommended Conditions 54, 171 and 172. The proposal does not adversely affect the heritage item’s setting and heritage significance, consistent with the provisions of Clause 5.10 of the RLEP 2014.</p>	
6.1 Acid Sulfate Soils		
<p>(1) The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.</p>	<p>The site is mapped as potentially containing Class 5 acid sulfate soils. However, there is no excavation below RL 1m AHD and no further assessment with regard to acid sulfate soils is required.</p>	<p>Yes</p>
6.2 Earthworks		
<p>(1) The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.</p>	<p>A Geotechnical Investigation Report has been submitted where it outlined existing ground conditions and method for excavation. Stormwater plans have also been submitted which indicate that there will be no significant adverse drainage impacts. Any excavated materials would be reused on site where possible. The Geotechnical Report indicates that earthworks can be undertaken without adversely impacting neighbouring properties. Dilapidation surveys for neighbouring properties can be imposed as conditions of consent. All excavated material will be disposed of in accordance with the relevant requirements. It is unlikely that the</p>	<p>Yes</p>

Clause	Proposal	Compliance
	<p>proposed excavation will disturb any relics.</p> <p>If, during excavation works, relics are encountered, excavation works will cease until the relevant authorities have been notified in accordance with the relevant guidelines. No groundwater was encountered on site. Noise, vibration and dust controls are recommended to ensure that any adverse impacts from the proposed excavation will be minimised. Council's Development Engineer has assessed the proposal and raised no objections subject to conditions. As such, the development is consistent Clause 6.2 of the LEP.</p>	
6.4 Stormwater Management		
<p>(1) The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.</p>	<p>Relevant stormwater plans have been submitted which include details of rainwater tanks proposed and implementation of a stormwater management system to minimise any adverse impacts of stormwater runoff on adjoining properties and on any bushland or receiving waters. Council's Development Engineer has assessed the proposal and raised no objections subject to conditions. As such, the development is consistent with the requirements of Clause 6.4.</p>	<p>Yes</p>

Clause 4.6 Exceptions to Development Standards

The development contravenes Clause 4.3(2) of RLEP 2014, which established a maximum building height of 9.5m. The proposal results in a height of 10.34 metres and does not comply with the development standard. The proposal represents a 8.4% variation to the standard. The applicant indicates the height variation is 10.25m.

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

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

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

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

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

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

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

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

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);

- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

The applicant has submitted a Clause 4.6 request prepared by Planning Ingenuity and dated 19 October 2021 (**Attachment 4**) to vary the development standard. The variation occurs primarily relates to the lift overrun structure located centrally on top of the roof of the building and including minor portions of the roof form (**Figures 19 and 20**).

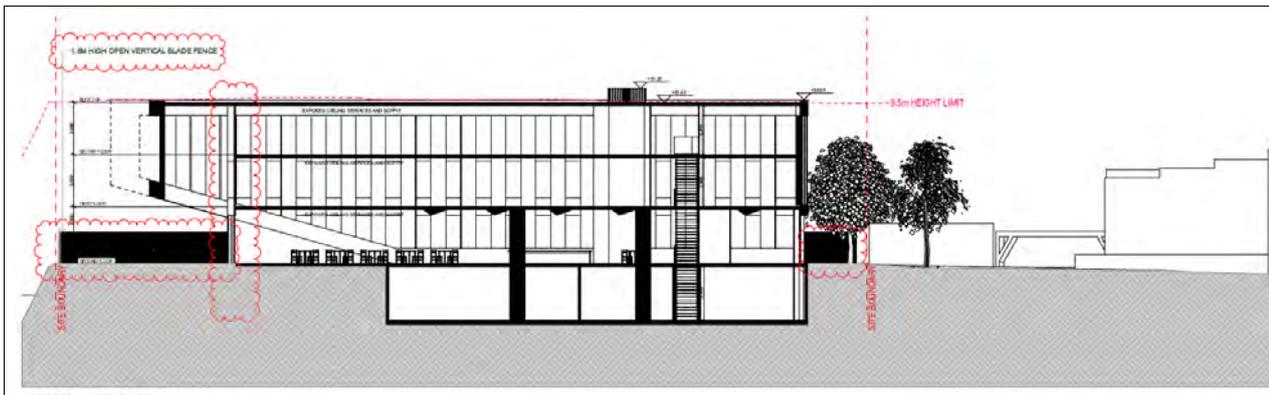


Figure 19 Section through proposed building (red line indicates maximum permitted building height)

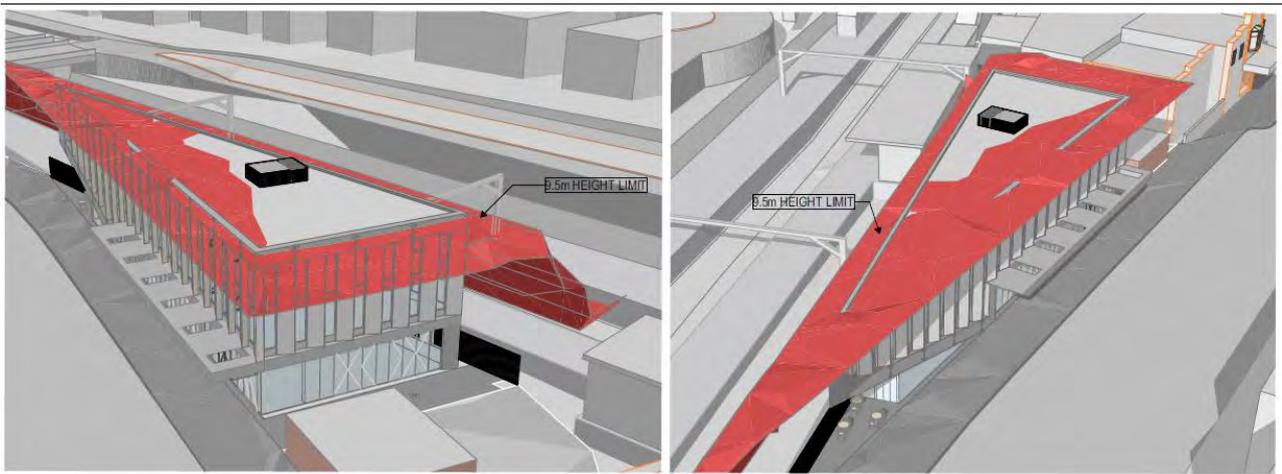


Figure 20 Height plane showing areas of exceedance

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

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

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

Unreasonable and unnecessary

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

- *Compliance with the building height development standards is considered to be unreasonable and unnecessary as the objectives of those standards are achieved.*
- *The proposed development would be compatible with the size of the subject site and its surrounding built and natural environment.*
- *Despite the height non-compliance, the proposed development will not give rise to significant adverse overshadowing impacts on neighbouring properties, over and above those created by a compliant development.*
- *Due to the orientation of the site, the majority of shadows cast by the proposed development fall on the adjoining railway corridor and street between 9am and 3pm on 21 June.*
- *Thus, the level of overshadowing caused by the development is consistent with that which is reasonably expected by the building envelope controls that apply to the site and will not adversely impact existing levels of residential amenity on neighbouring sites.*
- *The proposed development utilises a small and highly constrained site to provide a high-quality commercial development in close proximity to Meadowbank Railway Station.*
- *The development provides a significant uplift in employment generation on the site and is 'car free', in a location with excellent access to public transport.*
- *The proposed development does not result in any unreasonable adverse amenity impacts on neighbouring properties.*
- *The development has been designed to not adversely impact levels of visual and acoustic privacy, and outlook for neighbouring residences.*
- *The development follows the alignment of Railway Road, with a zero setback provided the building. Level access is provided from the street to emphasise this road frontage. Ground floor uses activate the street and the development includes opportunities for outdoor dining which will further enhance the road corridor.*

Assessment Officer's Comments:

The proposal achieves the objectives of Clause 4.3 despite the height exceedance. The proposal is in keeping with the character of nearby development, minimises overshadowing and is compatible with and improves the appearance of Meadowbank. The proposal does not result in any adverse amenity impacts upon surrounding properties. The proposed development provides for an alternative means of satisfying the objectives of the standard other than compliance and therefore strict compliance with the standard would be unnecessary given the objectives are achieved anyways and unreasonable as no purpose would be served. The applicant has demonstrated that the compliance with the development standard would be unreasonable and unnecessary.

Environmental planning grounds

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

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

- *The non-compliance is numerically minor, being a maximum of 0.75m (7.9%) above the 9.5m height limit for the lift overrun which is located centrally within the building.*
- *The encroachments above the maximum building height allow for the redevelopment of a highly constrained and difficult site.*

- *Despite the numerical height non-compliance, the development provides a scale and form of development that is compatible with surrounding developments and the emerging character of the Shepherd's Bay, Meadowbank precinct.*
- *The design of the development carefully considers surrounding built context, including heritage assets in the locality.*
- *New developments within the precinct generally comprise of solely residential developments with no non-residential uses on ground level (despite the B4 Mixed Use zoning). In contrast, the proposed development includes a development that is entirely made up of non-residential land uses.*
- *There will be no adverse impacts on solar access to neighbouring properties as a result of the non-compliances. The proposed development will not give rise to additional adverse impacts on solar access to neighbouring private open space or living areas between 9am and 3pm on 21 June, consistent with the relevant provisions under the RDCP 2014.*
- *The height breach does not result in any additional adverse amenity impacts on neighbouring properties. Compliant building setbacks and separation have been provided in accordance with the RDCP 2014 requirements.*
- *The height breach does not result in any adverse view impacts, including public or private views available across the site.*
- *The proposed development meets the objectives of the development standards and meets the objectives of the B4 Mixed Use zone.'*
- *The proposed development achieves the objects in Section 1.3 of the EP&A Act.*
- *The development facilitates ecologically sustainable development by providing much needed, well designed commercial/retail floor space in an appropriate and highly accessible location.*
- *The proposal promotes the orderly and economic use and development of land through the redevelopment of a difficult, constrained and underutilised site for an appropriate commercial development.*
- *The development will not prejudice the heritage significance and setting of heritage items in the vicinity of the site.*
- *The development has been designed to be compatible with the surrounding built form and despite the height non-compliance, will not adversely impact neighbouring amenity.*

The additional height will facilitate a high-quality commercial development with excellent amenity that does not prejudice the character or appearance of the local streetscape or levels of residential amenity enjoyed by neighbouring properties.

Assessment Officer's Comments: The site has a gentle cross fall south to north in addition to east to west. The height exceedance occurs at the north western corner of the building at the low point of the site. The roof form results in a maximum height of 9.77m which will not be discernible from the public domain, given the separation distances between buildings. The lift overrun results in the maximum height of 10.34m. The height breach associated with the lift overrun occurs as a result of the necessary clearance heights for lifts and it not considered given its central location to adversely impact upon adjoining properties or the streetscape.

The proposed ground floor level of RL21.10 which is consistent with the public domain works along the northern and eastern frontage of the building establishes the levels throughout the building. The proposal utilises appropriate floor to ceiling heights to achieve internal amenity for occupants which contributes to the height exceedance. The proposal utilises a specific design response to achieve a sympathetic relationship with the adjoining heritage item and the concrete parapet results in the height exceedance of the roof form.

It is not considered to be a unreasonable departure from the standard and does not adversely contributes to the impacts upon any surrounding development including the adjoining heritage item. The development is compatible with the lower scale of built form adjacent to the station and with the new higher density developments to the east.

There are sufficient environmental grounds to justify the proposed variation to the height control.

Is the proposal in the public interest?

Pursuant to clause 4.6(4)(ii), a development will be in the public's interest if it is consistent with the objectives of the development standard and also the zone objectives in which the particular development is carried out. The objectives of Clause 4.3 are as follows:

4.3 Height of buildings

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

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

The proposal is in keeping with the character of nearby development, minimises overshadowing and is compatible with and improves the appearance of Meadowbank. The proposal does not result in any adverse amenity impacts upon surrounding properties.

The proposal is consistent with the public interest as required by Clause 4.6(4)(a)(ii) for the following reasons:

- The development is consistent with the objectives of the standard and zone as required by Clause 4.6(4)(a)(i).
- The proposal achieves the objectives of the standard as required by Clause 4.6(3)(a).
- There are no unreasonable impacts that will result from the proposed variation to the building height.
- There is no public benefit in maintaining strict compliance with the development standard in this instance. Whilst the proposed building height exceeds the maximum permitted on the site, the proposed development is consistent with the objectives of the development standard and the zone objectives in which the development is proposed to be carried out.

- It is the proposed development's consistency with the objectives of the development standards and the objectives of the zone that make the proposed development not to be contrary to the public interest.

Summary

The applicant has submitted a Clause 4.6 written request that seeks to justify contravention of the development standard Clause 4.3(2) Height. Pursuant to Clause 4.6(3)(a) of RLEP 2014, the written request has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard, as required by Clause 4.6(3)(b).

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

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

Accordingly, the proposal variation is supported.

5.4 Draft Environmental Planning Instruments

There are no relevant draft Environmental Planning Instruments for consideration.

5.5 Ryde Development Control Plan 2014

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

- Part 4.2 – Shepherd's Bay, Meadowbank
- Part 7.1 – Energy Smart, Water Wise
- Part 7.2 - Waste Minimisation and Management
- Part 8.1 - Construction Activities
- Part 8.2 - Stormwater and Floodplain Management
- Part 8.3 – Driveways
- Part 8.4 – Title Encumbrances
- Part 8.5 – Public Civil Works
- Part 9.2 - Access for People with Disabilities
- Part 9.3 – Parking Controls
- Part 9.5 – Tree Preservation

With regards to Parts 7.1 to 8.5 and 9.5, noting the advice received from the various technical departments within Council (see referral comments section of this report and other sections of this report that addresses these matters) and the consideration of issues previously elsewhere in this report, the proposal is satisfactory in relation to the above matters. A full assessment of Part 9.2 and 9.3 has been included in **Attachment 2**. The following section details any variations to the DCP controls.

PART 4.2 – SHEPHERD’S BAY, MEADOWBANK

The development is subject to the provisions of Part 4.2 Shepherd’s Bay, Meadowbank under the RDCP 2014. A full assessment of the proposal under DCP 2014 is illustrated in the compliance table at **Attachment 2**.

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

Section 4.1.5 Landscaping and Open Space

The proposal is non-compliant with (d) and (h). Control (d) requires all existing mature trees that enhance the quality of the area to be retained. The proposal includes the removal of five (5) trees from site. This includes three (3) species which are exempt, one (1) Black tea-tree due to it being located within the building footprint and the fifth tree is less than 5 metres in height and not considered to be significant. The proposal includes the provision of replacement plantings which is considered to be acceptable.

Control (h) requires where appropriate, development should incorporate landscaping such as planter boxes into the upper levels of the building. The proposal does not include landscaping in the upper levels of the development. The proposal includes landscaping works at ground floor only. Given the commercial use and small scale this is considered to be a reasonable response to landscape design.

Section 4.2.1 Height

The proposal results in a maximum height of 10.34m and exceeds the development standard of Clause 4.3(2) of RLEP 2014 contrary to control (a). The proposal has been supported by a written request pursuant to Clause 4.6 which is considered to be satisfactory as discussed earlier within this report.

The proposal does not provide for the required 4m floor to ceiling height at ground floor. The proposal provides for a 3.3m floor to ceiling height and is contrary to control (c). Despite the floor to ceiling height it provides for the desired level of internal amenity for occupants. The variation was also considered acceptable by the UDRP. As the site does not adjoin other developments, this non-compliance will not be readily apparent by pedestrians.

Section 4.4 Parking Access and Loading

The proposal does not provide for on site loading/unloading facilities and is contrary to (a). The location of loading facilities is to ensure there are no adverse impacts upon vehicle movements within the street. The proposal due to its size and irregular shape does not provide for off street parking or loading facilities on site. The proposal seeks to have collection occur on Railway Road which is supported by Council’s Senior Development Engineer, Public Domain Engineers and Waste Management Officer.

Section 5.1 Precinct 1 – Station

Control (d) requires a minimum height of awnings to be 3.2m. The proposal includes a 2.8m high awning and is non-compliant. The purpose of the height is to enable street tree planting as required under the Public Domain Design Manual. The proposal provides for two (2) street trees at the at the south eastern corner consistent with the requirements. Additionally, the subject site is detached and isolation from surrounding built form and therefore, the modification to the awning height will not have greater implications for the public domain given the site's positioning. Therefore, the proposal is considered to be acceptable.

Part 9.2: Access People with Disabilities

A BCA Compliance and Access Reports have been submitted with the application which demonstrates the proposal would be capable of complying with the relevant accessibility standards. A lift between all levels and a continuous accessible level pedestrian access from the footpath areas from Railway Road to the entrance of the development would be provided for under the subject application. Appropriate access to the proposed lift is also provided for. The proposal is satisfactory in relation to compliance with Part 9.2 of the DCP.

Part 9.3: Car Parking

Clause 2.3(a) requires car parking spaces for non-residential land uses to be provided on-site in accordance with the following requirements as follows:

- Office/Commercial: 1 space / 40m² GFA
- Retail Premises: 1 space / 25m² GFA

The development requires the following quantum of parking:

- 407m² of commercial GFA = 10 spaces
- 112m² of retail (café) GFA = 5 spaces

Total parking spaces required is 15 spaces. Due to the constrained irregular shape of the allotment, no car parking is provided on site. The parking non-compliance is acceptable on merit for the following reasons as follows:

- The site is highly constrained, being only 342.6m² in area and having a triangular shape that is a maximum of 14.5m wide and narrows to a tip point at the southern end of the site. This makes it difficult to provide car parking or vehicle access on the site with the required manoeuvring and spaces which are compliant with AS2890.1
- The site has excellent access to public transport being located adjacent to Meadowbank Railway Station and bus stops that provide high frequency services to surrounding suburbs and centres, the Sydney CBD, and the wider Sydney region. Meadowbank Ferry Wharf is within 550m walking distance of the site.
- The development is for a small-scale commercial development including a small retail café and upper level commercial tenancies. It is anticipated that future

occupants and visitors to the development will access the site predominantly by public transport and not by private motor vehicle.

- Six (6) bicycle parking spaces are provided on site for use of future occupants and visitors, which is in-excess of the requirement under RDCP 2014 where the DCP requires two (2) spaces (i.e. 10% of the required 15 car parking required for floor space exceeding 600m² under Clause 2.7(a) of the DCP). End of trip facilities are also provided at basement level in accordance with Clause 2.7(g). This will encourage bicycle travel to the site.
- The development includes the removal of two (2) existing vehicle crossovers that access the site. This will result in an additional on-street spaces being provided.

The proposed car parking shortfall is supported in this instance by both Council's Traffic Engineer and Senior Development Engineer. The proposed development would have no significant adverse impacts on the traffic and parking environment in the locality. The provision of a 'car free' development in this location would not be inconsistent with relevant strategic transport policies which seek to reduce the reliance of private vehicles in key centres with public transport connections.

5.6 Planning Agreements OR Draft Planning Agreements

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

5.7 City of Ryde Section 7.12 Fixed Rate Levy Development Contributions Plan 2020

The *City of Ryde Fixed Rate Levy (Section 7.12) Development Contributions Plan 2020* (Fixed Rate Plan) applies to non-residential development outside of the Macquarie Park precinct that propose an increase in GFA. The Fixed Rate Plan imposes a 1% levy on the construction value of all non-residential development consents for developments over a \$350,000 construction value threshold. The cost of works amounts to \$2,007,345.00 and the amount payable would be \$20,443.31. A relevant condition on the payment of the Section 7.12 Contribution has been included.

5.8 Any matters prescribed by the regulations

Environmental Planning and Assessment Regulation 2021

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. Standard conditions are recommended relating to compliance with BCA and AS.

6. The Likely Impacts of the Development

The assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development and its location. All relevant issues regarding environmental impacts of the development are discussed elsewhere in this report (see DCP 2014). The development

is considered satisfactory in terms of environmental impacts. Specific discussion of impacts not elsewhere discussed is provided below:

Urban Design Review Panel

Pre-Development Application Comments

Whilst the proposal is for a commercial building, the Urban Design Review Panel (UDRP) had assessed the pre-DA plans against the Apartment Design Guide (ADG), the relatively universal State Environmental Planning Policy (SEPP) 65 – Design Quality of Residential Flat Buildings design principles form a useful basis for assessment of the proposal.

SEPP 65 Requirements	UDRP Comments	Applicant's Response	Assessment Comments
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.</p> <p>Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood.</p> <p>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The site is located close to the traditional retail centre of Meadowbank, adjacent to a heritage listed row of shops and close to Meadowbank station.</p> <p>The eastern side of the rail corridor is an urban renewal precinct that is well-advanced through the process of change. To the north of the site lies the Meadowbank TAFE site, which is also undergoing transformation to intensify education uses.</p> <p>The assembly of smaller, fine-grained buildings close to the station retain a traditional low-scale character that is important to the sense of place associated with Meadowbank Station.</p> <p>The Panel supports the proposed uses, scale and strong formal characteristics of the proposal. Subject to some minor comments and recommendations outlined in this report, the Panel is very supportive of this small, characterful commercial building, which has the potential of providing a strongly identifiable architectural expression of high quality at the heart of the Meadowbank precinct.</p>	<p>Noted</p>	<p>The proposed use, scale and characteristics of the development are supported</p>
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height</p>	<p>The built form and scale of the proposal emerges from the unusual triangular site geometry and a careful</p>	<p>Noted – the proposed easement has been incorporated</p>	<p>The proposed building has been redesigned in a manner to be</p>

<p>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>relationship being struck with the nearby heritage shops, which reflects heights and rhythms derived from a close analysis of these heritage buildings.</p> <p>An existing easement runs along the northern site boundary, which appears to provide access to the rear of the existing heritage shops. The proposal observes this easement at ground level and then cantilevers above.</p> <p>The Panel supports the proposed formal composition, noting the onus falls upon the applicant to demonstrate that the easement is properly maintained volumetrically.</p> <p>At the southern, sharp corner of the site, the proposed building lifts and cantilevers to offer greater transparency and drama at street level in this location. The Panel supports this built form composition.</p>	<p>into the design through the provision of the access road.</p>	<p>completely outside of the ROC and the ROC would be maintained</p> <p>The proposed design composition of the building is supported on this basis</p>
<p>Density</p> <p>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</p> <p>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</p>	<p>The proposal is consistent with the observable density in the vicinity and is supported by the Panel.</p>	<p>Noted</p>	<p>The proposal is consistent with the observable density in the vicinity</p>
<p>Sustainability</p> <p>Good design combines positive environmental, social and economic outcomes.</p> <p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and livability of residents and passive thermal design for ventilation, heating and</p>	<p>The Panel supports the design strategies to maximise natural light and ventilation noting that the scheme relies upon access to light and air across the western and northern boundaries.</p> <p>The ability of the proposal to benefit from light and air to the north and west needs to be confirmed by the proponent, along with any</p>	<p>Noted</p> <p>An Energy Efficiency Assessment is not required for developments with less 1,500sqm of GFA.</p> <p>A Section J report would be provided prior to the issue of</p>	<p>The proposal is supported on the basis that there would be the maximisation of natural light and ventilation to all facades</p> <p>A Section J report is required to be submitted prior to CC and is</p>

<p>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>associated fire protection issues. But with these technical matters resolved, the Panel supports the objective of presenting a building 'in the round' and one that ideally has operable fenestration to all facades.</p> <p>Further detail is required to confirm how any mixed mode mechanical system might work and what other sustainability targets might be accommodated within the project - water and energy efficiency in particular.</p>	<p>the Construction Certificate (CC) to deal with water and energy efficiency and would be subject to a condition of consent</p>	<p>recommended to be imposed as a condition – see Condition</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, equitable access, respect for neighbours' amenity and provides for practical establishment and long-term management.</p>	<p>The Panel supports the general landscape design strategies evident in the architectural drawings, but notes that a landscape architect should be involved to confirm street tree species and spacings, along with the details of any proposed public domain works, including the treatment of the ground level easement along the northern boundary.</p> <p>The Panel notes the awkward location of one tree portrayed in the 3D imagery and would seek this be omitted and coordinated with the landscape architect's work.</p>	<p>Noted</p>	<p>The proposed landscape design is supported</p>
<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living</p>	<p>The Panel supports the resulting amenity provided by the proposal. The configuration of the ground level retail uses and their access to outdoor space along Railway Road and along the northern easement is positive.</p>	<p>Noted</p>	<p>The proposal is supported on the basis that it provides the opportunity for outdoor dining and the overall amenity of the commercial</p>

<p>environments and resident well-being.</p> <p>Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.</p>	<p>Subject to earlier comments, the commercial spaces at levels 1 and 2 benefit from good amenity as a result of natural light and outlook, and from the ability to naturally ventilate the building when environmental conditions are favourable.</p>		<p>spaces are satisfactory</p>
<p>Safety</p> <p>Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	<p>The Panel is supportive of the general configuration of the proposal as it addresses Railway Road and as a building providing passive surveillance 'in the round'.</p> <p>The proponent should confirm the management and operational regime proposed for the northern easement to ensure conflicts between service vehicles and pedestrians are avoided, and to ensure this space is safe and secure out of operational hours.</p>	<p>The access road (ROC) on the northern side of the site would be accessible at all times, with the existing vehicle crossover being retained</p> <p>Hard surfacing is proposed to the access road has been designed to differentiate the access road from the adjacent public domain</p>	<p>The proposal is supported as the ROC would remain unaffected</p>
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>Not applicable</p>	<p>N/A</p>	<p>N/A</p>

<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>The Panel is supportive of the emerging architectural character and expression proposed for this building, noting it has the potential to deliver a high design quality.</p> <p>The Panel notes the material palette draws on brick in a slim format with raked joints. This is supported and should be committed to through the provision of details and samples.</p> <p>The Panel encourages the use of a brick with a more saturated colour - not to replicate the strong orange colour evident in the heritage buildings - but to differentiate the brick elements from the white roughcast rendered concrete elements elsewhere in the proposal whilst tying into the streetscape more generally.</p> <p>The Panel notes the apparent visual weight and 'heft' of the cantilevered awning along Railway Road and encourages the further investigation and refinement of this awning element to mitigate against possibly undue visual mass.</p>	<p>A combination of off form concrete (to horizontal components) and Bowral brown brick (to vertical components) have been incorporated into the design to differentiate the development from the adjacent heritage item/s and allow the building to sit comfortably within the streetscape</p> <p>The scale and design of the awning has been reduced and refined</p>	<p>The proposed design of the building including its colours and finishes are supported in this instance</p>
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The Panel stated that if the recommendations as discussed above are addressed and are satisfactorily resolved, the Panel supports the DA proposal. It is considered that the amended DA scheme has addressed the above recommendations satisfactorily and approval is recommended subject to conditions.

Meadowbank Education and Employment Precinct Master Plan

The Meadowbank Education and Employment Precinct Master Plan (MEEP) prepared by the Greater Sydney Commission was finalised in July 2020. The MEEP identifies ideas for improved public spaces, green streets, transport and accessibility options, local heritage consideration, and enhanced employment opportunities within the Meadowbank precinct, which includes the subject site.

The proposed development is generally consistent with the exception that under the Stations Centres section of the masterplan it is envisaged that the subject site would combine a future development with the adjoining properties to the north at Nos 58-64 Constitution Road and new plaza with outdoor dining at the southern end of the subject site however such an outcome could only be achieved through consultation by the relevant landowners which has not occurred in this instance (**Figure 21**).



Figure 21 Artist sketch of possible activation around Meadowbank Station Source: Figure 8 of Meadowbank Education and Employment Precinct Master Plan

Further, it was envisaged that there be a new pedestrian connection to the platform of Meadowbank Station. This is unlikely to occur unless the pedestrian connection occurred over the existing ROC area however it could only occur with the agreement of the adjoining landowners. Despite the above realities involved to require a combined redevelopment to occur, it is considered that the proposal would still contribute positively to the outcomes envisaged in Section 3 of the MEEP by:

- Enhancing the current pedestrian environment around the site to Meadowbank Station.
- Providing high quality commercial uses in an accessible location close to Meadowbank Station.
- Providing employment generating floor space to support local jobs and businesses given that new developments so far in the precinct have been predominantly residential in nature.
- Providing a development that will support and enhance the local community and provides still provide opportunities for outdoor dining purposes within the proposed café usage.

- Developing a relatively undeveloped site to increase employment opportunities in the locality.

Economic & Social Impacts

The proposal will have positive economic impacts. Construction works will have short-term positive economic impacts through employment generation. Following construction, the provision of new commercial/retail floor space will provide new jobs in the locality. The proposal is considered to have positive social impacts. The provision of employment generating floor space in an accessible location in proximity to a train station and bus stops will encourage reliance on public transport.

Redevelopment of an underutilised and constrained site with a high-quality modern commercial building including public domain improvements will also add to the character of the Meadowbank precinct without significant adverse off-site impacts.

7. Suitability of the Site for the Development

The site is zoned B4 Mixed use. The proposal is for a commercial building. The assessment has demonstrated the proposal is consistent with the statutory requirements and policy controls. The assessment demonstrates the proposal will not result in any significant adverse impacts upon adjoining properties or the streetscape. The proposal is an appropriate development and this has been demonstrated in this report. The proposal is considered to be suitable for the site.

8. The Public Interest

The proposed development would redevelop a constrained site and will provide a modern commercial building that is compatible with surrounding buildings. The development will provide commercial floor space in the locality that meets needs of the local community. The proposed development will provide commercial floor space that is compatible with the character of development and land uses within the locality or the B4 zone.

The proposed development is consistent with the desired future character of the Shepherd's Bay, Meadowbank precinct, providing a commercial development close to Meadowbank Railway Station and bus stops to encourage employment, educational, community and recreational activities. It would also include outdoor dining and public domain improvements. The proposed development has also been designed to minimise any significant adverse impacts on surrounding developments. The 'car free' design intent of the development will encourage public transport use and would not be inconsistent with the aims of the City of Ryde Integrated Transport Strategy (2016-2031).

The proposed development will provide job opportunities for small businesses to be commenced on the subject site. As such, the proposed development would not be contrary to the public interest

9. Submissions

In accordance with DCP 2014 Part 2: Community Participation Plan and Procedure, the owners of surrounding properties were given notice of the application between 1 November 2021 and 22 November 2021. A total of twenty-four (24) unique submissions including representation from The Hon. Victor Dominello MP were received objecting to the development.

The submissions raised the following concerns:

Inadequate Infrastructure

Comment: The proposed development would not adversely add to the strain on existing infrastructure due to the small-scale nature of the development. The potential cumulative traffic impacts resulting from the proposal has been assessed to be satisfactory in this instance due to proximity of the subject site to existing public transport infrastructure available within the precinct.

The proposal would not bring in an oversupply of commercial uses to the locality which would unnecessarily add to the strain on existing or future infrastructure and it would not

be inconsistent with the requirements of the Shepherd's Bay, Meadowbank DCP and further what is being envisaged under the Meadowbank Master Plan.

Oversupply of Development Applications in Area

Comment: The development of this already undeveloped and relatively small site would not further exacerbate any relevant current concerns being experienced in the precinct or into the future. Each Development Application lodged within the boundaries of the precinct would need to be assessed and ultimately determined on their own merits. The proposal would offer an appropriate service to the precinct and its community. An appropriate non-residential contributions levy would be applied to ease pressure on the transport, civic and urban infrastructure in relation to footpath improvement and public domain upgrades within Meadowbank to be funded over the next few years.

Traffic Congestion

Comment: The proposed three-storey built form on this site is reasonable in this instance and would not be inconsistent with the built form currently allowed for on the subject site and what is envisaged for the immediate locality. There is no residential development associated with the subject proposal and approval of the development would not contribute to the number of new residents rather it would provide an ancillary day to day service to its residents. The proposed development will not remove existing on-street carparking and it could potentially increase the number with its proposed deletion of the site's two existing crossovers into the existing car park area on the site.

Given that the development does not provide any onsite car parking, it will not contribute to peak hour traffic congestion. The lack of car parking will encourage occupants to use public transport.

The subject site is not zoned for public open space and is not envisaged to be so. Railway Road would not be closed to enable construction of the proposal and the developer would need to have an appropriate traffic construction management plan in place to ensure construction does not adversely impact on the existing road network.

Council should prioritise development and restoration of existing buildings

Comment: The subject development application relates to No. 27 Railway Road and does not include the adjoining heritage item. Council cannot require the restoration of the heritage buildings.

Overdevelopment with no infrastructure

Comment: It is not considered that the proposed development would represent an overdevelopment for the precinct. The development would not significantly contribute to traffic overwhelming the Meadowbank locality. As discussed earlier in this report, it has been demonstrated that the small-scale commercial nature of the development would not result in a high demand for the use of private vehicles as future users would likely access the site using public transport.

The development would contribute positively to the local community by encouraging the start-ups of new small businesses and would provide for a sense of belonging by providing

appropriate services to its residents. Again, the proposed development across the street will be determined on its own merits.

Over-Crowding and Accessibility

Comment: The small-scale nature of the development will not add to overcrowding and the development would improve levels of accessibility in or around the subject site given the requirement for the development to comply with relevant Australian Standards relating to accessibility. There is no anecdotal evidence that the proposal would result in adverse economic impacts on surrounding businesses.

It is expected that an older established area such as Meadowbank would go through changes with construction of new buildings and the proposed café on the ground level would reinforce the residents request in maintaining this sense of community.

Right of Carriageway and adjoining properties losing parking and access to shops

Comment: The existing ROC will be maintained by the proposed development for continued access to the relevant adjoining properties. The applicant is not seeking to remove this benefit in any way and all building works are clear of the ROC. The applicant would be improving this access by improving its appearance by proposing to include new paving works. All existing other benefits such as parking, bin service and fire exits currently enjoyed by the adjoining owners would be maintained. It is expected that during the construction phase that there could be some minor short-term impacts however this could be effectively managed by the developer in consultation with the relevant parties involved.

Undersized and Development Potential of the Site

Comment: The proposal would have no negative impacts on how the area would ultimately be developed. The proposal would not affect how customers would gain access to other businesses in the area as current access or parking arrangements would be maintained. The subject site is a private owner and it is open for the current owners to lodge a Development Application for its potential redevelopment should they wish to pursue such an option. The subject Development Application has been supported with submission of a survey plans which indicates the size and dimensions of the subject site including the location of the ROC.

Based on what is envisaged under the Meadowbank Masterplan, the applicant would be encouraged to approach relevant owners to construct a future combined development on the subject site and the adjoining properties to the north although it being a heritage item. At this stage, no agreement between the relevant owners have been reached regarding such a development.

Potential Impacts on Surrounding Properties

Comment: The proposed development would not have a significant adverse impact on the adjoining heritage item due to its design and building separation between the proposal and the item itself. The proposal has been successfully designed taking account of the site's constraints due to its small size being located adjacent to a heritage item and a railway line. Approval of the development would not unnecessarily add to any adverse cumulative parking, traffic and pedestrian safety matters. The addition of a new modern commercial

building as opposed to a tight informal car parking area would improve the visual amenity of the subject site and the immediate locality.

There are no significant sustainability concerns with the design of the building and would be designed to be in accordance with the requirements of the BCA.

Notification

The subject Development Application has been notified in accordance with Council's notification policy. A public notice sign is not required for a new commercial building and written notices were sent to relevant adjoining property owners for comment.

Extent of excavation

Comment: The proposed level of excavation involved to contain a basement for storage and services for a 3-storey commercial building is reasonable in this instance. It is noted the subject application has been supported by submission of a suitable geotechnical report which had concluded that the proposed excavation would not contain significant adverse impacts onto the subject site and on surrounding properties.

Inappropriate Design of Development

Comment: The scale of the proposed building is sympathetic to the adjoining heritage item and the proposed design has been supported with the submission of a Heritage Impact Statement. The proposed development would remove the current private parking on the subject site however the applicant is not obliged to continue to use the site for such a purpose. The applicant is only obliged to maintain the existing the ROC and tenants who are using these spaces would need to make for alternative arrangements. The ROC would still enable for continued deliveries or waste collection to the adjoining properties.

Site Suitability

Comment: The subject site is suitable for the proposed building as it is a permissible form of commercial development and the design of the building would not contain significant off-site adverse impacts. The site is also suitable due to its proximity to the train station which would reduce reliance on future users to arrive at the site in a motor vehicle. The proposal has been sensitively designed in a manner which ensures that it does not represent as an overdevelopment on the site and that would place unnecessary pressures on the immediate locality. The proposal would not be inconsistent to what has been envisaged for the subject site and the precinct.

Demolition of the heritage building

Comment: The subject development site is a separate allotment to the adjoining heritage item and there is no demolition of any heritage building to accommodate the proposed development. Approval of the proposed development would maintain the heritage character and fabric of the adjoining heritage item.

Unnecessary Development

Comment: No such notice is required in this instance. The subject site would be better utilised with the development of the subject proposal as it is currently relatively undeveloped and its development in the manner proposed would better represent as orderly development. The development would provide for an efficient economic use of the land for the current owners. Any disruptions that the development would occur could be appropriately managed.

Construction Impacts

Comment: The construction phase will be relatively short-term and a temporary arrangement. This phase can be appropriately managed by the developer in consultation with the relevant business operators to ensure the level of potential disruptions are minimised during this time. New developments ought to be encouraged during this Covid-19 pandemic related era. Any current business that would be adversely affected by Covid-19 is not a reason to refuse the subject application.

It is evident that concerns have been more related to other developments being proposed or recently developed and confusion with the nature or site details of the subject Development Application with the adjoining heritage item instead. Approval of the development would not alter current delivery arrangements for adjoining businesses. The site has a commercial zoning and is not zoned for public recreational purposes. The masterplan indicates that the site is to be used primarily for commercial uses.

10. Referrals

City Works -Traffic

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

Traffic Generation

The Guide to Traffic Generating Developments (GTGD) and its Technical Direction (TDT 2013/04a) specify the following traffic generation rates for commercial office and café land uses during weekday peak periods:

Office

AM Peak = 1.6 vehicle trips per 100m² GFA

PM Peak = 1.2 vehicle trips per 100m² GFA

Café

5 vehicle trips per 100m² GFA

Based on a proposed total commercial office GFA of 406.4m² and a café GFA of 112.1m², the proposed development is projected to introduce an additional 10 – 12 vehicle trips within the surrounding road network.

Parking Requirement

Part 9.3 of City of Ryde's Development Control Plan (DCP) specify the following parking rates for land uses pertinent to the proposed development:

Office & Business*1 space per 40 m² GFA***Café (Zoned for Business Activities)***1 space per 25 m² GFA*

Based on a proposed total commercial office GFA of 406.4m² and a café GFA of 112.1m², the proposed development is required to provide, at minimum, 15 off-street car parking spaces to comply with City of Ryde's DCP.

Traffic and Parking Implications

The following site/development characteristics are expected to assist in further reducing the abovementioned traffic and parking demand potentially generated by the proposed development:

- The site is located within close walking proximity to public transport (e.g. Meadowbank railway station is located to the immediate north of the site).
- The existing pedestrian infrastructure (e.g. footpaths provided along both sides of Railway Road/Constitution Road, a signalised mid-block crossing across Railway Road/Constitution Road) provides safe and efficient connectivity between public transport services and the site.
- The lack of off-street parking within the development site combined with short term parking within public roads in the immediate vicinity of the site means that people driving to the site who are staying for long periods (e.g. full time staff) would have to park further away from the site. This inconvenience can encourage more people to travel to the site by active and/or public transport as an alternative to driving.
- There is expected to be some linked and combined trips between the ground floor café and the commercial tenancies (e.g. office staff may choose to have eat at the café).
- The subject development proposes to provide six (6) bicycle parking spaces, showers and change rooms to encourage more people to cycle and walk to the site.

Based on the above discussion, the surrounding public road network is expected to be capable of accommodating the additional traffic and parking demand potentially generated by the proposed development without significant impact to the surrounding traffic and parking amenity. **Conditions 15, 67, 68, 155, 156, 184 and 185.**

City Works – Assets and Infrastructure

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

General comments

- This development application to City of Ryde Council is seeking consent for the excavation and construction of a commercial development with associated tree

removal and landscaping at No. 27 Railway Road, Meadowbank (also known as Lot A in DP27200). The development will comprise a three storey (plus basement) commercial building on the site allowing for five (5) commercial and one (1) café tenancies.

- A 3.05m wide Right Of Carriageway encumbers the northern end of the site. The proposal is to pave this whole strip with black granite and pink banding to differentiate the private land from the public land. Any access of vehicles will be through this ROC paved strip of land.
- No on-site parking is proposed for the new development due to the close proximity of public transport: train, bus, ferry.
- The development is subject to the standards and requirements of the **City of Ryde Development Control Plan DCP 2014 Part 4.2 Shepherds Bay, Meadowbank, Precinct 1 – Station Precinct**, and the **City of Ryde Public Domain Technical Manual PDTM Section 5 – Meadowbank**.
- The pavement of the footway is to be designed according to the requirements of the Public Domain Technical Manual, Section 5 - Meadowbank. Council has already upgraded the public footpath at the Railway Road frontage of the site to granite pavers. The proposal is to preserve and restore the already built granite footpath.
- The applicant is to provide suitably prepared engineering plans providing details that demonstrate the smooth connection of the proposed works with the remaining street scape. This will include relevant existing and design surface levels, drainage pit configurations, kerb details, etc.
- The proposal is to preserve the existing street trees along the Railway Road frontage. They are “*Fraxinus griffithii*” (Ash), marked with numbers 1-4 in the Arborist report and the advice is: they are in good health and to be preserved. They must have been planted relatively recently with the Council’s upgrade works.
- Since two of the three existing driveways in Railway Road will be made obsolete, additional space along the frontage can be made available to plant few more trees. After the 1st RFI the architectural plan DA008 showed additional two street trees to be planted.
- The Public Domain Technical Manual identifies “*Fraxinus griffithii*” (Evergreen Ash) and “*Fraxinus oxycarpa* ‘Raywood’” (Claret Ash) as the designated street tree for Railway Road frontage of the development. The exact type and position for any new trees is to be advised by the Landscape Architect – Development Assessment.
- The Stormwater Drainage is via RHS 150 x 75 x 4 into the kerb and gutter of Railway Road. The proposal is for an underground rainwater storage tank instead of OSD.
- All telecommunication and utility services are already placed underground along the Railway Road frontage.
- There are already two Multi-Function poles along the Railway Road, but not in front of this site. Subject to design, there may be a need for one MFP to be installed between the two existing Council MFP’s (Reference to be made to Council’s MFP schema plan).

- On many of the submitted drawings including the **Survey Plan** the road is noted as **Railway Parade** – the name needs to be corrected as **Railway Road**. This was corrected after the 1st RFI.
- Along half of the Railway Road frontage there will be awnings at 2.8m height from street level, not interfering with the existing street trees.
- Road Opening Permits will be required for any construction work on the road.
- There will be several hold points for inspections during the course of the construction in the public domain area.

The proposal is acceptable subject to the following **Conditions 16-21, 87 – 93, 120 – 128, 157, 188 – 200.**

Senior Development Engineer

The application was referred to Council's Senior Development Engineer who was satisfied subject to recommended conditions.

Stormwater Management

RFI items:

- *“The OSD design may be based on the detailed design methodology (PSD is to be limited to the 5yr ARI post-development runoff) considering that the development is mostly hardstand area.*
- *The DCP permits up 5,000L of rainwater storage to be offset from the detention storage. This excludes that required under BASIX.*
- *The OSD configuration may require the extension of the public drainage service in Railway Road to the site.*
- *Should the applicant wish to explore exemption from OSD, it is warranted that the stormwater consultant will need to demonstrate that runoff from the site will precede/ not coincide with the peak flood event where it discharges to the channel. The depth vs time information for this part of the storm network could potentially be provided Councils asset section by extracting it from the DRAINS model of the catchment (subject to fees / charges).”*

Development Engineer's response: The revised stormwater plan by Alpha Engineering showed a combined underground OSD/RWT which generally complies with Council's requirements.

The outlet from the proposed OSD/RWT is proposed to connect a new butterfly grated pit (within the frontage of the development site) and extend to the existing public drainage system which is found conceptually acceptable. Further detail regarding the stormwater works within Council's public domain will be assessed under S138 prior to CC.

Recommendation

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

The applicant has provided legal advice from a solicitor in supports of the proposed works within the existing Right of Carriageway. Development Engineering Services is generally in agreement with the applicants correspondence subject to conditions ensuring that:

- the enjoyment of the easement is maintained by a temporary access arrangement in place for the duration of works (noting the works are some 2-3 weeks in duration), and
- the beneficiary (ies) of the easement are given due notice of the works and channels of communication maintained during the works, to ensure any imposition on the beneficiary are minimal.

The proposal is acceptable subject to the following **Conditions 13, 14, 77, 79-85, 115- 119, 151 – 153, 176 – 181 and 210.**

Planner's comment: Clause 1.9A of RLEP, enables suspension of covenants, agreements and instruments for the purpose of enabling development under the RLEP.

Urban Designer

The amended proposal was considered by Council's Urban Designer, who said the proposal was acceptable subject to the following recommended Part 2 **Condition 1(a):**

Prior to the issue of a Construction Certificate, the landscape plans are to be amended to include a continuous raised planter along the western boundary where deep soil planting is not practically achievable. The planter is to accommodate a minimum soil depth and width of 500mm x 500mm to support landscape screen planting of at least 1000mm high at maturity. Outdoor seating with a seat height between 400mm to 500mm are to be integrated with the design of the planter in the outdoor café zone.

Heritage Advisor

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

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

- i) 'House' 1A Angas and 34 See Streets, Meadowbank (Item No.1116)
- ii) 'Sundin's Building' 58-64 Constitution Road, Meadowbank (Item No.137)

Statement of Cultural Significance:

The Statement of Significance for 'House' 1A Angas Street and 34 See Street, Meadowbank, is taken from the NSW State Heritage Inventory and is reproduced below:

'The detached dwelling pair is of local heritage significance for its historic, aesthetic and representative values as a pair of Victorian sandstone dwellings, demonstrating the 19th century subdivision and expansion of Ryde'

The Statement of Significance for 'Sundin's Building' 58-64 Constitution Road, Meadowbank, is taken from the NSW State Heritage Inventory and is reproduced below:

The shops, built 1916- 1920, on land which was part of Blaxland Estate No.2 Meadowbank subdivision of 1914, are of historical significance as evidence of early twentieth century commercial development at Meadowbank close to the railway station.

The early uses of the shops: general store (No. 58); boot maker/shoe repairs (No. 60), and long-term use of No. 64 as a newsagent, illustrate both changing and static retail uses over time. The shops have historical association with their first owner, Wilhelm Emanuel Sundin, a Swedish immigrant, whose initials "WES" are on the parapet. Sundin, a merchant, entrepreneur and local property developer, was responsible for building the shops, which were initially known as "Sundin's Store" or "Sundin's Building". Sundin appears to have initially operated a store in one of the shops (probably the corner one, No. 58), and leased the others. Sundin retained ownership of the shops till 1924.

The shops are of aesthetic significance as a group of Federation period shops in a prominent location near the eastern entry to Meadowbank Railway Station and at the corner of Constitution and Railway Roads. The shops are a now rare group of Federation period shops in the Meadowbank and Ryde area, representative of their period of construction.

Consideration of the heritage impacts:

The subject site is presently characterised as vacant land, with no extant built improvements thereupon, save for the informal use of the site as an open at-grade carpark. The site is situated immediately adjacent to the rear of the heritage item known as 'Sundin's Building'. The site is within the broader vicinity of the heritage item at Angas and See Street.

The proposal involves excavation works to the existing site, followed by the construction of a three-storey commercial building. The building adopts a contemporary architectural form and language and having considered the architectural plans and supporting documentation, it is evident that the design has been carefully considered in response to the difficult site characteristics and heritage sensitivity of the site. The proposed building is of a form, scale, language and materiality that will harmoniously relate to the adjoining heritage item, will not visually dominate the heritage item and will complement the setting and backdrop to the heritage item.

The development will sit within the backdrop to the heritage item and will not obscure the primary views to the heritage item, either directly from Constitution Road, or

obliquely from Railway Road. The contemporary form of the proposed building will positively contribute to the vibrancy of the streetscape and will provide a clear distinction between the new and the old, incorporating elements and material finishes that have a good relationship to the heritage item. These design features will allow the proposed building to be well accepted in the backdrop to the heritage item without visually dominating or detracting from the significance of the heritage item.

Recommendation

The proposed development is supported on heritage grounds subject to the conditions. **Conditions 54, 171 and 172.**

Environmental Health Officer

The application was referred to Council's Environmental Health Officer who provided the following comments:

Contamination:

Benviron Group was appointed to undertake a preliminary site investigation of the property. The site was visited on the 1st and 7th of May 2019. The preliminary investigation concluded that there was the potential for the site to be contaminated due to:

- Historical land uses
- Pesticide use at the site
- Spills and leaks
- Underground storage tank fill points
- Degrading building services

Based on these findings it was recommended to complete a Detailed Site investigation, a Hazardous Materials assessment and any soils that are removed from the site need to be classified with the 'Waste Classification Guidelines NSW EPA (2014)'. A Detailed Site Investigation (DSI) was then completed and submitted with the application by Benviron group. The investigation included:

Intrusive soil investigation

Twenty boreholes that were drilled using a systematic sampling pattern across the site.

Groundwater investigation:

Samples were recovered from two groundwater wells within the site.

Asbestos sampling

Samples were taken from across the site to determine the presence of Asbestos Containing Material. These investigations conclude that the site can be made suitable for the proposed use, subject to the following:

- A supplementary investigation targeting further groundwater investigation is recommended to render the site suitable for the proposed development
- The implementation of a Remediation Action Plan (RAP) to manage the above-mentioned environmental concerns
- Any soil removal from the site, as part of future works, should be classified in accordance with the 'Waste Classification Guidelines, Part 1: Classifying Waste; NSW EPA (2014)

Following the recommendations from this DSI a Remediation Action Plan (RAP) has been completed. The RAP outlines in detail the remediation strategies that will effectively manage the environmental concerns identified, in a manner that protects both human health and the environment. The RAP also provides a preliminary sampling and analytical quality plans that is to be used for the validation of the site. The RAP has outlined seven stages of remediation that need to be implemented to ensure that the site is suitable for the proposed use.

Stage one – Hazardous materials assessment and site preparation

- A hazardous materials assessment of the buildings should be undertaken prior to demolition works.
- Site contractor to demolish structures and concrete slabs to make way for remediation works under slab observations.

Stage two – Underground storage tank removal and validation

- Decommission of the UST's and associated piping in accordance with AS49676-2008, UPSS regulation 2008
- The preferred remediation strategy for the site is off-site disposal.
- Based on the results from the DSI at least one UST exists within the site and any soil that is removed with it needs to be classified.

Stage Three – Additional investigation

- Installation of six new monitoring wells to further describe the water quality across the site.
- Additions of eight boreholes to conduct on going soil sampling.

Stage four – Removal of previous soil impacted hotspot (BH19- BH20)

- These hotspots which have been identified as having potential heavy contamination. need to be assessed in accordance with the parameters outlined in the RAP.

Stage five – Excavation and offsite disposal of remaining fill soils

- As part of future works, any soils that are removed are to be appropriately classified. and disposed of in accordance with the EPA waste classification guidelines.

Stage six – Validation

- All works need to be validated, this is to be done through 25 floor samples taken in the basement and ground floor.

Stage seven – Validation report preparation

- A validation report will need to be prepared to present the remediation works undertaken and confirm that the objectives of the remediation works have been attained.

In summary, if these remediation strategies and techniques are implemented (as outlined in the RAP), the site will be suitable for the proposed use.

Acoustics:

An acoustic report has been completed by Acoustic Noise and Vibration Solutions and submitted with this application. The main goal of this assessment is to determine the impact from rail and road noise due to the proximity of the development to the Meadowbank train station and associated train tracks. On the 5th of August unattended noise assessment was performed from the property to determine the potential impact of the road and rail noise and vibrations on the proposed development. Based on the results of this assessment, following building components were recommended to ensure that the Rw rating is compliant.

Building Component	Rw Rating Achieved
Windows in Café & Commercial Tenancies <u>facing the Railway Corridor</u> are to be 10.38mm laminated type with full perimeter Schlegel Q-Lon acoustic seals (Ph: 8707-2000) ^{(1) (2) (3)}	35
Windows in Café & Commercial Tenancies <u>facing Railway Road</u> are to be 6.38mm laminated type with full perimeter Schlegel Q-Lon acoustic seals (Ph: 8707-2000) ^{(1) (2) (3)}	32
External Walls are to be Double skin cavity brick walls minimum 270/250 mm, brick veneer construction or any other method of wall construction with an Rw of 44.	44
Roof is to be Minimum 150mm Concrete Roof ⁽³⁾	36-40

In conclusion, the report has determined that if the construction materials incorporate the recommendations of this report, it will meet the required noise reduction levels to comply with relevant Australian standards.

Waste:

A waste management plan has been submitted by Dickens Solutions with this application. The plan has an overview of the waste that will be produced at all stages of the development and recommended disposal methods. This will be further impacted by the recommendations outlined in the RAP.

Demolition and construction:

All excavated material will be classified and disposed of at a licenced waste facility in accordance with the EPA waste classification guidelines. Other construction material is either to be re-used on site or disposed of at a licenced waste facility in

accordance with the parameters outlines in this plan. All hazardous waste is to be disposed of in accordance with the Hazardous Materials survey that will be completed prior to the start of demolition.

On- going waste from the development:

Adequate waste storage facilities have been proposed in the development that are located in the basement. The waste storage area will have the capacity to house two x 660 litre mobile waste bins and one x 660 litre mobile recycling bin. The owner’s cooperation will be responsible for ensuring that all waste and recycling services are undertaken in a sufficient manner. All waste and recycling services will be conducted by a private contractor using a rear loading truck that has access to the site. The report has provided sufficient calculations that determine the amount of bin storage area is adequate for the proposed development.

Food:

One of the proposed tenancies is a café to be located on the ground floor of the development. The architectural plans sufficiently outline the design of the café. Conditions will be attached to this referral to ensure that the food premises are certified and registered with City of Ryde.

CONCLUSION

The proposal satisfies the requirements of Council’s controls and can be supported, subject to standard conditions of consent. **Conditions 22-43, 62 -66, 94 – 96, 158 - 167, 201 – 204, 211 - 226. Specific contamination conditions 26-29.**

Landscape Architect

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

1.0 Existing Trees

An Arboricultural Impact Assessment (AIA) has been submitted with the application. A summary of the existing trees identified in the AIA are show in the table below:

Tree No.	Species “Common name”	Proposed recommendation in AIA	Comment
1	Fraxinus griffithii (Evergreen Ash)	Retain Street tree	Agree Small health tree. No impact anticipated. Tree protection required
2	Fraxinus griffithii (Evergreen Ash)	Retain Street tree	Agree Small health tree. No impact anticipated. Tree protection required
3	Fraxinus griffithii (Evergreen Ash)	Retain Street tree	Agree

			Small health tree. No impact anticipated. Tree protection required
4	<i>Fraxinus griffithii</i> (Evergreen Ash)	Retain Street tree	Agree Small health tree. No impact anticipated. Tree protection required
5	<i>Cinnamomum camphora</i> (Camphor Laurel)	Remove Exempt tree	Agree Weed tree
6	<i>Cinnamomum camphora</i> (Camphor Laurel)	Remove Exempt tree	Agree Weed tree
7	<i>Cinnamomum camphora</i> (Camphor Laurel)	Remove Exempt tree	Agree Weed tree
8	<i>Melaleuca bracteata</i> cv. "Revolution Green" (Black tea-tree)	Remove 4m high	Agree In footprint of building. Exempt < 5m high
9	<i>Melaleuca bracteata</i> cv. "Revolution Green" (Black tea-tree)	Remove 5m high	Agree Compensatory tree planting required,.

Refer to **Figure 21** for location of trees

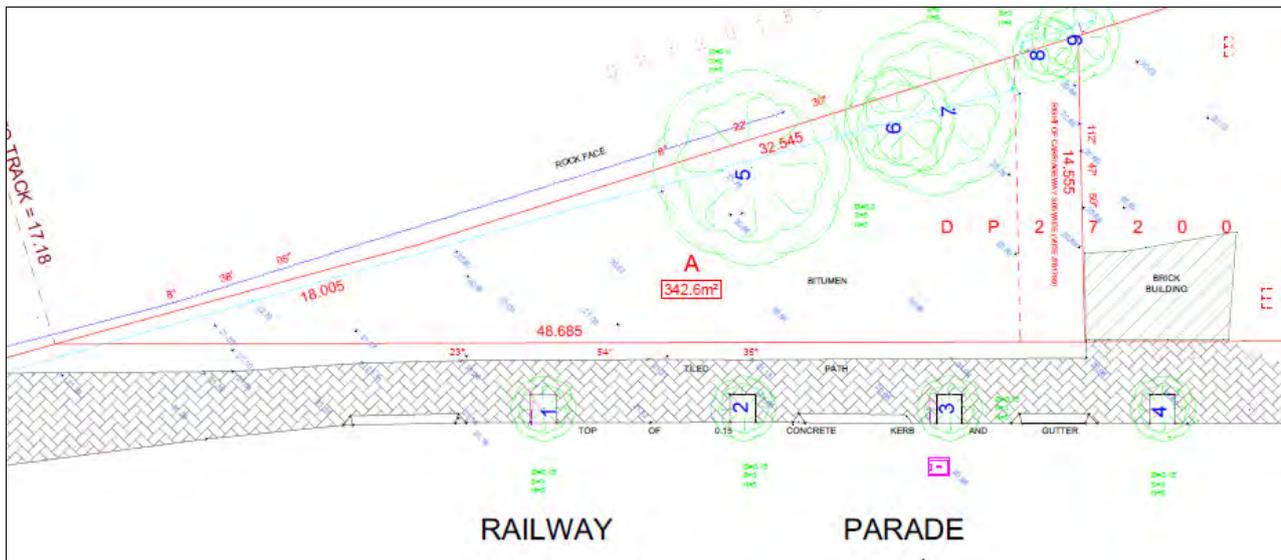


Figure 22 Location of existing trees



Figure 23 Street trees to be retained

2.0 Landscape Plan

The Landscape plan is satisfactory as this is a commercial area there is no requirement for landscaping other than the Public Domain and this has already been paved with granite and street trees installed. Tree planting of one tree has been provided at the northwest corner of the site for the one tree be removed that require compensatory tree planting. However as two existing crossings are proposed to be removed, there is scope to plant two additional street trees and it is recommended that this occurs in this instance as follows:

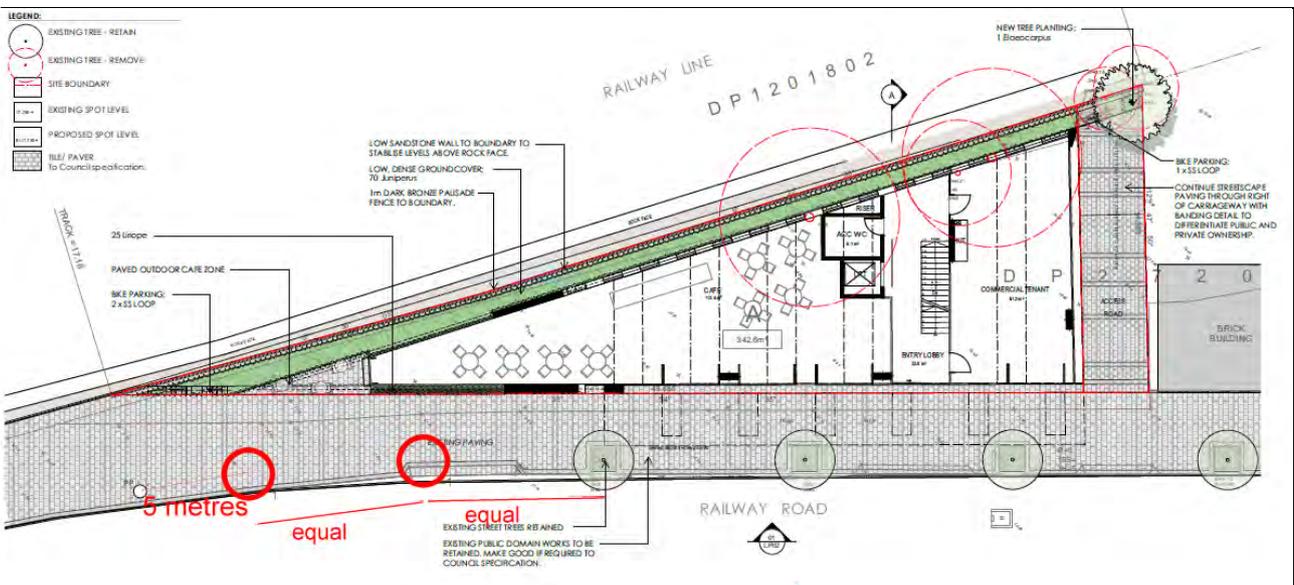


Figure 24 Further street trees to be retained

3.0 Stormwater Plan

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

4.0 Architecture Plans

The areas of cut and fill will not impact the existing trees to be retained.

5.0 Recommendations

There is no objection to the development subject to relevant **Conditions 129-133, 168-170 and 174.**

11. Conclusion

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

- The proposal complies with the statutory provisions set out in the Environmental Planning and Assessment Act 1979.
- The proposal is a permissible form of development and is consistent with the objectives for the B4 Mixed Use zoned land.
- The proposed 8.4% departure from the maximum 9.5m LEP Building Height Development Standard is supported as it relates to the lift structure and minor portions of the roof element where its three storey presentation would not be inconsistent with the built form of the Meadowbank locality and would not contain significant adverse impacts on the public domain.
- The proposed variation to Council's Parking requirement under Part 9.3 of RDCP is reasonable as the proposal for a small-scale commercial development with direct access to public transport it is reasonable to accommodate a 'car free' commercial development ought to be supported.
- The proposal would not contain significant adverse impacts to adjoining properties and the surrounding Meadowbank Precinct environment.
- The submissions received in response to this DA have been considered and addressed in this report. The concerns raised are not considered to warrant the refusal of the subject DA.
- The proposal is not contrary to the public interest and it is a suitable form of development for the site.
- The development application is recommended for approval subject to the imposition of conditions of consent.

12. Recommendation

- A. That the Ryde Local Planning Panel accepts that the Clause 4.6 written request to vary the height standard (Clause 4.3) in LEP 2014 has adequately addressed the matters in subclause (4) and would not be contrary to the public interest as it is consistent with the objectives of the development standard in Clause 4.3 and the objectives of the B4 Mixed Use Zone of Ryde Local Environmental Plan 2014.
- B. That the Ryde Local Planning Panel, as the consent authority, grant deferred commencement consent to LDA2021/0372 for construction of a three-storey commercial development at No. 27 Railway Street, Meadowbank, subject to the draft conditions contained in Attachment 1.
- C. Notification of the determination be advised for objectors.

ATTACHMENTS

- 1 Draft Deferred Commencement Consent
- 2 Ryde DCP Compliance Table
- 3 Clause 4.6 written variation to Clause 4.3 Height of Buildings
- 4 Sydney Trains Concurrence Advice
- 5 Architectural Plans - subject to copyright provision

Report prepared by:

Kimberley Kavwenje
Senior Coordinator Development Assessment

Report approved by:

Sandra Bailey
Manager Development Assessment

Liz Coad
Director – City Planning and Environment

Attachment 1 – 27 Railway Road Meadowbank – LDA2021/0372

PART 1 - The following are the Deferred Commencement condition(s) imposed pursuant to Section 4.16 of the Environmental Planning & Assessment Act 1979.

- (A) Pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979, a deferred commencement consent is granted to LDA2021/372 subject to the following conditions of consent:
1. The Applicant/Developer shall prepare and provide to Sydney Trains for review, comment, and written endorsement the following final version items in compliance with the relevant ASA Standards (<https://www.transport.nsw.gov.au/industry/asset-management-branch>):
 - i. Geotechnical and Structural report/drawings that meet Sydney Trains' requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.
 - ii. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
 - iii. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and/or structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
 - iv. Detailed Survey Plan showing the relationship of the proposed development with respect to the rail corridor.
 - v. If required by Sydney Trains, a Hydrologic Assessment report demonstrating that dewatering will not have any adverse settlement impacts on the rail corridor.
 - vi. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.
 - vii. If required by Sydney Trains, a Monitoring Plan. Any conditions issued as part of Sydney Trains' endorsement of the above documents will also form part of the consent conditions that the Applicant/Developer is required to comply with.
 2. Written evidence that the matter identified in deferred commencement condition (A) (1) above has been satisfied, this includes written advice from Sydney Trains' to the satisfaction must be submitted to Council within 12months from the date of this development consent, failing which, this development consent **will lapse** pursuant to Section 4.16(3) of the Environmental Planning and Assessment Act 1979.
 3. This Development Consent will not operate until such time that the Council notifies the Applicant in writing that that deferred commencement consent condition (A) (1) above has been satisfied; and

Conditions of Consent for LDA2021/0372 :-

Upon Council giving written notification to the Applicant that deferred commencement consent condition (A) (1) above has been satisfied, the development consent will become operative from the date of that written notification, subject to the following conditions of consent:

PART 2 - The conditions in the following sections of this consent shall apply upon satisfactory compliance with the above requirements and receipt of appropriate written confirmation from Council.

GENERAL

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

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

Document Description	Plan No./ Reference	Date
Cover Sheet	DA000 Rev D prepared by Curzon + Partners	13.01.2022
Site Plan	DA008 Rev D prepared by Curzon + Partners	13.01.2022
Demolition Plan	DA009 Rev D prepared by Curzon + Partners	13.01.2022
Basement Floor Plan	DA090 Rev D prepared by Curzon + Partners	13.01.2022
Ground Floor Plan	DA100 Rev D prepared by Curzon + Partners	13.01.2022
First Floor Plan	DA101 Rev D prepared by Curzon + Partners	13.01.2022
Second Floor Plan	DA102 Rev D prepared by Curzon + Partners	13.01.2022
Roof Plan	DA103 Rev D prepared by Curzon + Partners	13.01.2022
North Elevation	DA200 Rev D prepared by Curzon + Partners	13.01.2022
West Elevation	DA201 Rev D prepared by Curzon + Partners	13.01.2022
East Elevation	DA202 Rev D prepared by Curzon + Partners	13.01.2022
Sections	DA250 Rev D prepared by Curzon + Partners	13.01.2022
Sections 06	SK02 prepared by Curzon + Partners	19.01.2022
Landscape Plan	Matthew Higginson, LP01 Issue C	18.01.2022
Landscape Plan	Matthew Higginson, LP02 Issue C	18.01.2022

Conditions of Consent for LDA2021/0372 :-

Cover	Alpha Engineering & Development Dwg No. A21175 Rev E	09-02-2022
Sediment and Erosion Control Plan	Alpha Engineering & Development Dwg No. A21175-SW01 Rev E	09-02-2022
Basement Drainage Plan	Alpha Engineering & Development Dwg No. A21175-SW02 Rev E	09-02-2022
Ground Floor Drainage Plan	Alpha Engineering & Development Dwg No. A21175-SW03 Rev E	09-02-2022
First and Second Floor Drainage Plan	Alpha Engineering & Development Dwg No. A21175-SW04 Rev E	09-02-2022
Roof Drainage Plan	Alpha Engineering & Development Dwg No. A21175-SW05 Rev E	09-02-2022
Stormwater and OSD Sections & Details	Alpha Engineering & Development Dwg No. A21175-SW06 Rev E	09-02-2022
Arboricultural Impact Assessment	TALC	5 October 2021
Traffic and Parking Assessment Report	Ttp transport planning Reference No. 21315	8 October 2021
Waste Management Plan	Dickens Solutions,	September 2021
Acoustic Report	Acoustic Noise & Vibration Solutions P/L, Reference No. 2021-342	13 August 2021
Access Report	Vista Access Architects Ref 21266 Issue A	09.10.2021
BCA Report	Design Confidence Ref P221_377	7 October 2021
Geotechnical Assessment	Benvirongroup Ref G406-1 Rev 1	October 2020
Remediation Action Plan	Benvirongroup Rev 0	07/02/2020

Prior to the issue of a **Construction Certificate**, the following amendments shall be made:

- a) The landscape plans shall be amended to include a continuous raised planter along the western boundary between the ROC and extending to the 2m from the boundary intersection with the Railway Road frontage, where deep soil planting is not practically achievable. The planter is to accommodate a minimum soil depth and width of 500mm x 500mm to support landscape screen planting of at least 1000mm high at maturity. Outdoor seating with a seat height between 400mm to 500mm are to be integrated with the design of the planter in the outdoor café zone.
- b) All plans/documentation(s) provided and endorsed by Sydney Trains as part of the Sydney Trains Deferred Commencement Conditions will form part of this

Conditions of Consent for LDA2021/0372 :-

Consent, unless said plans/documentation(s) are otherwise superseded and confirmed in writing by Sydney Trains as a result of compliance with any Sydney Trains related conditions of consent.

All recommendations, final findings, and subsequent requirements (including where specified in the written endorsement letter from Sydney Trains) of such plans/documentation(s) are to be reflected in the Construction Certificate construction plans/documentation(s) where relevant, and compliance with those plans/documentation(s) must be certified prior to the issue of any Occupation Certificate.

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

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

2. **Inconsistency between documents.** In the event of any inconsistencies between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

(Reason: To ensure consistency with the conditions of consent.)

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

(Reason: Statutory requirement).

4. **Support for neighbouring buildings.** If the development involves excavation that extends below the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - (a) Protect and support the adjoining premises from possible damage from the excavation, and
 - (b) Where necessary, underpin the adjoining premises to prevent any such damage, in accordance with relevant Australian Standards.

(Reason: Statutory requirement).

5. **Geotechnical Compliance.** All design works and all construction works be undertaken in full compliance with all of the recommendations in the Benviron group report G406-1 Rev 1 dated October 2020.

(Reason: To ensure consistency with the recommendations of the geotechnical engineer.)

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

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

Conditions of Consent for LDA2021/0372 :-

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

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

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

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

9. **Hoardings.**

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

(Reason: To ensure public safety).

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

(Reason: To ensure public safety).

11. **Development to be within site boundaries** - The development must be constructed wholly within the boundaries of the premises. No portion of the proposed structure shall encroach onto the adjoining properties. Any doors/gates must be installed so they do not open onto any footpath.

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

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

(Reason: to ensure public safety).

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

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

Conditions of Consent for LDA2021/0372 :-

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

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

15. **Traffic Management.** Traffic management procedures and systems must be in place and practised during the construction period to ensure safety and minimise the effect on adjoining pedestrian and vehicular traffic systems. These procedures and systems must be in accordance with AS 1742.3 - 2019 and Part 8.1 of City of Ryde *Development Control Plan 2014: Construction Activities*.

(Reason: This condition is to ensure that appropriate measures/controls are in place to assist with the safety of all affected road users within the public domain when construction works are being undertaken.)

16. **Public Utilities and Service Alterations** – All mains, services, poles, etc., which require alteration due to works associated with the development, shall be altered at the Applicant's expense. The Applicant shall comply with the requirements (including financial costs) of the relevant utility provider (e.g. Energy Australia, Sydney Water, Telstra, RMS, Council, etc) in relation to any connections, works, repairs, relocation, replacement and/or adjustments to public infrastructure or services affected by the development.

(Reason: To ensure services are available to the site)

17. **Works on Public Roads** – Any works performed in, on or over a public road reserve pursuant to this consent must be carried out in accordance with this consent and with the Road Opening Permit issued by Council as required under Sections 138 and 139 of the Roads Act 1993.

(Reason: To ensure compliance with Roads Act 1993)

18. **Construction Staging** – For any staging of the public domain works, the applicant shall provide a detailed construction management and staging plan.

(Reason: To ensure staging is documented and endorsed by Council)

19. **Public areas and restoration works** - Public areas must be maintained in a safe condition at all times. Restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure as a result of the construction works associated with this development site, shall be undertaken by the Applicant in accordance with Council's standards and specifications, and DCP 2014 Part 8.5 *Public Civil Works*, to the satisfaction of Council. Council's standards and specifications are available on the Council website.

(Reason: To ensure engineering works comply with Council controls)

Conditions of Consent for LDA2021/0372 :-

20. **Land Boundary / Cadastral Survey** – If any design work relies on critical setbacks from land boundaries or subdivision of the land is proposed, it is a requirement that a land boundary / cadastral survey be undertaken to define the land.

The land boundaries should be marked or surveyed offset marks placed prior to the commencement of any work on site.

(Reason: To ensure the site is surveyed to ensure buildings are sited correctly with the site)

21. **Separate development application** - Separate development application must be submitted to Council for any future use of the commercial retail tenancies.

(Reason: To ensure separate consent is sought for the use of tenancies)

22. **Installation of grease trap** - A grease trap must be installed if required by Sydney Water Corporation. The grease trap must be located outside the building or in a dedicated grease trap room and be readily accessible for servicing. Access through areas where exposed food is handled or stored or food contact equipment or packaging materials are handled or stored is not permitted.

(Reason: To ensure the provisions of safe food handling and public health are maintained)

23. **Requirement for Trade Waste Agreement** - A trade waste agreement shall be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Trade wastewater is defined as 'discharge water containing any substance produced through industrial or commercial activities or operation on the premises. Separator systems are to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund

(Reason: To ensure the proper disposal of wastewater)

24. **Provision for installation of kitchen exhaust systems** - Adequate provision must be made for the installation of kitchen exhaust systems to the proposed food premises.

(Reason: To control offensive emissions and ensure the protection of the environment)

25. **Compliance with Acoustic Report** - All control measures nominated in the Acoustic Report No. (2021-342), dated (13/10/2021), prepared by (Acoustic noise and vibration solutions) must be implemented.

(Reason: To demonstrate compliance with submitted reports)

26. **Remediation Action (RAP)** - Remediation works shall be carried out in accordance with the Remediation Action Plan numbered *E2091-3* prepared by Benviron Group dated February 2020. The applicant shall inform Council in writing of any proposed variation to the remediation works. Council shall approve these variations in writing prior to the commencement of works.

(Reason: To comply with the statutory requirements of SEPP)

Conditions of Consent for LDA2021/0372 :-

27. **Validation Report** - A validation report prepared by a suitability qualified person shall be provided to the Certifying Authority and Council within 30 days following completion of the remediation works, which demonstrates:
- a) compliance with the approved RAP;
 - b) that the remediation acceptance criteria (in the approved RAP) has been fully complied with;
 - c) that all remediation works undertaken comply with the contaminated lands planning guidelines, *Contaminated Lands Management Act 1997*, SEPP 55 and Council's Management of Contaminated Lands Policy;
- and includes:
- d) Works-As-Executed Plan(s) that identify the extent of the remediation works undertaken (that includes any encapsulation work) prepared by a registered surveyor;
 - e) a "notice of completion of remediation work" as required under Clause 18 of SEPP 55; and
 - f) a statement confirming that the site following remediation of contamination is suitable for the intended use.

(Reason: To ensure that the development complies with the Remedial Action Plan and that the works are in accordance with the *Contaminated Land Management Act 1997*)

28. **Validation Report** - Following the preparation of the validation report, Council will require that the applicant engage an accredited auditor under the *Contaminated Land Management Act 1997* to review the Validation Report prepared by the contaminated land consultant and issue a **Site Audit Statement**. The accredited auditor shall consult with Council prior to finalising and issuing the Site Audit Statement. The Site Audit Statement should allow for soil access to occur to ground level courtyards and communal open space areas within the development. The accredited auditor shall provide Council with a copy of the Site Audit Report and Site Audit Statement, prior to the issuing of the Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of the inconsistency and a Section 96 Application or further Development Application pursuant to the *Environmental Planning and Assessment Act 1979* will be required.

(Reason: To ensure that the development complies with the Remedial Action Plan and that the works are in accordance with the *Contaminated Land Management Act 1997*)

29. **Site Audit Statement** - The accredited auditor shall provide Council with a copy of the Site Audit Report and Site Audit Statement, prior to the issuing of the Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, the consent shall prevail to the extent of the inconsistency and a Section 96 Application or further Development Application pursuant to the *Environmental Planning and Assessment Act 1979* will be required.

(Reason: To ensure that the development complies with the Remedial Action Plan and that the works are in accordance with the *Contaminated Land Management Act 1997*)

30. **Imported fill (validated)** - All imported fill must be validated in accordance with the *Contaminated Sites Sampling Design Guidelines* (EPA, 1995) by an experienced environmental consultant, and a copy of the validation report must be submitted to the Principal Certifying Authority (and Council, if Council is not the PCA) before the fill is used.

Conditions of Consent for LDA2021/0372 :-

(Reason: To ensure imported fill poses no risk to the environment and human health)

31. **Requirement to notify about new contamination evidence** - Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination shall be notified to the Council and the principal certifying authority immediately.

(Reason: To ensure that the land is suitable for its proposed use and poses no risk to the environment and human health)

32. **Requirement-removal of underground storage tank** - Following excavation and removal of any underground storage tank the land shall be assessed in accordance with the NSW Environment Protection Authority's Technical Note: Investigation of Service Station Sites (2014).

At the completion of the investigation a site audit statement shall be issued by an approved NSW Environment Protection Authority Auditor in accordance with the NSW Environment Protection Authority's Guidelines for the NSW Site Auditor Scheme.

(Reason: To ensure that the land is left in a safe and healthy condition).

33. **Removal of underground storage tanks** - Underground tanks shall be decommissioned and removed by a duly qualified person in accordance with:

- (a) AS4976:2008 The Removal and disposal of underground petroleum storage tanks;
- (b) Australian Standard AS 1940:2017 The Storage and Handling of Flammable and Combustible Liquids.
- (c) Safework NSW Code of Practice for the Storage and Handling of Dangerous Goods.
- (d) NSW Department of Environment and Climate Change: Environmental Guidelines: Assessment, Classification and Management of Liquid and Non Liquid Wastes

(Reason: To ensure the safe removal of underground storage tanks)

37. **Storage of garbage and recyclable materials** - A separate room or area must be provided in a convenient location on the premises for the storage of garbage and recyclable materials.

(Reason: To ensure provision of adequate waste storage arrangements)

38. **Storage of commercial wastes** - A separate garbage room must be provided in a convenient location on the premises for the storage of commercial wastes

(Reason: To ensure provision of adequate waste storage arrangements)

39. **External garbage storage areas** - External areas used for the storage of garbage must be roofed and paved with concrete graded to a grated drain connected to the sewerage system. A hose cock must be provided adjacent to the garbage storage area to facilitate cleaning of the containers and storage area.

Conditions of Consent for LDA2021/0372 :-

(Reason: To maintain the amenity of the area)

40. Construction of garbage rooms - All garbage rooms must be constructed in accordance with the following requirements:

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

(Reason: To ensure provision of adequate waste storage arrangements)

41. Waste collection point for commercial waste - The commercial waste must be collected from the loading dock located inside the building.

(Reason: To ensure provision of adequate waste collection arrangements)

42. Paving to collection point - The paving from the garbage room or waste storage area must be moderately graded so that the waste containers can be safely and easily manoeuvred to the collection point.

(Reason: To ensure provision of adequate waste collection arrangements)

43. The proposed development is to comply with the deemed-to-satisfy provisions in the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".

(Reason: To ensure compliance the concurrence requirements of Sydney Trains).

44. The Applicant is to ensure that the development incorporates appropriate anti-graffiti measures, to the satisfaction of Sydney Trains.

(Reason: To ensure compliance the concurrence requirements of Sydney Trains).

Conditions of Consent for LDA2021/0372 :-

45. During all stages of the development the Applicant must take extreme care to prevent any form of pollution entering the rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.

(Reason: To ensure compliance the concurrence requirements of Sydney Trains).

46. Excess soil is not allowed to enter, be spread, or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of.

(Reason: To ensure compliance the concurrence requirements of Sydney Trains).

47. The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the rail corridor unless prior written approval has been obtained from Sydney Trains.

(Reason: To ensure compliance the concurrence requirements of Sydney Trains).

48. Rainwater from the roof must not be projected and/or falling into the rail corridor and must be piped down the face of the building which faces the rail corridor.

Reason: To ensure compliance the concurrence requirements of Sydney Trains).

49. Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought. Reason: To ensure compliance the concurrence requirements of Sydney Trains.

(Reason: To ensure compliance the concurrence requirements of Sydney Trains).

50. The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who: · oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains; · acts as the authorised representative of the Applicant; and · is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.

(Reason: To ensure compliance the concurrence requirements of Sydney Trains).

51. Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.

(Reason: To ensure compliance the concurrence requirements of Sydney Trains).

Conditions of Consent for LDA2021/0372 :-

52. Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team. In this instance the relevant interface team is North Interface, and they can be contacted via email on North_Interface@transport.nsw.gov.au

(Reason: To ensure compliance the concurrence requirements of Sydney Trains).

53. Where a condition of consent requires Sydney Trains or Transport for NSW endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates dealing with specific works and compliance conditions can be issued subject to written agreement from those entities to which the relevant conditions applies.

(Reason: To ensure compliance the concurrence requirements of Sydney Trains)

54. **Pre-commencement dilapidation report.** A pre-commencement dilapidation report shall be prepared that provides a written and photographic record of the existing condition of the adjoining heritage item and ancillary structures at 'Sundin's Building' 58-64 Constitution Road, Meadowbank. The pre-commencement dilapidation report shall be undertaken by a qualified structural engineer, with proven experience in dealing with structures of heritage significance. A copy of the report must be provided to the satisfaction of Council, any other owners of public infrastructure, together with the owners of adjoining and affected private properties.

(Reason: Protection of significant heritage fabric.)

DEMOLITION

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

A Construction Certificate is not required for Demolition.

55. **Provision of contact details/neighbour notification.** At least 7 days before any demolition work commences:
- (a) Council must be notified of the following particulars:
 - (i) The name, address, telephone contact details and licence number of the person responsible for carrying out the work; and
 - (ii) The date the work is due to commence and the expected completion date
 - (b) A written notice must be placed in the letter box of each property identified in the attached locality plan advising of the date the work is due to commence.

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

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

Conditions of Consent for LDA2021/0372 :-

(Reason: Statutory requirement).

57. Excavation

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

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

58. Asbestos. Where asbestos is present during demolition work, the work must be carried out in accordance with the guidelines for asbestos work published by WorkCover New South Wales.

(Reason: Safety).

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

(Reason: Safety).

60. Asbestos (hazardous management strategy) - The preparation of an appropriate hazard management strategy by an appropriately licensed asbestos consultant pertaining to the removal of contaminated soil, encapsulation or enclosure of any asbestos material is required. This strategy shall ensure that any such proposed demolition works involving asbestos are carried out in accordance with the requirements of the 'Code of Practice: How to Safely Remove Asbestos' published by WorkCover NSW. The strategy shall be submitted to the Principal Certifying Authority, prior to the commencement of any works. The report shall confirm that the asbestos material has been removed or is appropriately encapsulated and that the site is rendered suitable for the development.

(Reason: To ensure risks associated with the demolition have been identified and addressed prior to demolition work commencing).

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

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

62. Disposal of demolition waste. All demolition waste must be transported to a facility or place that can lawfully be used as a waste facility for those wastes.

Conditions of Consent for LDA2021/0372 :-

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

63. **Delivery docket to be provided.** Each load of imported fill must be accompanied by a delivery docket from the supplier including the description and source of the fill.

(Reason: to ensure only Virgin Excavated Natural Material is used).

64. **Delivery dockets – receipt and checking on site.** A responsible person must be on site to receive each load of imported fill and must examine the delivery docket and load to ensure that only Virgin Excavated Natural Material that has been validated for use on the site is accepted.

(Reason: To protect the environment).

65. **Delivery dockets – forward to PCA on demand.** The delivery dockets must be forwarded to the Principal Certifying Authority within seven (7) days of receipt of the fill and must be produced to any authorised officer who demands to see them.

(Reason: To protect the environment and ensure appropriate fill is used on site).

66. **Imported fill – type.** All imported fill must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.

(Reason: To protect the environment).

67. **Demolition Pedestrian and Traffic Management Plan.** A Demolition Pedestrian and Traffic Management Plan (DPTMP) shall be prepared by a suitably qualified traffic engineering consultant and submitted to and approved by Council's Transport Department prior to the commencement of any demolition work.

Due to heavy traffic congestion throughout Macquarie Park, truck movements will be restricted during the major commuter peak times being 8.00 - 9.30am and 4.30 - 6.00pm. Truck movements must be agreed with Council's Transport Department, prior to submission of the DPTMP.

All fees and charges associated with the review of this plan are to be paid in accordance with Council's Schedule of Fees and Charges with payment to be made prior to receipt of approval from Council's Transport Department for the DPTMP.

The DPTMP must include but not limited to the following:

- i. Make provision for all construction materials to be stored on site, at all times.
- ii. The DPTMP is to be adhered to at all times during the project.
- iii. Specify that all demolition vehicles are to enter & exit the site and/or work zone in a forward direction.
- iv. Specify construction truck routes and truck rates. Nominated truck routes are to be restricted to State Roads or non-light vehicle thoroughfare routes where possible.
- v. Specify the number of truck movements to and from the site during the demolition phase of the works. Temporary truck standing/ queuing in a public roadway/ domain in the vicinity of the site is not permitted unless approved by City Works Directorate.

Conditions of Consent for LDA2021/0372 :-

- vi. Include Traffic Control Plan(s) prepared by a SafeWork NSW accredited designer for any activities involving the management of vehicle and pedestrian traffic and results in alterations to the existing traffic conditions in the vicinity of the site.
- vii. Specify appropriate parking measures for construction staff and sub-contractors to minimise the impact to the surrounding public parking facilities.
- viii. Specify that a minimum fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measures.
- ix. Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes, structures proposed on the footpath areas (hoardings, scaffolding or temporary shoring) and extent of tree protection zones around Council street trees.
- x. Take into consideration the combined construction activities of other development(s) and/or roadworks in the surrounding area. To this end, the consultant preparing the DPTMP must engage and consult with relevant stakeholders undertaking such works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- xi. Specify spoil management process and facilities to be used on site.
- xii. Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of demolition. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- xiii. Comply with relevant sections of the following documents:
 - The Australian Standard *Manual of Uniform Traffic Control Devices* (AS1742.3-2019),
 - TfNSW' *Traffic Control at Work Sites* technical manual; and
 - Part 8.1 of *City of Ryde Development Control Plan 2014: Construction Activities*.

(Reason: This condition is to ensure that a plan is prepared to address traffic impacts during demolition works to minimise any inconvenience and safety risks to the public)

68. **Implementation of Demolition Pedestrian and Traffic Management Plan.** All works and demolition activities are to be undertaken in accordance with the approved Demolition Pedestrian and Traffic Management Plan (DPTMP). All controls in the DPTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate SafeWork NSW accreditation. Should the implementation or effectiveness of the DPTMP be impacted by surrounding major development not encompassed in the approved DPTMP, the DPTMP measures and controls are to be revised accordingly and submitted to Council's Transport Department for approval. A copy of the approved DPTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

(Reason: This condition is to ensure that the measures/protocols stated in the approved DPTMP are carried out by the builder when demolition works are being undertaken)

PRIOR TO CONSTRUCTION CERTIFICATE

Conditions of Consent for LDA2021/0372 :-

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

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

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

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

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

A – Contribution Type	B – Contribution Amount
Section 7.12 Contribution	\$20,443.31

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

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

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

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

(Reason: Statutory requirement).

70. **Compliance with Australian Standards** - The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the **Construction Certificate**.

(Reason: Statutory requirement).

71. **Structural Certification** - The applicant must engage a qualified practising structural engineer to provide structural certification in accordance with relevant BCA requirements prior to the release of the **Construction Certificate**.

Conditions of Consent for LDA2021/0372 :-

(Reason: Statutory requirement).

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

(Reason: Statutory requirement).

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

(Reason: Statutory requirement).

74. **Long Service Levy** - Documentary evidence of payment of the Long Service Levy under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 is to be submitted to the Principal Certifying Authority prior to the issuing of the **Construction Certificate**.

(Reason: Statutory requirement).

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

(Reason: Statutory requirement).

76. **Reflectivity of materials** - Roofing and other external materials must be of low glare and reflectivity. Details of finished external surface materials, including colours and texture must be provided to the Principal Certifying Authority prior to the release of the **Construction Certificate**.

(Reason: To ensure the use of appropriate material to minimise reflectivity).

77. **Bicycle Parking**. A minimum of 6 bicycle parking spaces or lockers designed and installed in accordance with the Australian Standard AS2890.3 are to be provided with the development. Details are to be submitted on the relevant Construction Certificate plans.

(Reason: To ensure bicycle parking is provided as part of the development.)

78. **Access for people with disabilities (commercial)**. Prior to the issue of any Construction Certificate, the Certifier shall be satisfied that access for people with disabilities from the public domain and all car parking areas on site to all tenancies within the building is provided. Consideration must be given to the means of dignified and equitable access. Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Certifier prior to the issue of a Construction Certificate. All details

Conditions of Consent for LDA2021/0372 :-

shall be prepared in consideration of the Disability Discrimination Act and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

Reason: To ensure accessible access is compliant with statutory provisions.

79. **Stormwater Management.** Stormwater runoff from the development shall be collected and piped by gravity flow to Railway Road, generally in accordance with the plans by Alpha Engineering & Development, Drawing No.:A21175-SW01 to A21175-SW06, Revision No.: E, Dated 09-02-2022, subject to any variations marked in red on the approved plans or noted following;

- A junction pit shall be provided at the boundary connecting from the DCP of OSD prior to the discharge to the proposed butterfly grated pit.
- The high-level alarm shall be set not higher than 100mm above the invert of the inlet pipe to protect the basement from flooding.
- Connection to the public drainage infrastructure will require the approval of Council's City Works (Stormwater) Department. Any conditions associated with this approval must be noted on the plans.

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

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

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

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

As a minimum, the OSD system must;

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

Conditions of Consent for LDA2021/0372 :-

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

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

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

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

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

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

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

82. **Stormwater Management – Connection to Public Drainage System.** Engineering plans detailing the connection of the developments stormwater management system to the public drainage service must be forwarded to Council and an inspection fee (as per Council's schedule of fees and charges current at the time of payment) must be paid to Council prior to the issue of the Construction Certificate.

Council must be notified when the connection has been made to the pit / pipe and an inspection must be made by a Council officer prior to restoration/ backfill at the point of connection for approval.

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

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

83. **Dilapidation Survey.** A dilapidation survey is to be undertaken that addresses all properties that may be affected by the construction work. As a minimum, the scope of the report is to include;

- 58 to 64 Constitution Road Meadowbank

Conditions of Consent for LDA2021/0372 :-

A copy of the dilapidation survey is to be submitted to the Accredited Certifier and Council prior to the release of the Construction Certificate.

(Reason: To clarify any claims of damage made by adjoining property owners.)

84. Site Dewatering Plan. A Site Dewatering Plan (SDP) must be prepared and submitted with the application for a Construction Certificate.

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

- All pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring or adjacent premises and be acoustically shielded so as to prevent the emission of offensive noise as a result of their operation
- Pumps used for dewatering operations are not to be fuel based so as to minimise noise disturbance and are to be electrically operated.
- Discharge lines are to be recessed across footways so as to not present as a trip hazard and are to directly connect to the public inground drainage infrastructure where ever possible.
- The maximum rate of discharge is to be limited to the sites determined PSD rate or 30L/s if discharging to the kerb.
- Certification must state that the submitted design is in accordance with the requirements of this condition and any relevant sections of Council's DCP 2014 Part 8.2 (*Stormwater and Floodplain Management*) and associated annexures.
- Incorporate water treatment measures to prevent the discharge of sediment laden water to the public drainage system. These must be in accordance with the recommendations of approved documents which concern the treatment and monitoring of groundwater.
- Any details, approval or conditions concerning dewatering (eg Dewatering License) as required by the Water Act 1912 and any other relevant NSW legislation.
- Approval and conditions as required for connection of the dewatering system to the public drainage infrastructure as per Section 138 of the Roads Act.

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

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

- Existing and final contours
- The location of all earthworks, including roads, areas of cut and fill
- Location of all impervious areas
- Location and design criteria of erosion and sediment control structures,
- Location and description of existing vegetation

Conditions of Consent for LDA2021/0372 :-

- Site access point/s and means of limiting material leaving the site
- Location of proposed vegetated buffer strips
- Location of critical areas (drainage lines, water bodies and unstable slopes)
- Location of stockpiles
- Means of diversion of uncontaminated upper catchment around disturbed areas
- Procedures for maintenance of erosion and sediment controls
- Details for any staging of works
- Details and procedures for dust control.

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

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

86. **Construction Pedestrian and Traffic Management Plan.** A Construction Pedestrian and Traffic Management Plan (CPTMP) shall be prepared by a suitably qualified traffic engineering consultant and submitted to and approved by Council's Transport Department prior to issue of any Construction Certificate.

Due to heavy traffic congestion throughout Macquarie Park, truck movements will be restricted during the major commuter peak times being 8.00 - 9.30am and 4.30 - 6.00pm. Truck movements must be agreed with Council's Transport Department, prior to submission of the CPTMP.

All fees and charges associated with the review of this plan are to be paid in accordance with Council's Schedule of Fees and Charges with payment to be made prior to receipt of approval from Council's Transport Department for the CPTMP.

The CPTMP must include but not limited to the following:

- i. Make provision for all construction materials to be stored on site, at all times.
- ii. Specify construction truck routes and truck rates. Nominated truck routes are to be restricted to State Roads or non-light vehicle thoroughfare routes where possible.
- iii. Make provision for parking onsite once the basement level parking is constructed. All Staff and Contractors are to use the basement parking once available.
- iv. Specify the number of truck movements to and from the site associated with the construction works. Temporary truck standing/ queuing in a public roadway/ domain in the vicinity of the site are not permitted unless approved by City Works Directorate.
- v. Include Traffic Control Plan(s) prepared by a SafeWork NSW accredited designer for any activities involving the management of vehicle and pedestrian traffic and results in alterations to the existing traffic conditions in the vicinity of the site.
- vi. Specify appropriate parking measures for construction staff and sub-contractors to minimise the impact to the surrounding public parking facilities.
- vii. Specify that a minimum Fourteen (14) days notification must be provided to adjoining property owners prior to the implementation of any temporary traffic control measure.
- viii. Include a site plan showing the location of any site sheds, location of requested Work Zones, anticipated use of cranes and concrete pumps,

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structures proposed on the footpath areas (hoardings, scaffolding or shoring) and any tree protection zones around Council street trees.

- ix. Take into consideration the combined construction activities of other development(s) and/or roadworks in the surrounding area. To this end, the consultant preparing the CPTMP must engage and consult with relevant stakeholders undertaking such works within a 250m radius of the subject site to ensure that appropriate measures are in place to prevent the combined impact of construction activities. These communications must be documented and submitted to Council prior to work commencing on site.
- x. Specify spoil management process and facilities to be used on site.
- xi. Specify that the roadway (including footpath) must be kept in a serviceable condition for the duration of construction. At the direction of Council, undertake remedial treatments such as patching at no cost to Council.
- xii. Comply with relevant sections of the following documents:
 - The Australian Standard *Manual of Uniform Traffic Control Devices* (AS1742.3-2019),
 - TfNSW' *Traffic Control at Work Sites* technical manual; and
 - Part 8.1 of City of Ryde *Development Control Plan 2014: Construction Activities*.

(Reason: This condition is to ensure that a plan is prepared to address traffic impacts during construction to minimise any inconvenience and safety risks to the public)

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

(Reason: To ensure ground anchors are not provided within the public roadway)

88. **Public domain improvements** - The public domain is to be upgraded in Railway Road frontage of the development site in accordance with the City of Ryde Public Domain **Technical Manual Section 5 - Meadowbank**. The works shall include paving, multifunction light poles, street furniture and plantings, and must be completed to Council's satisfaction at no cost to Council.

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

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- (a) Footpath paving as specified in the condition of consent for public infrastructure works.
- (b) Street trees to be provided in accordance with the Meadowbank Street Tree Master Plan. The Public Domain Technical Manual identifies “Fraxinus griffithii” (Evergreen Ash) and “Fraxinus oxycarpa ‘Raywood’” (Claret Ash) as the designated street tree for the Railway Road frontage of the development. There are already 4 street trees “Fraxinus griffithii” (Evergreen Ash), which were planted during recent Council upgrade along Railway Road. They are to be protected according to the Arborist Report. Additional 2-3 of this type of trees may be added in the space provided by the proposed removal of the two existing driveways. The exact type and position for any new trees is to be advised by the Landscape Architect – Development Assessment.

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

- (c) All telecommunication and utility services are to be placed underground along the Railway Road frontage. The extent of works required in order to achieve this outcome may involve works beyond the frontage of the development site. Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant for decommissioning the existing network and constructing the new network; and are to be submitted to, and approved by Council and relevant utility authorities, prior to commencement of work. The public utility cover requirements shall be based on the approved Finished Surface Levels for the footpath, driveways and kerb ramps.
- (d) New street lighting serviced by metered underground power and on multifunction poles (MFPs) shall be designed and installed to Australian Standard AS1158 *Lighting for Roads and Public Spaces*, with a minimum vehicular luminance category V5 and pedestrian luminance category PR2 along Railway Road.

Subject to design, it is expected that one new street light on multi-function pole (MFP) will be required along the Railway Road frontage of the site. Lighting upgrade shall be in accordance with the City of Ryde Public Domain Technical Manual Section 5 – Meadowbank. The consultant shall liaise with Council’s City Works Directorate in obtaining Council’s requirements and specifications for the MFP and components, including the appropriate LED luminaire and location of the meter boxes.

Plans are to be prepared and certified by a suitably qualified Electrical Design Consultant, submitted to, and approved by Council’s City Works Directorate prior to lodgement of the scheme with Ausgrid for their approval.

Note: Council has prepared a design guide and schema for the provision of the street lighting on MFPs. A copy of the design guide including the design template and checklist, and the street lighting schema can be made available

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to the Electrical Design Consultant upon request to Council's City Works Directorate.

(Reason: To ensure the appropriate design of public domain works)

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

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

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

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

- (a) The removal of all redundant vehicular crossings and replacement with new kerb and gutter, and the adjacent road pavement reconstruction.
- (b) The construction of new kerb and gutter along the Railway Road frontage of the development site to replace all damaged kerb and gutter.
- (c) Installation of Council parking meter/s along the Railway Road as advised by the Council's Rangers and Parking Services.
- (a) The full reconstruction of half road pavement for the entire length of the Railway Road frontage of the development site. The works are to be carried out in accordance with Council's DCP 2-14, Section 8.5 and current standard drawings specifying road pavement reconstruction requirements.
- (b) The construction of granite footway along the Railway Road frontage of the development site in accordance with the City of Ryde Public Domain Technical Manual Section 5 – Meadowbank.
- (c) Stormwater drainage installations in the public domain in accordance with the DA approved plans.
- (d) Signage and line-marking details.
- (e) Staging of the public civil works, if any, and transitions between the stages.
- (f) The relocation/adjustment of all public utility services affected by the proposed works. Written approval from the applicable Public Authority shall be submitted to Council along with the public domain plans submission. All the requirements of the Public Authority shall be complied with.

Notes:

1. The Applicant is advised to consider the finished levels of the public domain, including new or existing footpaths, prior to setting the floor levels for the proposed building.
2. Depending on the complexity of the proposed public domain works, the Council's review of each submission of the plans may take a minimum of six (6) weeks.
3. Prior to submission to Council, the Applicant is advised to ensure that the drawings are prepared in accordance with the standards listed in the City of Ryde

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DCP 2014 Part 8.5 - *Public Civil Works*, Section 5 "*Standards Enforcement*". A checklist has also been prepared to provide guidance and is available upon request to Council's City Works Directorate.

4. City of Ryde standard drawings for public domain infrastructure assets are available on the Council website. Details that are relevant may be replicated in the public domain design submissions, however Council's title block shall not be replicated.

(Reason: To ensure the design of public infrastructure works are consistent with Council's requirements)

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

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

The drawings shall be prepared by a suitably qualified Civil Engineer using the standard B99 vehicle profile. The drawings shall show the proposed vehicle footpath crossing width, alignment, and any elements impacting design such as service pits, underground utilities, power poles, signage and/or trees. In addition, a benchmark (to Australian Height Datum) that will not be impacted by the development works shall be included.

All grades and transitions shall comply with Australian Standard AS 2890.1-2004 *Offstreet Parking* and Council's specifications. The width of the new crossing shall be sufficient to accommodate turning manoeuvres of the largest vehicle requiring access to the site as demonstrated by swept paths submitted to and reviewed by Council. The driveway must be designed without splays, and shall be constructed at right angle to the alignment of the kerb and gutter, and located no closer than 1m from any power pole and 3m from any street tree unless otherwise approved by Council.

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

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

(Reason: To ensure the service life is consistent with that of the development, and that it is also compliant with current Council's standards and specifications)

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91. **Public Domain Works – Defects Security Bond** - To ensure satisfactory performance of the public domain works, a defects liability period of twelve (12) months shall apply to the works in the road reserve following completion of the development. Public domain works will be considered completion following the issue of compliance certification for external works associated with Stage 3. The defects liability period shall commence from the date of issue by Council, of the Compliance Certificate for the External Works. The applicant shall be liable for any part of the work which fails to perform in a satisfactory manner as outlined in Council's standard specification, during the twelve (12) months' defects liability period. A bond in the form of a cash deposit or Bank Guarantee of \$160,000 shall be lodged with the City of Ryde prior to the issue of any Construction Certificate to guarantee this requirement will be met. The bond will only be refunded when the works are determined to be satisfactory to Council after the expiry of the twelve (12) months defects liability period.

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

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

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

(Reason: To ensure payment of required fees)

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

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

(Reason: To ensure assets are registered with Council).

94. **Mechanical Ventilation Details** - Details of all proposed mechanical ventilation systems, and alterations to any existing systems, must be submitted to Council or an accredited private certifier with the application for the **Construction Certificate**.

Such details must include:

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- a. Plans (coloured to distinguish between new and existing work) and specifications of the mechanical ventilation systems;
- b. A site survey plan showing the location of all proposed air intakes exhaust outlets and cooling towers, and any existing cooling towers, air intakes, exhaust outlets and natural ventilation openings in the vicinity; and
- c. A certificate from a professional mechanical services engineer certifying that the mechanical ventilation systems will comply with the *Building Code of Australia* and setting out the basis on which the certificate is given and the extent to which the certifier has relied upon relevant specifications, rules, codes of practice or other publications.

(Reason: To ensure mechanical ventilation is designed in accordance with requirements).

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

(Reason: To ensure the required location of vents).

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

(Reason: To ensure discharge vents are not located to cause health impacts).

97. **Safer by Design.** A Crime Prevention through Environmental Design (CPTED) Assessment Report must be submitted prior to the issue of a Construction Certificate. Details demonstrating compliance with these requirements are to be submitted to the PCA prior to the relevant Construction Certificate being issued.

(Reason: To ensure the development is designed in accordance with the require of Crime Prevention Through Environmental Design (CPTED) principles).

98. **Public Arts Plan** - A site specific Public Arts Plan is to be submitted for approval by Council. This plan is to be prepared by an arts and cultural planner and will be required to address the following:

- a. Details of the nature of the work and its approximate location and size;
- b. Details of how the proposed public art meets the following Design Selection Criteria:
- c. Standards of excellence and innovation.
- d. Relevance and appropriateness of the work in relation to the site.
- e. Its contribution to creating sense of place, and integration into the built form.
- f. Where possible, participation of local artists, local groups, youth or indigenous groups.
- g. Consideration for public safety and the public's use of and access to the public space.
- h. Consideration of maintenance and durability requirements of materials, including potential for vandalism and graffiti.
- i. Evidence of appropriate Public Liability Insurance to cover construction and installation of work.

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(Reason: To ensure consistency with Council control requirements for public art.)

99. **Shop fit-out plans (Design)** - Detailed plans of all food preparation, beverage and waste storage areas shall be submitted to the principal certifying authority (PCA) prior to the issue of the construction certificate.

The fit-out of the food premises shall comply with:

- (a) Australian Standard AS4674-2004 - Design, Construction and Fit-out of Food Premises.
- (b) Food Safety Standards 3.2.3 Food Premises and Equipment
- (c) The cool rooms shall be provided with safety devices to comply with G1.2 of the BCA.

If a Private Certifier is to be used, the final inspection shall be carried out by a suitably qualified person to ensure that food standards are met. Council's Environmental Health Officer may be engaged to carry out the required inspection for a prescribed fee.

Note: Copies of AS 4764 - 2004 may be obtained from Standards Australia Copies of the Food Standards Code may be obtained from Australia and New Zealand Food Authority.

(Reason: To ensure design of the premises meets relevant public health standards)

100. **Construction Noise Management Plan (demolition & construction)** - A construction noise management plan must be prepared by a suitably qualified and experienced noise expert in accordance with the noise management levels in EPA's *Interim Construction Noise Guideline* and accompany the application for a Construction Certificate. The Certifying Authority must be satisfied the Construction Noise Management Plan will minimise noise impacts on the community during the construction of the development.

The Construction Noise Management Plan must include:

- (a) hours of construction
- (b) Identification of nearby residences and other sensitive land uses.
- (c) Assessment of expected noise impacts.
- (d) describe the measures to be implemented to manage high noise generating works such as piling, in close proximity to sensitive receivers
- (e) include strategies that have been developed with the community for managing high noise generating works.
- (f) Community Consultation and the methods that will be implemented for the whole project to liaise with affected community members to advise on and respond to noise related complaints and disputes.
- (g) include a complaints management system that would be implemented for the duration of the construction
- (h) include a program to monitor and report on the impacts and environmental performance of the development

(Reason: To prevent loss of amenity to the area and maintain appropriate amenity to nearby occupants.)

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

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

And

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

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

(Reason: To ensure provision of services.)

102. **Electrolysis Risk.** Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.

(Reason: To satisfy the concurrence requirements of Sydney Trains.)

103. No work is permitted within the rail corridor or any easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, unless the prior approval of, or an Agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

(Reason: To satisfy the concurrence requirements of Sydney Trains.)

104. Prior to the issue of a Construction Certificate, the Applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the subject development site, the Applicant must discuss with Sydney Trains as to whether these services are to be relocated or incorporated within the development site.

(Reason: To satisfy the concurrence requirements of Sydney Trains.)

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105. Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains' requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains' requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.

(Reason: To satisfy the concurrence requirements of Sydney Trains.)

106. No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the Applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

(Reason: To satisfy the concurrence requirements of Sydney Trains.)

107. The design, installation and use of lights, signs, and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare, reflectivity, and illumination to the satisfaction of the rail operator. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

(Reason: To satisfy the concurrence requirements of Sydney Trains.)

108. Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows, and other external features (e.g., roof terraces and external fire escapes) that are within 20 metres of, and face, the rail corridor, the development must have measures installed, to the satisfaction of Sydney Trains (e.g., awning windows, louvres, enclosed balconies, window restrictors etc.) which prevent the throwing of objects onto the rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

(Reason: To satisfy the concurrence requirements of Sydney Trains.)

109. There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor or rail operations. A final landscaping and planting plan demonstrating measures to ensure compliance with this condition must be prepared to the satisfaction of Sydney Trains. No construction certificate can be issued until written confirmation has been received from Sydney Trains confirming that this condition has been complied with.

(Reason: To satisfy the concurrence requirements of Sydney Trains.)

110. If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the

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Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

(Reason: To satisfy the concurrence requirements of Sydney Trains)

111. If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for public liability insurance cover. If insurance cover is deemed necessary, this insurance must be for a sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor and rail infrastructure, and must be maintained for the duration specified by Sydney Trains. The Applicant is to contact Sydney Trains External Interface Management team to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains' written advice to the Applicant on the level of insurance required.

(Reason: To satisfy the concurrence requirements of Sydney Trains)

112. If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.

(Reason: To satisfy the concurrence requirements of Sydney Trains).

113. If required by Sydney Trains, prior to the issue of a Construction Certificate the Applicant is to engage an EMF (Electromagnetic Fields) expert to prepare an EMF Impact report. If required by Sydney Trains, the EMF report is to be submitted to Sydney Trains for review and endorsement. Any recommendations from the EMF report are to be incorporated and implemented in the construction drawings and documentation.

(Reason: To satisfy the concurrence requirements of Sydney Trains).

PRIOR TO COMMENCEMENT OF CONSTRUCTION

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

- (a) A sign must be erected in a prominent position on site, prior to the commencement of construction:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work,
 - (ii) showing the name of the principal contractor (if any) or the person responsible for the works and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

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- (b) Any such sign must be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

(Reason: Statutory requirement).

115. Excavation adjacent to adjoining land

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

(Reason: Statutory requirement).

116. **Safety fencing** - The site must be fenced prior to the commencement of construction, and throughout demolition and/or excavation and must comply with WorkCover New South Wales requirements and be a minimum of 1.8m in height.

(Reason: Statutory requirement).

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

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

118. **Ground Anchors.** The installation of permanent ground anchors into public roadway is not permitted. The installation of temporary ground anchors may be considered subject to application for approval from Council's Public Works department, as per the provisions of Section 138 of the Roads Act. The application for consent must include detailed structural plans prepared by a chartered structural engineer, clearly nominating the number of proposed anchors, depth below existing ground level at the boundary alignment and the angle of installation. Approval is subject to the applicant paying all applicable fees in accordance with Council's Management Plan.

(Reason: To minimise the imposition of soil / rock anchors on the public domain.)

119. **Stormwater Management – Works in the Right of Carriageway.** In relation to the works in the Right of Carriageway, the builder/ developer must;

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- a) provide a minimum 3 weeks notification to the benefited property owner and occupants prior to the commencement of works in the Right of Carriageway.
- b) ensure the works are completed in a timely manner.
- c) ensure any structures adjacent the works are adequately supported at all times.
- d) make provision to restore the work area so as to maintain the amenity of the land / minimise the imposition of works on the burdened land, should the works be delayed due to unforeseen events such as weather, service adjustments, etc.
- e) restore all areas on the burdened property disturbed by the construction works to a condition equivalent to the pre-developed state or otherwise as agreed by the owner of the burdened property.
- f) comply with any terms agreed upon by both parties in regards to the construction and restoration of the land, in the granting of the easement.

(Reason: To ensure there is minimal imposition and loss of amenity to the owner/ occupants of the property burdened by the new drainage easement in construction of these drainage services.)

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

(Reason: Specific activities on public roads where Council is the consent authority requires Council approval prior to such activities being undertaken).

121. **Road Occupancy Licence.** Prior to commencement of the associated works, the applicant shall obtain a Road Occupancy License from Transport Management Centre for any works that may impact on traffic flows on a State Road (e.g. lane closures, etc.) and/or within 100m of a signalised intersection.

(Reason: Transport for NSW requirement).

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

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

(Reason: To ensure notification of responsible contractor to Council).

123. **Notification of adjoining owners & occupiers – public domain works -** The Applicant shall provide the adjoining owners and occupiers written notice of the proposed public domain works a minimum two weeks prior to commencement of construction. The notice is to include a contact name and number should they have any enquiries in relation to the construction works. The duration of any interference to neighbouring driveways shall be minimised; and driveways shall be returned to the

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operational condition as they were prior to the commencement of works, at no cost to the owners.

(Reason: To ensure neighbours are formally notified of works).

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

(Reason: To ensure a joint inspection is undertaken prior to commencement of works).

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

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

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

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

(Reason: To ensure Council's infrastructures are adequately protected)

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

- (a) Road Use Permit - The applicant shall obtain a Road Use Permit where any area of the public road or footpath is to be occupied as construction workspace, other than activities covered by a Road Opening Permit or if a Work Zone Permit is not obtained. The permit does not grant exemption from parking regulations.
- (b) Work Zone Permit - The applicant shall obtain a Work Zone Permit where it is proposed to reserve an area of road pavement for the parking of vehicles associated with a construction site. Separate application is required with a

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Traffic Management Plan for standing of construction vehicles in a trafficable lane. **A Roads and Maritime Services Road Occupancy Licence shall be obtained for State Roads.**

- (c) Road Opening Permit - The applicant shall apply for a road-opening permit and pay the required fee where a new pipeline is to be constructed within or across the road pavement or footpath. Additional road opening permits and fees are required where there are connections to public utility services (e.g. telephone, telecommunications, electricity, sewer, water or gas) within the road reserve. No opening of the road or footpath surface shall be carried out without this permit being obtained and a copy kept on the site.
- (d) Elevated Tower, Crane or Concrete Pump Permit - The applicant shall obtain an Elevated Tower, Crane or Concrete Pump Permit where any of these items of plant are placed on Council's roads or footpaths. This permit is in addition to either a Road Use Permit or a Work Zone Permit.
- (e) Crane Airspace Permit - The applicant shall obtain a Crane Over Airspace Permit where a crane on private land is operating in the air space of a Council road or footpath. Approval from the Roads and Maritime Services for works on or near State Roads is required prior to lodgement of an application with Council. A separate application for a Work Zone Permit is required for any construction vehicles or plant on the adjoining road or footpath associated with use of the crane.
- (f) Hoarding Permit - The applicant shall obtain a Hoarding Permit and pay the required fee where erection of protective hoarding along the street frontage of the property is required. The fee payable is for a minimum period of 6 months and should the period is extended an adjustment of the fee will be made on completion of the works. The site must be fenced to a minimum height of 1.8 metres prior to the commencement of construction and throughout demolition and/or excavation and must comply with WorkCover (New South Wales) requirements.
- (g) Skip Bin on Nature Strip - The applicant shall obtain approval and pay the required fee to place a Skip Bin on the nature strip where it is not practical to locate the bin on private property. No permit will be issued to place skips.

(Reason: To ensure required permits are obtained).

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

(Reason: To ensure access is maintained for the public).

128. **Ryde Traffic Committee Approval** - A plan showing details of the proposed signage and line marking, and/or traffic devices including pedestrian refuge, pedestrian crossing or LATM measures, shall be submitted to the Council and approved by the Ryde Traffic Committee prior to the installation of any traffic devices, signage and linemarking.

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(Reason: To ensure required documentation and approval)

129. **Project Arborist.** A Project Arborist with minimum AQF level 5 qualifications is to be engaged to ensure adequate tree protection measures are put in place for all trees to be retained on the neighbouring allotments in accordance with AS4970-2009 Protection of trees on development sites and the Tree Protection Plan & Specification. All trees are to be monitored to ensure adequate health throughout the construction period is maintained. Additionally, all work within the Tree Protection Zones is to be supervised by the Project Arborist throughout construction. Details of the Project Arborist are to be submitted to Council prior to the commencement of construction.

Council is to be notified, in writing, of the name, contact details and qualifications of the Project Arborist appointed to the site. Should these details change during the course of works, or the appointed Consultant Arborist alter, Council is to be notified, in writing, within seven working days.

(Reason: To ensure an arborist is responsible for trees on site)

130. **Tree Protection Fencing.** All tree protection works including installation of any fencing is to be undertaken prior to any demolition or site clearing works on site. All protective fencing and signage around TPZs must be located in accordance with AS4970: Protection of trees on development sites and AS4687 Temporary fencing and hoardings.

(Reason: To ensure trees to be retained are protected).

131. **Tree Retention.** As identified in the Arboricultural Impact Assessment (AIA) prepared by TALC date 5/10/2021. The following trees on site or adjoining the site are to be retained and protected

Tree No.	Species "Common name"	Notes
1	Fraxinus griffithii (Evergreen Ash)	Street tree
2	Fraxinus griffithii (Evergreen Ash)	Street tree
3	Fraxinus griffithii (Evergreen Ash)	Street tree
4	Fraxinus griffithii (Evergreen Ash)	Street tree

132. **Tree Protection** is to be installed before demolition and construction commences as indicated in the Arboricultural Impact Assessment (AIA) "Section 4.4 Ground Protection, 4.5 Trunk Protection, and 4.6 Underground services in TPZs" prepared by TALC date 5/10/2021.

(Reason: To ensure trees to be retained are protected).

133. Prior to the commencement of any works appropriate fencing must be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction

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works. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.

(Reason: To satisfy the concurrence requirements of Sydney Trains).

134. If required by Sydney Trains, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required within 10 days following the undertaking of the inspection, unless otherwise notified by Sydney Trains.

(Reason: To satisfy the concurrence requirements of Sydney Trains).

DURING CONSTRUCTION

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

135. **Critical stage inspections** - The person having the benefit of this consent is required to notify the Principal Certifying Authority during construction to ensure that the critical stage inspections are undertaken, as required under clause 162A of the *Environmental Planning and Assessment Regulation 2000*. (Note: this condition does not relate to the staging of construction certificates or occupation certificates).

(Reason: Statutory requirement).

136. **Survey of footings/walls** - All footings and walls within 1 metre of a boundary must be set out by a registered surveyor. On commencement of brickwork or wall construction a survey and report must be prepared indicating the position of external walls in relation to the boundaries of the allotment.

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

137. **Use of fill/excavated material** - Excavated material must not be reused on the property except as follows:

- (a) Fill is allowed under this consent;
- (b) The material constitutes Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*;
- (c) the material is reused only to the extent that fill is allowed by the consent.

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

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

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

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

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

140. **Site Facilities**

The following facilities must be provided on the site:

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

(Reason: Statutory requirement).

141. **Site maintenance**

The applicant must ensure that:

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

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

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

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

143. **Surveillance cameras.** Surveillance cameras and recorders are to be installed and maintained to monitor and record all entrance and exit points to the building. This is to include the basement car park areas, the entry and exit points to the car park, the foyer area to the building, communal areas, lifts, public spaces and the retail areas. The cameras should also monitor the 50 metre vicinity outside the building. Recordings should be made 24 hours a day 7 days a week.

As a minimum, CCTV cameras at entry and exit points to the premises must record footage of a nature and quality in which it can be used to identify a person recorded by the camera. All other cameras must record footage of a nature and quality in which it can be used to recognise a person recorded by the camera. The time and date must automatically be recorded on all recordings made whilst it is recording.

All recordings are to be kept for a minimum period of thirty (30) days before they can be reused or destroyed. If requested by the Police, any recordings are to be archived until such time as they are no longer required.

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Recordings are to be made in a common media format such as Windows Media Player or similar, or should be accompanied by applicable viewing software to enable viewing on any windows computer.

The CCTV control system should be located within a secured area of the premises and only accessible by authorised personnel.

If the CCTV system is not operational, immediate steps are to be taken to ensure that it is returned to fully operational condition as soon as possible.

If requested by police, the applicant is to archive any recording until such time as they are no longer required.

(Reason: To ensure safety measures are provided in the design of the building).

144. **Lighting.** Lighting is to be provided around the site and all lighting is to comply with the following requirements:

- Lighting is to be designed and installed in accordance with the relevant Australian and New Zealand Lighting Standards.
- Sensor lighting should be installed into areas that may be areas of concealment.
- All outdoor public spaces should be well lit to ensure safety during the hours of darkness.
- Lighting is to be provided to all common areas including all car parking levels, stairs and access corridors and communal gardens.
- To reduce power consumption and comply with the relevant Australian and New Zealand Standards for Lighting, car park lighting is to be interfaced with motion detectors.

(Reason: To ensure lighting is provided and designed in accordance with relevant standards).

145. **Street sign.** A street sign is to be prominently displayed at the front of the development to comply with Local Government Act, 1993, Section 124, Order No. 8.

(Reason: To ensure required street signs are provided).

146. **Fire Doors.** Signage is to be provided on the fire exit doors warning users that the doors are to be used for emergency purposes only. All fire doors are to be fitted with single cylinder locksets (Australian and New Zealand Standard – Lock Sets) to restrict unauthorized access to the development.

(Reason: To ensure required signage and fire doors are fitted in accordance with relevant standards).

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147. **Prevention of graffiti.** To assist in the prevention of graffiti, consideration should be given to the use of graffiti resistant materials to assist in the quick removal of any graffiti.

(Reason: To ensure prevention of graffiti).

148. **Access control.** Access control should be put in place to prevent authorised access. In this respect, access should be restricted to employees only to the lifts and stairs leading to the upper levels.

(Reason: To ensure access control controls are provided within lifts).

149. **Locks to doors.** All locks fitted to the doors should be of high quality and meet the Australian design standard. Any glass within these doors should be laminated to enhance the physical security of the doors.

(Reason: To ensure locks are provided to doors).

150. **Dust control** - Appropriate measures must be taken to control the generation of dust during demolition and excavation work:

- (a) Any materials that are likely to generate dust during demolition, excavation or removal must be wetted down and any dust created must be suppressed by means of a fine water spray. Water used for dust suppression must not be allowed to enter the street or stormwater system.
- (b) All stockpiles of materials that are likely to generate dust must be kept damp or covered.
- (c) Demolition work must not be carried out during high winds, which may cause dust to spread beyond the boundaries of the site.

(Reason: To ensure dust control measures are implemented to protect the surrounding environment).

151. **Stormwater Management - Construction.** The stormwater drainage system on the site must be constructed in accordance with the Construction Certificate version of the Stormwater Management Plan by Alpha Engineering & Development, Drawing No.:A21175-SW01 to A21175-SW06, Revision No.: E, Dated 09-02-2022, submitted in compliance to the condition labelled "Stormwater Management." and the requirements of Council in relation to the connection to the public drainage system.

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

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

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153. **Geotechnical Monitoring Program - Implementation.** The construction and excavation works are to be undertaken in accordance with the Geotechnical Report and Monitoring Program (GMP) submitted with the Construction Certificate. All recommendations of the Geotechnical Engineer and GMP are to be carried out during the course of the excavation. The applicant must give at least seven (7) days notice to the owner and occupiers of the adjoining allotments before excavation works commence.

(Reason: To ensure that the excavation works are undertaken appropriately throughout the period of construction.)

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

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

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

(Reason: To ensure that construction vehicle movements and activities are undertaken in accordance with the approved CTMP throughout the period of construction.)

156. **Implementation of Construction Pedestrian and Traffic Management Plan.** All construction activities are to be undertaken in accordance with the approved Construction Pedestrian and Traffic Management Plan (CPTMP). All controls in the CPTMP must be maintained at all times and all traffic management control must be undertaken by personnel having appropriate SafeWork NSW accreditation. Should the implementation or effectiveness of the CPTMP be impacted by surrounding major development not encompassed in the approved CPTMP, the CPTMP measures and controls are to be revised accordingly and submitted to Council’s Traffic, Transport and Development Department for approval. A copy of the approved CPTMP is to be kept onsite at all times and made available to the accredited certifier or Council on request.

(Reason: This condition is to ensure that the measures/protocols stated in the approved CPTMP are carried out by the builder during construction).

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

The Applicant shall submit to Council’s City Works Directorate, certification from the Engineer, at each stage of the inspection listed below, within 24 hours following completion of the relevant stage/s. The certificates shall contain photographs of the

Conditions of Consent for LDA2021/0372 :-

works in progress and a commentary of the inspected works, including any deficiencies and rectifications that were undertaken. A separate set of inspections are to be carried out and certificates to be submitted for public domain works associated with both Stages 2 and 3 of the development.

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

(Reason: To ensure required inspections).

158. **Contaminated Land: Discovery of Additional Information** - Council and the Principal Certifying Authority (if Council is not the PCA) must be notified as soon as practicable if any information is discovered during demolition or construction work that has the potential to alter previous conclusions about site contamination.

(Reason: To ensure that the land is suitable for its proposed use and poses no risk to the environment and human health).

159. **Contaminated soil disposal** - All potentially contaminated soil excavated during demolition or construction work must be stockpiled in a secure area and be assessed and classified in accordance with the *Waste Classification Guidelines Part 1: Classifying Waste* (EPA, 2014) before being transported from the site

(Reason: To ensure appropriate disposal of contaminated soil).

160. **Contaminated waste to licensed EPA landfill** - Any contamination material to be removed from the site shall be disposed of to an EPA licensed landfill.

(Reason: To comply with the statutory requirements of the Protection of the Environment Operations Act 1997).

161. **Waste data maintained** - A Waste Data file is to be maintained, recording building/demolition contractor's details and waste disposal receipts/dockets for any demolition or construction wastes from the site. These records must be retained and made available to Council on request.

(Reason: To confirm waste minimisation objectives are met).

162. **Storage and removal of wastes** - All demolition and construction wastes must be stored in an environmentally acceptable manner and be removed from the site at frequent intervals.

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(Reason: To prevent any nuisance or danger to health, safety or the environment).

163. **Hazardous/intractable waste disposal** - Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of SafeWork NSW and the EPA, and with the provisions of:

- (a) Work Health and Safety Act 2011
- (b) NSW Protection Of the Environment Operations Act 1997 (NSW) and
- (c) NSW Department of Environment and Climate Change Environmental Guidelines; NSW EPA Waste Classification Guidelines

(Reason: To ensure that the land is suitable for the proposed development and any contaminating material required to be removed from the property is removed in accordance with the prescribed manner).

164. **General requirements for liquid and solid waste** - Liquid and solid wastes generated on the site shall be collected, transported and disposed of in accordance with the Protection of the Environment Operations (Waste) Regulation 2005 and in accordance with DECC the Environmental Guidelines Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999). NSW EPA Waste Classification Guidelines

(Reason: To prevent pollution of the environment).

165. **Liquid and Solid Wastes** - Liquid and solid wastes generated on site shall be collected, transported and disposed of in accordance with the Protection of the Environment Operations (Waste) Regulation 2014 and in accordance with the Environment Protection Authority's Waste Tracking Guidelines as described in the Environmental Guidelines Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999). NSW EPA Waste Classification Guidelines

(Reason: To prevent pollution of the environment).

166. **Polluted water excavation - analysis before discharge** - Site water discharged must not exceed suspended solid concentrations of 50 parts per million, and must be analysed for pH and any contaminants of concern identified during the preliminary or detailed site investigation, prior to discharge to the stormwater system. The analytical results must comply with relevant Environmental Protection Authority and Australian & New Zealand Guidelines for Fresh & Marine Water Quality Other options for the disposal of excavation pump-out water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility

(Reason: To prevent pollution of waterways).

167. **De-watering of Excavated Sites** - Any site excavation areas must always be kept free of accumulated water. Water that accumulates within an excavation must be removed and disposed of in a manner that does not result in: the pollution of waters, nuisance to neighbouring properties, or damage/potential damage to neighbouring land and/or property. A de-watering plan is required to be included and submitted to Council for review prior to issue of a Construction Certificate.

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(Reason: To protect against subsidence, erosion and other nuisances).

168. **Tree Removal.** As identified in the Arboricultural Impact Assessment (AIA) prepared by TALC date 5/10/2021. The following trees on site are to be removed:

Tree No.	Species "Common name"
5	<i>Cinnamomum camphora</i> (Camphor Laurel)
6	<i>Cinnamomum camphora</i> (Camphor Laurel)
7	<i>Cinnamomum camphora</i> (Camphor Laurel)
8	<i>Melaleuca bracteata</i> cv. "Revolution Green" (Black tea-tree)
9	<i>Melaleuca bracteata</i> cv. "Revolution Green" (Black tea-tree)

169. **Project Arborist Inspections.** The Project Arborist is to inspect and document with Certificates of Compliance to the certifying authority as stipulated in SECTION 5 MONITORING AND CERTIFICATION of AS4970-2009.

PROJECT PHASE	ACTIVITIES	PROJECT ARBORIST to
Initial Site Preparation	Establish/delineate TPZ Install protective measures and undertake soil rehabilitation for all trees to be retained.	Project Arborist to mark Tree Protection Zones and install fences, mulch, irrigation and signage Issue a Certification of Compliance of tree protection measures being in place and soil rehabilitation undertaken
Construction work	Liaison with site manager, compliance and any deviation from approved plan	Maintain or amend protective measures Supervision and monitoring formal notification of any deviation from approved tree protection plan
Stormwater connection installation through TPZ, Implement hard and soft landscape works	Supervise Installation of pipes within tree TPZ	Excavate trench through TPZ under Arborist supervision, install pipework, remove selected protective measures as necessary and perform remedial tree works Issue a Certificate of Compliance
Practical Completion	Tree vigour and structure Assessment and undertake soil rehabilitation for all retained trees	Remove all remaining tree Protection measures Certification of tree protection and soil rehabilitation for Protected Trees

Conditions of Consent for LDA2021/0372 :-

Defects liability / maintenance period	Tree vigour and structure	Undertake any required remedial tree works Certification of tree protection if necessary
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170. **Tree works – Australian Standards.** All tree work must be carried out by a qualified and experienced Arborist with a minimum of AQF level 3 in Arboriculture with NSW Work Cover Code of Practice for Amenity Tree Industry (1998) and AS4373 Pruning of amenity trees (2007).

(Reason: To ensure tree works comply with Australian Standard).

171. **Archaeology.** As required by the *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from Heritage NSW.

Note: The *National Parks and Wildlife Service Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and / or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.

(Reason: Statutory requirements for the protection of archaeology).

172. **Excavation works** All excavation works shall employ such techniques and equipment which minimises the amount of ground vibration. In this regard, excavation of the site by use of pneumatic drill for the breaking of rock or any other vibrating equipment for excavation, shall not be permitted.

(Reason: To minimise vibration and risk to the structural stability and integrity of the adjoining heritage item).

173. No metal ladders, tapes, and plant, machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.

(Reason: To satisfy the concurrence requirements of Sydney Trains).

PRIOR TO OCCUPATION CERTIFICATE

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

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

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

174. **Landscaping** - All landscaping works approved by this consent are to be completed prior to the issue of any **Occupation Certificate** for each stage.

(Reason: To ensure landscaping works are completed).

175. **Fire safety matters** - At the completion of all works, a Fire Safety Certificate must be prepared, which references all the Essential Fire Safety Measures applicable and the relative standards of Performance (as per Schedule of Fire Safety Measures). This certificate must be prominently displayed in the building and copies must be sent to Council and the Fire and Rescue NSW. Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate. Each year the Owners must send to the Council and the Fire and Rescue NSW an annual Fire Safety Statement which confirms that all the Essential Fire Safety Measures continue to perform to the original design standard.

(Reason: To ensure fire safety certificates are issued).

176. **Stormwater Management - Work-as-Executed Plan.** A Work-as-Executed plan (WAE) of the as constructed Stormwater Management System must be submitted with the application for an Occupation Certificate. The WAE must be prepared and certified (signed and dated) by a Registered Surveyor and is to clearly show the constructed stormwater drainage system (including any onsite detention, pump/ sump, charged/ siphonic and onsite disposal/ absorption system) and finished surface levels which convey stormwater runoff.

(Reason: To clarify the configuration of the completed stormwater management system.

177. **Disused Gutter Crossing.** All disused gutter and footpath crossings shall be removed and the kerb and footpath reinstated to the satisfaction of Council.

(Reason: To maximise onstreet parking capacity and avoid confusion relating to the enforcement of parking restrictions.)

178. **Stormwater Management – Positive Covenant(s).**

A Positive Covenant must be created on the property title(s) pursuant to the relevant section of the Conveyancing Act (1919), providing for the ongoing maintenance of the onsite detention, pump/ sump components incorporated in the approved Stormwater Management system. The terms of the instrument are to be in accordance with the Council's standard for the relevant systems and are to be to the satisfaction of Council. To assure Council the construction of the stormwater management system has been completed, stormwater Works-As-Executed plans and certification of the system are to be submitted to Council with a completed "Application Form for Endorsement of Title

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Encumbrances" (available from Council's website). The positive covenant must be registered on the title prior to the release of any Occupation Certificate for development works for which the system(s) serve.

(Reason: This is to ensure that the drainage system will be maintained and operate as approved throughout the life of the development, by the owner of the site(s).)

179. **Drainage System Maintenance Plan.** A drainage system maintenance plan (DSMP) must be prepared for implementation for the ongoing life of the development.

The DSMP must contain the following;

- a) All matters listed in Section 1.4.9 of the DCP Part 8.2 (Stormwater and Floodplain Management – Technical Manual).
- b) The DSMP is to incorporate a master schedule and plan identifying the location of all stormwater components crucial to the efficient operation of the trunk drainage system on the development lot. This is to include (but not be limited to) pump/sump systems, WSUD components and all onsite detention systems. The master plan is also to contain the maintenance schedule for each component.
- c) The DSMP is also to include safe work method statements relating to access and maintenance of each component in the maintenance schedule.
- d) Signage is to be placed in vicinity of each component, identifying the component to as it is referred in the DSMP (eg. OSD – 1), the reference to the maintenance work method statement and maintenance routine schedule.
- e) Designate areas inside the property in which the maintenance operation is to be undertaken for each component. Maintenance from the road reserve or public domain is not accepted. Areas are to be demarcated if required.
- f) Locate a storage area for maintenance components / tools to be stored on site. The location is to be recorded in the DSMP.

The DSMP is to be prepared by a suitably qualified and practising drainage engineer in co-operation with a workplace safety officer (or similar qualified personal) and all signage / linemarkings are to be implemented prior to the issue of any Occupation Certificate.

(Reason: To ensure the approved stormwater components such as onsite detention system , pumps and WSUD measures, function as designed for the ongoing life of the development)

180. **Engineering Compliance Certificates.** To ensure that all engineering facets of the development have been designed and constructed to the appropriate standards, Compliance Certificates must be obtained for the following items and are to be submitted to the Accredited Certifier prior to the release of any Occupation Certificate. All certification must be issued by a qualified and practising civil engineer having experience in the area respective of the certification unless stated otherwise.

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

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- b) Confirming that after completion of all construction work and landscaping, all areas adjacent the site, the site drainage system (including any on-site detention system), and the trunk drainage system immediately downstream of the subject site (next pit), have been cleaned of all sand, silt, old formwork, and other debris.
- c) Confirming that the connection of the site drainage system to the trunk drainage system complies with Section 4.7 of AS 3500.3 - 2003 (National Plumbing and Drainage Code), the relevant sections of the Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures and any requirements of Council pending on site conditions.
- d) Confirming that erosion and sediment control measures were implemented during the course of construction and were in accordance with the manual "*Managing Urban Stormwater: Soils and Construction*" by the NSW Department – Office of Environment and Heritage and Council's DCP 2014 Part 8.1 (Construction Activities).
- e) Certification from a suitably qualified structural or geotechnical engineer confirming that any temporary soil/ rock anchors installed into public roadway, have been de-stressed and are no longer providing any structural support.
- f) Certification from a suitably qualified geotechnical engineer confirming that the Geotechnical Monitoring Program (GMP) was implemented throughout the course of construction and that all structures supporting neighbouring property have been designed and constructed to provide appropriate support of the neighbouring property and with consideration to any temporary loading conditions that may occur on that site, in accordance with the relevant Australian Standard and building codes.
- g) Compliance certificate from Council confirming that all external works in the public road reserve and alteration to Council assets located in the property have been completed to Council's satisfaction.

(Reason: To ensure that all engineering components are completed to the satisfaction of an appropriately qualified person, prior to occupation or use of the development.)

181. **On-Site Stormwater Detention System - Marker Plate.** To ensure the constructed On-site detention will not be modified, a marker plate is to be fixed to each on-site detention system constructed on the site. The plate construction, wordings and installation shall be in accordance with Council's DCP 2014 Part 8.2 (Stormwater and Floodplain Management) and associated annexures. The plate may be purchased from Council's Customer Service Centre at 1 Pope Street – Ryde (Top Ryde City Shopping Centre).

(Reason: To ensure that owners of the site are aware of the location of the onsite detention system and the need to maintain the system over the life of the development.)

182. **Disabled Access.** Prior to occupation of the development, a suitably qualified access consultant is to certify that the development complies with Australian Standard 1428 and the Building Code of Australia.

(Reason: To ensure the development has been constructed to provide compliant accessible access in accordance with Australian Standard 1428 and the Building Code of Australia).

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183. **Safer by Design.** Prior to the issue of any Occupation Certificate, a report is to be provided by an appropriately qualified consultant verifying that all of the recommendations contained in the Crime Prevention Through Environmental Design have been complied with.

(Reason: To ensure the development has been constructed in accordance with a design that meets the requirements of Crime Prevention Through Environmental Design)

184. **Signage and Linemarking – External.** Any alterations to the public domain that results in a change to the parking and traffic conditions requires a signage and linemarking plan prepared by a suitably qualified traffic engineering consultant to be submitted to Council for endorsement by Ryde Traffic Committee and subsequent approval by Council, prior to the issue of any Occupation Certificate.

Note: The applicant is advised that Ryde Traffic Committee generally meets once a month. As such, adequate time should be allowed for the review and approval process.

All fees and charges associated with the review of this plan are to be paid in accordance with Council's latest Schedule of Fees and Charges.

(Reason: This condition is to ensure that changes to the traffic and parking conditions within the surrounding public road network as a consequence of the development is appropriately managed to minimise the impact to public safety and amenity).

185. **Signage and Linemarking (External) – Implementation.** The applicant is to install all signage and linemarking, as per the plan approved by Council. These works are to be undertaken prior to the issue of any Occupation Certificate.

(Reason: This condition is to ensure that the works outlined in the approved signage and linemarking plan are installed, prior to the development being occupied).

186. **Sydney Water – Section 73** - A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation. Application must be made through an authorised Water Servicing Co-ordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application, a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

187. **Vehicle Footpath Crossing and Gutter Crossover – Construction** - The proposed vehicle footpath crossing and gutter crossover shall be constructed prior to the issue of any Occupation Certificate at no cost to Council. Works may include the removal of any redundant vehicle footpath crossing and gutter crossover and reinstatement of kerb and gutter and restoration of road pavement.

Conditions of Consent for LDA2021/0372 :-

Any adjustment or relocation of underground utilities as a result of the driveway construction must be carried out in accordance with the requirements of the utility authority. Minimum cover requirements of utility authorities must be maintained.

(Reason: To ensure construction of required crossovers).

188. Compliance Certificate – Vehicle Footpath Crossing and Gutter Crossover - A Compliance Certificate shall be obtained from Council's City Works Directorate and a copy submitted to the Principal Certifier prior to the issue of any Occupation Certificate, confirming that the vehicle footpath crossing and gutter crossover have been constructed in accordance with the Council's standards and requirements. Fees are payable for the issue of the Compliance Certificate, in accordance with Council's Schedule of Fees and Charges.

(Reason: To ensure compliance certificate is issued).

189. Public Domain Improvements and Infrastructure Works – Completion – All public domain improvements and infrastructure works shall be completed to Council's satisfaction, in accordance with the approved public domain plans and at no cost to the Council, prior to the issue of any Occupation Certificate.

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

190. Restoration – Supervising Engineer's Certificate - Prior to the issue of any Occupation Certificate, the Applicant shall submit to Council a certificate from the Supervising Engineer confirming that the final restoration of disturbed road and footway areas for the purpose of connection to public utilities, including repairs of damaged infrastructure and replacement of any redundant vehicular crossings as a result of the construction works associated with this development site, have been completed in accordance with the Council's standards and specifications, and DCP2014 Part 8.5 *Public Civil Works*, or the Roads and Maritime Services' standards and specifications, where applicable.

(Reason: To ensure the restoration of public infrastructure).

191. Electricity accounts for new street lighting - Prior to the issue of any Occupation Certificate for the relevant stage, the Applicant shall liaise with Council's Public Domain Development Section regarding the setting up of the electricity account/s in order to energise the newly installed street lighting.

(Reason: To ensure accounts are established for street lighting).

192. Compliance Certificates – Street Lighting – Prior to the issue of any Occupation Certificate for the relevant stage, the Applicant shall submit to Council, a *Certificate of Compliance - Electrical Work (CCEW)* from the Electrical Contractor, and certification from a qualified Electrical Engineering consultant confirming that the street lighting in the public domain has been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications.

(Reason: To ensure issue of compliance certificate for street lighting).

Conditions of Consent for LDA2021/0372 :-

193. **Compliance Certificate – External Landscaping Works** – Prior to the issue of any Occupation Certificate for the relevant stage, the Applicant shall submit to Council, certification from a qualified Landscape Architect confirming that the public domain landscaping works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications.

(Reason: To ensure compliance certificate for required landscaping works).

194. **Public Domain Works-as-Executed Plans** –Works-as-Executed (WAE) Plans shall be submitted to Council for review and approval. The WAE Plans shall be prepared on a copy of the approved plans and shall be certified by a Registered Surveyor. All departures from the Council approved details shall be marked in red with proper notations. Any rectifications required by Council shall be completed by the Developer prior to the issue of any Occupation Certificate.

In addition to the WAE Plans, a list of all infrastructure assets (new and improved) that are to be handed over to Council shall be submitted in a form advised by Council. The list shall include all the relevant quantities in order to facilitate the registration of the assets in Council's Asset Registers.

(Reason: To ensure the public infrastructure works are completed in accordance with the approved plans and specifications.)

195. **Registered Surveyor Final Certificate** – Upon completion of all construction works and before the issue of the relevant Occupation Certificate, a Certification from a Registered Surveyor must be submitted to Council, stating that all works (above and below ground) are contained within the site's land boundary.

(Reason: To ensure completion of works.)

196. **Supervising Engineer Final Certificate** – Prior to the issue of the relevant Occupation Certificate the Applicant shall submit to Council, a Final Certificate from the Supervising Engineer confirming that the public domain works have been constructed in accordance with the Council approved drawings and City of Ryde standards and specifications. The certificate shall include commentary to support any variations from the approved drawings.

(Reason: To ensure certification of works.)

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

- (a) Road pavement,
- (b) Kerb and gutter,
- (c) Footpath,
- (d) Drainage pits,
- (e) Traffic signs, and

Conditions of Consent for LDA2021/0372 :-

- (f) Any other relevant infrastructure.

The report shall include summary statement/s comparing the pre and post construction conditions of the public infrastructure. The report is to be dated and submitted to, and accepted by Council's City Works Directorate, prior to issue of the Occupation Certificate for the relevant stage. The report shall be used by Council to compare with the pre-construction dilapidation report, and to assess whether restoration works will be required prior to the issue of the Compliance Certificate for External Works and Public Infrastructure Restoration.

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

(Reason: To ensure Council's infrastructures are adequately protected)

198. **Final Inspection – Assets Handover** - For the purpose of the handover of the public infrastructure assets to Council, final inspections shall be conducted in conjunction with Council's Engineer from City Works Directorate following the completion of the external works. Defects found at such inspections shall be rectified by the Applicant prior to Council issuing the Compliance Certificate for the External Works for public domain works. Additional inspections, if required, shall be subject to fees payable in accordance with Council's Schedule of Fees & Charges at the time.

A minimum 48 hours' notice will be required when booking for the final inspection.

(Reason: To ensure the handover of assets).

199. **Compliance Certification – External Works and Public Infrastructure Restoration** – Prior to the issue of any Occupation Certificate a compliance certificate shall be obtained from Council's City Works Directorate confirming that all works in the road reserve associated with the relevant stage, including all public domain improvement works and restoration of infrastructure assets that have dilapidated as a result of the development works, have been completed to Council's satisfaction and in accordance with the Council approved drawings. The applicant shall be liable for the payment of the fee associated with the issuing of each Certificate in accordance with Council's Schedule of Fees and Charges at the time of issue of the Certificate.

(Reason: To ensure compliance certificate is issued for external works.)

200. **Public Domain Design and Construction Staging** – The Applicant shall be responsible for the design and construction of all public domain improvement and infrastructure works for each stage. All engineering civil works shall be carried out in accordance with the requirements as outlined within Council's DCP 2014 Part 8.5 *Public Civil Works*, relevant Development Control Plans and in accordance with Council's specifications and to the satisfaction of Council. Council has full control to implement and impose any necessary condition to coordinate staging of the public domain work thought out the assessment phase of the development applications. All design and construction to public domain and utilities services as a consequence of the development and associated construction works shall be at the full cost to the applicant.

Conditions of Consent for LDA2021/0372 :-

(Reason: To ensure consistency with Council control requirements.)

201. **Registration of retail food business (Council)** - Prior to an Occupation Certificate being issued, the retail food business must submit a food business registration with Council.

(Reason: Compliance with the requirements of the Food Act.)

202. **Certify fit-out complies with food safety standards** - Certification to be provided to the principal certifying authority (PCA), prior to occupation, that the fit-out of the food premises has been completed in accordance with plans complying with food safety standards prescribed under the Food Act 2003, and the requirements of Australian Standard AS 4674 - 2004. It is incumbent on the PCA to determine the competency of the person providing this certification, based on that person's qualifications, experience and currency of practice.

(Reason: To ensure construction and fit-out of the premises meets relevant public health standards).

203. **Certify mechanical ventilation installation** - Adequate ventilation to work areas and other occupied enclosures shall be provided in accordance with the requirements of the Building Code of Australia. Where any system of mechanical ventilation is installed, certification that the system functions in accordance with Australian Standard AS/NZS 1668.2.2012 is to be provided to the certifying authority prior to occupation of the premises.

(Reason: To comply with the Building Code of Australia and the relevant Australian Standard).

204. **All works/methods/procedures/control measures** - Prior to the issue of an occupation certificate (Interim or Final) written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Council, stating that all works/methods/procedures/control measures approved by Council in the following report has been completed:

(a) Acoustic Report No. (2021-342), dated (13/10/2021), prepared by (Acoustic noise and vibration solutions)

(Reason: To demonstrate compliance with submitted reports).

205. The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary or design and construction of new fencing. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.

(Reason: To satisfy the concurrence requirements of Sydney Trains).

206. Prior to the issuing of any Occupation Certificate the Applicant must provide to Sydney Trains for review and endorsement a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The Principal Certifying

Conditions of Consent for LDA2021/0372 :-

Authority is not to issue any Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied. The maintenance plan must be implemented for the life of the approved development.

(Reason: To satisfy the concurrence requirements of Sydney Trains).

207. If required by Sydney Trains, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

(Reason: To satisfy the concurrence requirements of Sydney Trains).

208. Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into TAHE (Transport Asset Holding Entity) property or easements, unless agreed to by TAHE (Transport Asset Holding Entity). The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

(Reason: To satisfy the concurrence requirements of Sydney Trains).

209. Copies of any certificates, drawings, approvals/certification, or documents endorsed by, given to, or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.

(Reason: To satisfy the concurrence requirements of Sydney Trains).

OPERATIONAL CONDITIONS

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

210. **Stormwater Management – Implementation of maintenance program.** The stormwater management system components are to be maintained for the ongoing life of the development by the strata management/ owners corporation, as per the details in the approved drainage system maintenance plan (DSMP).

(Reason: To ensure the stormwater management system is appropriately maintained for the life of the development.)

211. **Food premises** - The operation of the premises is to comply with the relevant provisions of the Food Act 2003, Food Regulation 2015 and the Australia New Zealand Food Authority Food Standards Code.

Conditions of Consent for LDA2021/0372 :-

(Reason: To ensure operation of the premises complies with the relevant legislation and standards).

212. **Use is not to cause air impurities** - The operation of the premises is not to give rise to emissions of air impurities in contravention of the Protection of the Environment Operations Act 1997. Air emissions from the premises must not cause a nuisance from odours, nor be hazardous to human health or the environment.

(Reason: To prevent loss of amenity to the area)

213. **Use is not to cause offensive noise or vibration** - The use of the premises not giving rise to:

- (a) transmission of unacceptable vibration to any place of different occupancy,
- (b) a sound pressure level measured at any point on the boundary of any affected residential premises that exceeds the background noise level by more than 5 dB(A).

The source noise level shall be assessed as an LAeq,15 min and adjusted in accordance with Environment Protection Authority (EPA) guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations, and temporal content as described in the NSW Environmental Planning & Assessment Act 1979: Noise Policy for Industry 2017 and the Protection of the Environment Operations Act 1997.

(Reason: To prevent loss of amenity to the area).

214. **Council may require acoustical consultant's report** - Council may require the submission of a report from an appropriately qualified acoustical consultant demonstrating compliance with the relevant noise and vibration criteria

(Reason: To demonstrate compliance with relevant legislation)

215. **Noise and vibration from plant or equipment** - Unless otherwise provided in this Consent, the operation of any plant or equipment installed on the premises must not cause

(a) The emission of noise that exceeds the background noise level by more than 5dBA when measured at, or computed for, the most affected point, on or within the boundary of the most affected receiver. Modifying factor corrections must be applied for tonal, impulsive, low frequency or intermittent noise in accordance with the *New South Wales Industrial Noise Policy* (EPA, 2000).

(b) An internal noise level in any adjoining occupancy that exceeds the recommended design sound levels specified in Australian/New Zealand Standard AS/NZS 2107:2000 *Acoustics – Recommended design sound levels and reverberation times for building interiors*.

(c) The transmission of vibration to any place of different occupancy.

(Reason: To prevent loss of amenity to the area).

216. **No 'offensive noise'** - Noise and vibration from the use and operation of any plant and equipment and/or building services associated with the premises shall not give rise to "offensive noise" as defined by the Protection of the Environment Operations Act 1997.

(Reason: To reduce noise levels.)

Conditions of Consent for LDA2021/0372 :-

217. **Noise from mechanical equipment** - The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the Protection of the Environment Operations Act 1997.

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

218. **Hazardous/Clinical waste disposal** - Disposal of wastes from the premises shall comply with the waste management plan. Waste minimisation practices are to be demonstrated with the ongoing use, with records of disposal of hazardous wastes being kept. The storage and disposal of any hazardous waste (sharps and or clinical waste, items contaminated by blood) is to be in accordance with requirements of the Protection of the Environment Operations (Waste) Regulation 2014. **Note:** The disposal of hazardous wastes through a general waste collection service is not permitted.

(Reason: To ensure provision is made for appropriate disposal of wastes).

219. **Remove putrescible waste at sufficient frequency** - All putrescible waste shall be removed from the site with sufficient frequency to avoid nuisance from pests and odours.

(Reason: To ensure provision of adequate waste disposal arrangements).

220. **Management of waste storage facilities** - All waste storage areas are to be maintained in a clean and tidy condition at all times

(Reason: To ensure the ongoing management of waste storage areas).

221. **Storage and disposal of wastes** - All wastes generated on the premises must be stored and disposed of in an environmentally acceptable manner

(Reason: To ensure the ongoing management of waste storage areas).

222. **Waste containers** - An adequate number of suitable waste containers must be kept on the premises for the storage of garbage and trade waste.

(Reason: To ensure waste is adequately stored within the premises)

223. **Storage of bins between collection periods** - Between collection periods, all waste/recyclable materials generated on site must be kept in enclosed bins with securely fitting lids so the contents are not able to leak or overflow. Bins must be stored in the designated waste/recycling storage room(s) or area(s) between collection periods.

(Reason: To ensure waste is adequately stored within the premises).

224. **Trade Waste** - Trade wastewater shall be disposed of in accordance with the permit requirements of Sydney Water Corporation Ltd, Wastewater Source Control Branch

(Reason: To ensure compliance with Sydney Water's requirements and protect the environment)

225. **Disposal of liquid wastes** - All liquid wastes generated on the premises must be treated and discharged to the sewerage system in accordance with the requirements of Sydney Water Corporation or be transported to a liquid waste facility for recycling or disposal

Conditions of Consent for LDA2021/0372 :-

(Reason: To ensure compliance with Sydney Water's requirements and protect the environment).

End of consent

Attachment 3 – Part 4.2 Sheppard’s Bay Meadowbank

Compliance Table

Control	Proposed	Compliance
2.0 Desired Future Character		
2.2 Desired Future Character		
1. The vision for Shepherd’s Bay, Meadowbank is to create a higher density transit-orientated neighbourhood, providing for a mix of residential and commercial/retail uses.	The proposal is for a commercial development which can accommodate retail uses.	Yes
2. Excellent transport infrastructure will provide a high level of access and mobility, ensuring efficient connections from the east to west and north to south.	The site immediately adjoins the railway corridor with pedestrian access to the train line.	Yes
3. Shared zones and dedicated pedestrian and cycle ways will encourage walking and cycling whilst connecting green open spaces and transport nodes to create a high quality public domain for residents and visitors	The proposal includes public domain works along the eastern and northern frontages to facilitate access.	Yes
4. New mixed use development will integrate with surrounding neighbourhoods and buildings, ensuring that the bulk and scale of new buildings is sensitive to the foreshore location and maximises the view potential towards the Parramatta River and surrounding regions.	The proposal is of an appropriate scale and design in response the surrounding development	Yes
5. Commercial and retail development will be concentrated around Meadowbank Station and along Church Street, whilst residential development will dominate between these employment nodes.	The site immediately adjoins Meadowbank Station and provides for commercial use.	Yes
6. An improved public domain that provides an improved level of amenity that allows for higher densities across the area.	The proposal includes public domain works.	Yes
2.2.1 Integrated Public Domain and Development		
Developments are to ensure that social, economic, environmental and urban design issues are considered together and with proper regard for their mutual and cumulative impacts. All planning, design and development activities must take account of, and effectively respond to, the linkages and interfaces between public space and private land.	The proposal has been appropriately designed in consideration of the social, economic, environmental and urban design requirements for the specific site configuration.	Yes
2.2.2 Sustainability and Environmental Performance		

Shepherd's Bay, Meadowbank will develop into a transit-oriented community that maximises the potential of urban consolidation and the integration of economic, infrastructure and physical resources. Development is to create a safe and comfortable environment for residents and workers in both private and public open spaces, through best practice design that ensures buildings and spaces achieve maximum environmental performance and minimum resource use.	The development will not commence until remediation works are undertaken as required by conditions of consent.	Yes
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3.0 Design Excellence Provisions

3.1 Site Analysis

a. Must be submitted	Site Analysis submitted which includes photographs, details and sketches of how the proposal has been designed in response to surrounding development.	Yes
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4.0 General Development Controls

4.1.1 Mixed-use Development

a. Combination of medium and high density residential development with compatible employment related activity or	Proposal relies upon control (b) as it does not include residential development.	N/A
b. Compatible employment related activities including: <ul style="list-style-type: none"> i. Restaurants and cafes ii. Small scale retail establishments such as convenience stores and news agencies up to 2000m² iii. Small commercial offices and studios such as real estate agencies offices iv. Professional suites such as doctors suits, and v. Home offices 	The proposal includes café at ground floor with commercial tenancies on ground, first and second floors.	Yes
c. N/A		N/A
d. retail developments, restaurants and cafes are to be generally located at street level	The proposal incorporates café at ground floor level	Yes
e. commercial uses are encouraged at the level immediately above street level,	The proposal includes commercial use proposed on first floor.	Yes

<p>including but not confined to, professional and commercial offices, services such as dry cleaners, newsagency, and leisure uses such as a gym, places of worship or meeting rooms.</p> <p>f. Ground floor apartments are to be of flexible design to facilitate change of use and ensure privacy for occupants.</p> <p>g. Where upper levels of development are used for either commercial or residential activity, the amenity of both uses must not conflict or be compromised by other uses in the development.</p> <p>h. N/A</p> <p>i. Pedestrian entry to the residential control of mixed-use developments should be i. separated from entry to other land uses in the building(s); and ii. have a clear address and presentation to the street.</p> <p>j. Active streetscapes will be encouraged by the use of outdoor restaurant seating, whether on private or public land. Refer to Council's Outdoor Dining Policy.</p>	<p>There is no residential apartments.</p> <p>The proposal has been appropriately designed to achieve internal amenity for occupants.</p> <p>No residential element. However there is a centralised lift and lobby presenting to Railway Road.</p> <p>The proposal includes café use at ground floor with frontage to Railway Road and includes internal and outdoor seating.</p>	<p>N/A</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>
<p>4.1.2 Public Domain, Access and Pedestrian/Cyclist Amenity</p>		
<p>a. The achievement of maximum heights and density is contingent on meeting the public domain provisions of this plan and all public domain items being provided by the proponent.</p> <p>b. New developments must be provided with a minimum of one barrier free access point to the main entry.</p> <p>c. Publicly accessible pedestrian and cycle ways must be provided through large sites. (even if not</p>	<p>Public domain works will be consistent with the Ryde Public Domain Technical Manual and subject to conditions of consent. Public domain requirements will be required with any granting of approval.</p> <p>Barrier free surrounding development</p> <p>There are not identified pedestrian through links for this site.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

<p>envisioned by this plan) (refer to Figure 4.2.03)</p>		
<p>d. New pedestrian and cycleway access points, gradients and linkages are to be designed to be fully accessible by all.</p>	<p>Refer to discussion under Meadowbank Education and Employment Precinct Masterplan discussions within the report.</p>	<p>Yes</p>
<p>e. New commercial development should provide facilities, including showers, bike lockers etc, to encourage walking and cycling to work – refer to Part 9.3 - Parking.</p>	<p>Bicycle parking and end of trip facilities are provided within the basement.</p>	<p>Yes</p>
<p>f. New roads, shared ways, pedestrian and cycle paths shall be provided in accordance with Figure 4.2.03.</p>	<p>Upgrades provided in accordance with requirements.</p>	<p>Yes</p>
<p>g. N/A</p>		<p>N/A</p>
<p>h. The design of new roads, shared ways footpaths and cycle paths shall be in accordance with Figure 4.2.03, Figure 4.2.04, Figure 4.2.04a, Figure 4.2.04b, Figure 4.2.05, Figure 4.2.06 and Figure 4.2.07.</p>	<p>Upgrades provided in accordance with requirements.</p>	<p>Yes</p>
<p>i. Shared pedestrian links, cycle ways, public roads and lanes are to be of a high standard and treated in a way which indicates their shared status. The selection of paving, street furniture, lighting, bollards, signage and paving should compliment the existing upgrade works to Shepherds Bay (refer to the Ryde Public Domain Technical Manual).</p>	<p>Upgrades provided in accordance with requirements.</p>	<p>Yes</p>
<p>j. The design and location of vehicle access to developments should minimise conflicts between pedestrian and vehicles on footpaths, particularly along high volume pedestrian streets.</p>	<p>No proposed vehicular access</p>	<p>Yes</p>
<p>k. Service vehicle access is to be combined with parking access</p>	<p>No vehicle access provided</p>	<p>Yes</p>

and limited to a maximum of one access point per building.		
l. Wherever practicable, vehicle access is to be a single crossing, perpendicular to the kerb alignment.	No vehicle access provided	Yes
m. Vehicle access ramps parallel to the street frontage will not be permitted.	None proposed	Yes
n. Vehicle entries are to have high quality finishes to walls and ceiling as well as high standard detailing. No service ducts or pipes are to be visible from the street.		N/A
o. The ground floor of all development is to be flush with the street footpath for the predominant level of the street frontage and at the main entry to the building.	Ground floor entrance is at level with the upgraded footpath along the northern and eastern elevations	Yes
p. Recesses for roller doors and fire escapes are to be wide and shallow to provide for personal security. Narrow, deep recesses are to be avoided.	No narrow-recessed entrances proposed	Yes
q. Pedestrian links must be a minimum width of 3.5 m, clear of buildings and open 24 hours a day. Pedestrian links identified in Figure 4.2.03 must be dedicated to Council.	No pedestrian links through this site.	N/A
r. Developments must be setback from the corner on blocks with poor site lines. The setback distance will be at the discretion of Council.	The proposal is setback from each boundary and includes cantilevered element at the narrowed SW corner of the site.	Yes

4.1.3 Implementation – Infrastructure, Facilities and Public Domain Improvements



Figure 1 Figure4.2.03 Public Domain Upgrades



Yellow denotes upgrade Link 4 – new and improved footpaths and long the eastern and western boundaries.

Red denotes the Railway parking within area of the station

a. The public land such as the road verge adjoining a development site is to be embellished and if required dedicated to Council as part of any new development. The design and construction of the works are to be undertaken in accordance with section Figure 4.2.03, Figure 4.2.04, Figure 4.2.04a, Figure 4.2.04b, Figure 4.2.05, Figure 4.2.06 and Figure 4.2.07.

Land not required to be dedicated to Council however appropriate public domain works.

Yes

b. The Access Network being the roads, pedestrian connections and open space network as shown Figure 4.2.03 is to be embellished if required and dedicated to Council as part of the new development. The design and construction of the works are to be undertaken in accordance with Ryde Public

Proposal includes footpaths along the eastern boundary.

Yes

<p>Domain Technical Manual and section 4.1.2 of this DCP</p> <p>c. S94 contributions still apply throughout area, notwithstanding any land dedications, public domain improvements, infrastructure provision etc as required by this DCP.</p>	<p>The proposal is subject to Section 7.12 contribution which has been conditioned.</p>	<p>Yes</p>
<p>4.1.4 Views and Vistas</p>		
<p>a. Panoramic views of Parramatta River are to be maintained from Faraday Park, Settlers Park, Anderson Park, and Helene Park (refer to Figure 4.2.08)</p>	<p>The proposal does not interfere with designated viewing corridors</p>	<p>Yes</p>
<p>b. Development is to ensure that vistas towards Parramatta River are maintained (refer to Figure 4.2.08)</p>	<p>Vistas unaffected</p>	<p>Yes</p>
<p>c. Development must reflect the topography of the area taking into consideration views from the Rhodes Peninsula, Railway Bridge and Ryde Bridge.</p>	<p>Proposal does not interfere with view lines.</p>	<p>Yes</p>
<p>d. Maintain views for pedestrians and cyclists along the public open space to the Parramatta River.</p>		<p>Yes</p>
<p>e. N/A</p>		<p>N/A</p>
<p>f. N/A</p>		<p>N/A</p>
<p>g. New buildings are to take into account the existing views on the subject site and adjoining sites.</p>		<p>Yes</p>
<p>h. Orientate new development to take advantage of water views and vistas.</p>		
<p>i. New developments are not to materially compromise views of the northern ridgeline of Meadowbank.</p>		<p>Yes</p>
<p>j. Development applications will be required to include an assessment of views in accordance with the above controls.</p>		<p>Yes</p>
<p>4.1.5 Landscaping and Open Space</p>		



Figure 2 Figure 4.2.09 Open space diagram

The eastern and western boundary of the site identified as existing road.

<p>a. All development proposals are to be accompanied by a Landscape Plan prepared by a qualified and suitably experienced landscape architect. This is to include an arborist's report on existing trees, and demonstrate how proposed landscaping will contribute to ecological sustainability. Management of construction impacts must also be addressed.</p>	<p>Landscape plan submitted and considered satisfactory by Landscape Architect.</p>	<p>Yes</p>
<p>b. Roof gardens are encouraged and must be considered in any landscaping plan.</p>	<p>Roof garden not required in this circumstance given the commercial use and small scale of development.</p>	<p>Yes</p>
<p>c. N/A</p>		<p>N/A</p>
<p>d. All existing mature trees that enhance the quality of the area are to be retained.</p>	<p>Proposal includes removal of 5 trees. 3 are exempt species. Removal has been supported by arborist report.</p>	<p>No</p>
<p>e. Provide adequate deep planting zones above car parking and other concrete or similar structures to allow sustainable planting.</p>	<p>Deep soil zone provided along the western boundary.</p>	<p>Yes</p>
<p>f. N/A</p>		<p>N/A</p>

g. Construction of roof areas of multi unit developments is to make provision for useable roof gardens.	No residential component of the development	N/A
h. Where appropriate, developments should incorporate landscaping (such as planter boxes) integrated into the upper levels of building to soften building form.	Landscaping is provided at ground floor level only.	No
i. Building setbacks are to allow for landscaping/planting as in section 4.2.2 Setbacks.	Nil setback to Railway Road and complies with requirement	Yes
j. N/A		N/A
k. Where a proposal involves redevelopment of a site the developers are to arrange for electricity and telecommunications utilities to be undergrounded along the entire length of all street frontages. Such utility modifications will be carried out to the satisfaction of the responsible authority (e.g. Energy Australia). This is to improve the visual amenity of the area and allow street trees to grow unimpeded.	Electricity and telecommunication utilities to be underground conditioned as part of this consent.	Yes
l. Permeable landscape surface materials are to be maximised, to allow maximum penetration of stormwater and urban runoff. Recommended permeable landscape materials include gravel, loosely fitting pavers, stepping stones, vegetative groundcover such as grass, creepers, and shrubs.	Permeable landscape surfaces are utilised where possible.	Yes
4.1.6 Street Furniture and Public Art		
a. All development proposals are to be accompanied by a landscape plan, prepared by a qualified and suitably experienced landscape architect, indicating how public domain improvements including paving, street furniture and lighting will be incorporated into the development.	Landscape plan submitted and conditions to comply with Section 5.1 of Public Domain Technical Manual.	Yes

<p>b. Public domain finishes including the style, colour and installation methods of street furniture, paving and street lighting shall be in accordance with Ryde Public Domain Technical Manual.</p> <p>c. Public art is to be provided in accordance with Council's Public Art Policy. Developers must examine opportunities to incorporate public art in both internal and external public spaces and indicate how public art will be incorporated into major developments. Relevant themes include: i. the harbour location; ii. industrial history and heritage; iii. Aboriginal heritage; and iv. urban revitalisation.</p> <p>d. Embellishment of public places/spaces will be at developers' cost and the type and amount of embellishment will be negotiated with Council.</p>	<p>Public art conditioned to be provided.</p>	
<p>4.1.7 Safety</p> <p>a. Public spaces need to be designed to meet Crime Prevention Through Environmental Design (CPTED) principles (DUAP 2001).</p> <p>b. Open sightlines and landscaping needs to be provided that allows for high levels of public surveillance by residents and visitors.</p> <p>c. Lighting is to be provided to all pedestrian ways, building entries, corridors, laundries, lifts, stairwells, driveways and car parks to ensure a high level of safety and security for residents and visitors at night. Further, external lighting including street</p>	<p>The public accessible parts of the proposed development condition to comply with the CPTED principles in terms of levels of natural surveillance, access control and territorial reinforcement, and maintenance management</p> <p>Openings are provided on all sides of the site in order to maximise passive surveillance.</p> <p>Details of external lighting to be provided as part of CC.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

lighting if necessary (in accordance with pedestrian lighting AS1158 is to be provided which makes visible potential hiding spots at night.		
d. Entrances to public open spaces will need to encourage pedestrian use and establish clear sightlines to improve visual security.	No public access spaces proposed	Yes
e. The design of public domains must not result in dead ends or similar design outcomes.		Yes

4.2 Architectural Characteristics

4.2.1 Height

a. The maximum building height is to comply with the heights shown in Ryde Local Environmental Plan 2014 Height of Buildings Map. Buildings must comply with the maximum number of stories shown in Figure 4.2.10.	Height 10.34m and exceeds the 9.5m standard. No number of storeys identified for the site.	No
b. N/A		N/A
c. The ground floor height shall be 4 m floor to floor regardless of use.	3.3m	No
d. N/A		N/A
e. Retail and commercial uses at ground floor are to have floor levels contiguous with finished footpath levels. On sloping sites the levels must be contiguous at entries.	The proposal has a consistent ground floor level of RL21.10	Yes

4.2.2 Setbacks



Figure 3 Figure 4.2.12 Setbacks diagram nominating a nil setback applicable to the site's E and W boundaries

<p>verandas, sun shading elements etc.</p> <p>b. N/A</p> <p>c. Articulate buildings to respond to orientation, views, breezes, privacy, views, acoustic requirements, street widths and the relationship of the building to external garden spaces.</p> <p>d. Articulate buildings vertically and horizontally: materials and building setbacks on the upper storeys are to be used to reduce the perceived bulk of buildings.</p> <p>e. Provide and denote entries along street frontages and public domain spaces where appropriate.</p> <p>f. Buildings are to address streets, open spaces and the river foreshore. Street frontages are to be parallel with or aligned to the street alignment.</p> <p>g. Provide balconies and terraces, particularly where buildings overlook public spaces</p> <p>h. All facades visible from the public domain are to be durable, low maintenance and of high quality.</p> <p>i. External glass to be non-reflective and have a maximum of 20% tint.</p>	<p>and variety of materials.</p> <p>Proposal provides for appropriate amenity</p> <p>Proposal includes variety of materials and architectural design features to articulate the perceived bulk of the building.</p> <p>Centrally located entrance from Railway Road</p> <p>No balconies or terraces provided.</p>	<p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p>
4.3 Ecological Sustainability.		
<p>General requirements is for an energy efficient design, waste management and noise and attenuation.</p>	<p>The development has a GFA less than 1500m2 and is not subject to the requirement of an Energy Performance Report.</p>	<p>NA</p>
4.3.3 Waste Management		
<p>Refer to Part 7.2 of the Ryde DCP 2014 for waste minimisation and management objectives and controls.</p>	<p>Refer to discussions within the report.</p>	<p>Yes</p>
4.4.2 Noise and Vibration Attenuation		

Commercial and Industrial

<p>a. N/A</p> <p>b. The use of a premises, and any plant, equipment and building services associated with a premises must not:</p> <ol style="list-style-type: none"> I. create an offensive noise as defined by the Protection of the Environment Operations Act 1997; and II. add significantly to the background noise experienced in a locality. <p>c. At Council's discretion, if there is any doubt over whether these requirements can be achieved, a statement of compliance from a qualified acoustic consultant may be required.</p>	<p>All plant equipment and building services are located at basement level or adjacent to the railway corridor to minimise acoustic impacts. Relevant acoustic report submitted with details of acoustic treatment to plant equipment and services.</p>	<p>Yes</p>
<p>d. Machinery and activities, including construction work, that are likely to generate offensive noise must be adequately sound-proofed in accordance with the Protection of the Environment Operations Act 1997 prior to occupation of the premises.</p> <p>e. Development must have regard to "Interim Guidelines for Development Near Busy Road and Rail Corridors" NSW Planning & Infrastructure.</p> <p>f. Where development adjoins residential development, the use of mechanical plant equipment and building services will be restricted and must have acoustic insulation.</p>	<p>Submitted acoustic report details acoustic treatment to plant equipment and services.</p> <p>No residential uses proposed.</p>	<p>Yes</p>
<p>g. Loading and unloading facilities must not be located immediately adjacent to residential development.</p>	<p>Loading and servicing will be undertaken from Railway Road or alternatively from the access road on site, which is suitable for small servicing vehicles that are likely to be used for the proposed development.</p>	<p>Yes</p>

<p>h. Retail premises must limit any spruiking and the playing of amplified music or messages so as not to disturb the amenity of other public and private places.</p> <p>i. Air conditioning ducts shall not be situated adjacent to residential development.</p> <p>j. Where development is situated adjacent to residential development, working hours shall generally be restricted to 7 am to 6 pm Monday to Friday and 8 am to 1 pm on Saturday, and nil on Sundays or public holidays. Activities in operation outside these hours must demonstrate that there will be no detrimental impact to residential amenity.</p>	<p>For the proposed café, spruiking and playing of amplified music or messages are not proposed.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>
<p>k. N/A</p>		<p>N/A</p>
<p>4.4 Parking Access and Loading</p>		
<p>a. All new buildings are required to provide on-site loading and unloading facilities. Buildings on Church Street will be accessed from Porter Street. This is to be addressed in Staged development applications for these sites.</p> <p>b. Loading docks shall be located in such a position that vehicles do not stand on any public road, footway, laneway or service road and vehicles entering and leaving the site move in a forward direction.</p> <p>c. Loading docks that extend more than 7.5 metres into a building, mechanical ventilation might be required.</p>	<p>The proposal does not provide for on site loading and unloading facilities.</p>	<p>No</p>
<p>4.5 Flooding and Stormwater Design</p>		
<p>a. Development must comply with Part 8.6 Floodplain Management of this DCP</p>	<p>The proposal has been considered satisfactory by Council's Senior Development Engineer subject to recommended conditions of consent.</p>	<p>Yes</p>
<p>5.0 Precinct Specific Development Controls</p>		
<p>5.1 Precinct 1 – Station</p>		

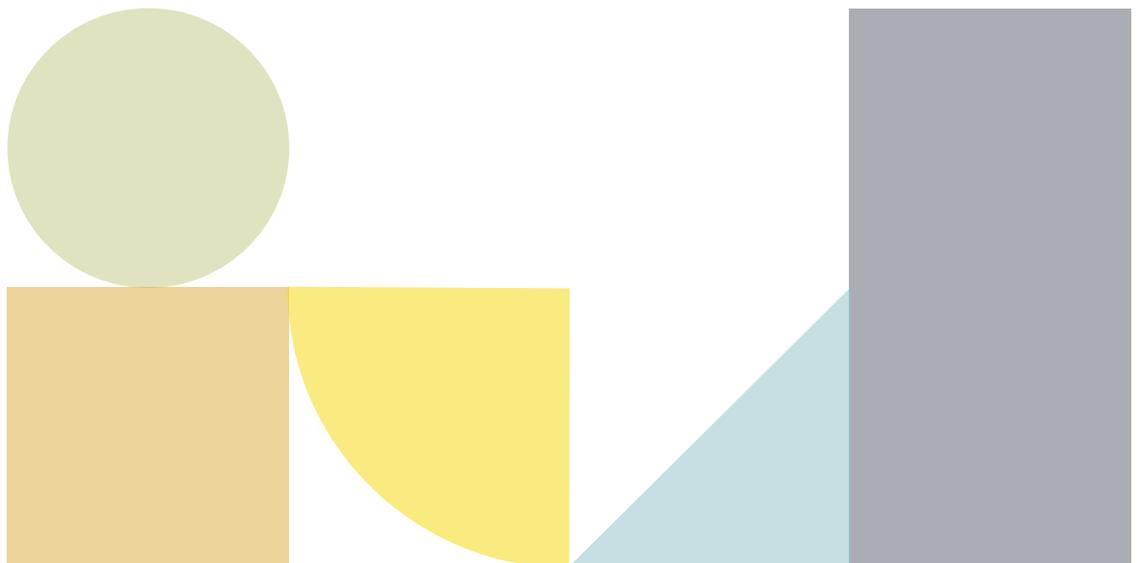


Figure 4 Precinct mapping with site located outside but immediately adjoining

<p>a. Views from the Parramatta River must be protected and not be interrupted by a continuous line of buildings.</p>		<p>Yes</p>
<p>b. N/A</p>		<p>N/A</p>
<p>c. Acoustic treatment such as high performance glazing/double glazing is to be considered for development fronting the railway cutting.</p>	<p>Acoustic treatments are proposed to be incorporated into the design of the building, as detailed in the submitted acoustic report</p>	<p>Yes</p>
<p>d. Awnings are required on Railway Road with a minimum height to the underside of 3.2 metres. Awnings are to allow for street tree planting.</p>	<p>An awning is proposed along part of the Railway Road frontage of the development, which will be approximately 2.8m above street level. Whilst less than 3.2m, it will not interfere with existing street trees planted along Railway Road.</p>	<p>No</p>
<p>e. N/A</p>		<p>N/A</p>
<p>f. Properties between Faraday Lane and Railway Road, between Constitution Road and Underdale Lane, must, wherever possible, be accessed from Railway Road.</p>	<p>The development includes pedestrian entrances from Railway Road.</p>	<p>Yes</p>

ANNEXURE C

Clause 4.6 Variation – Building Height





Clause 4.6 Variation Statement – Building Height (Clause 4.3)

1. INTRODUCTION

This Variation Statement has been prepared in accordance with Clause 4.6 of Ryde *Local Environmental Planning Plan 2014* (“RLEP 2014”) to accompany Development Application at No. 27 Railway Road, Meadowbank (“the site”). The application seeks consent for the excavation and construction of a commercial development with associated tree removal and landscaping.

2. PROPOSED VARIATION

Clause 4.3 of RLEP 2014 prescribes the maximum building height for the site and refers to the *Height of Buildings Map*. The relevant map [sheet HOB_003] indicates that the maximum building height permitted at the subject site is 9.5m.

Under RLEP 2014, building height is defined as:

“building height (or height of building) means:

(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or

(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum 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.”

As indicated in the sections and the height blanket below (**Figures 12 & 13**), there will be a breach of the prescribed height of buildings development standard. The maximum height proposed is 10.25m (to the top of the lift overrun), which provides a numerical non-compliance of 0.75m and a percentage non-compliance of 7.9%.

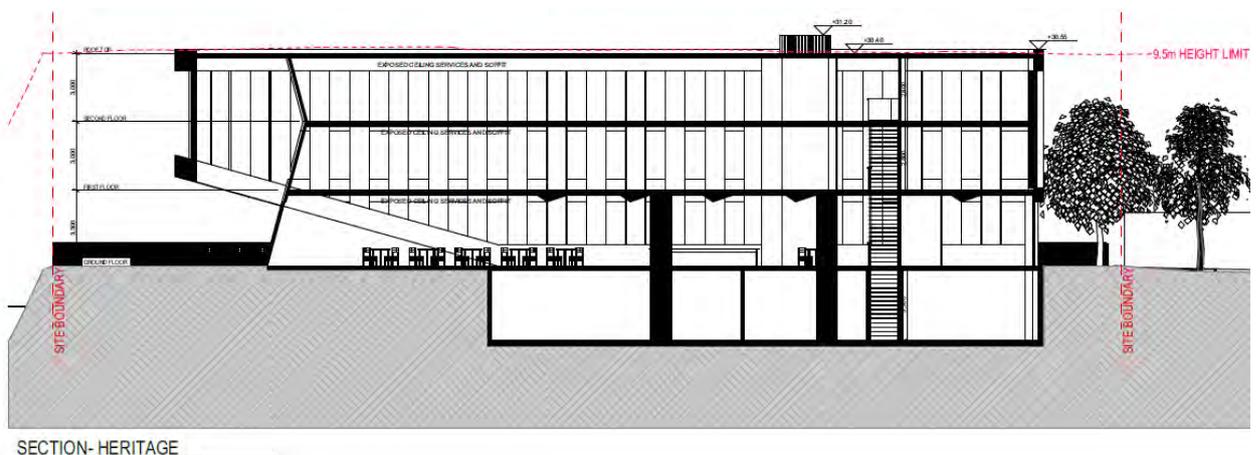


Figure 13: Section through proposed building (red line indicated maximum permitted building height)

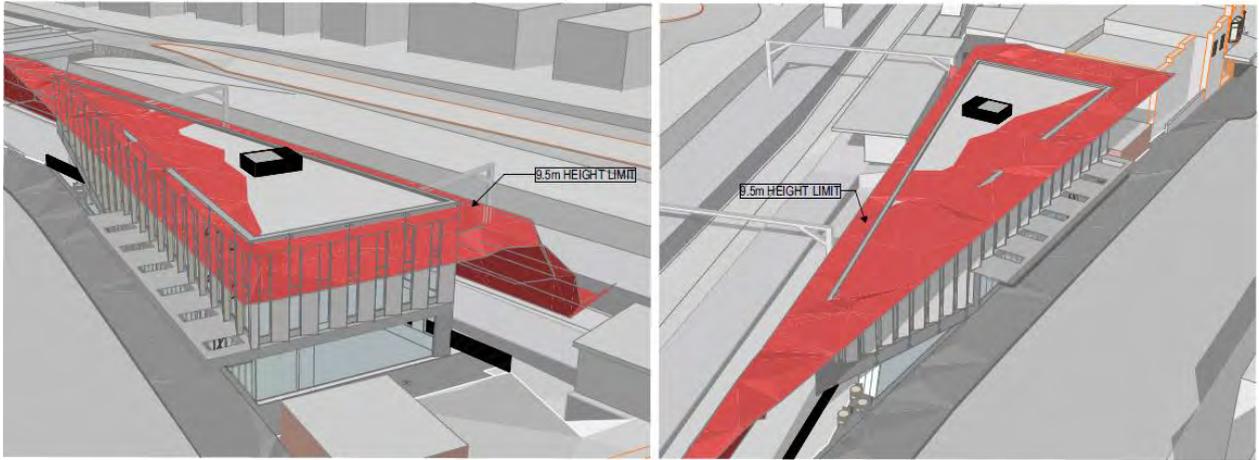


Figure 14: Height blankets showing areas of exceedance

The prescribed building heights under Clause 4.3 of RLEP 2014 are “development standards” to which exceptions can be granted pursuant to Clause 4.6 of RLEP 2014.

3. OBJECTIVES AND PROVISIONS OF CLAUSE 4.6

The objectives and provisions of Clause 4.6 are as follows:

4.6 Exceptions to development standards

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

- (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

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

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

- (a) *that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- (b) *that there are sufficient environmental planning grounds to justify contravening the development standard.*

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

(a) *the consent authority is satisfied that—*

- (i) *the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*

(b) the concurrence of the Planning Secretary has been obtained.

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

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

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

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

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

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

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

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

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

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

(a) a development standard for complying development,

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

(c) clause 5.4,

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

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

(cc) clause 6.9.

It is noted that Clause 4.3 of RLEP 2014 is not "expressly excluded" from the operation of Clause 4.6, other than for land identified as "Town Core" on the *Ryde Town Centre Precincts Map*, which does not apply to the subject site.

Objective 1(a) of Clause 4.6 is satisfied by the discretion granted to a consent authority by virtue of Subclause 4.6(2) and the limitations to that discretion contained in subclauses (3) to (8). This submission will address the requirements of Subclauses 4.6(3) & (4) in order to demonstrate to the consent authority that the exception sought is consistent with the exercise of "an appropriate degree of flexibility" in applying the development standard, and is therefore consistent with objective 1(a). In this regard, the extent of the discretion afforded by Subclause 4.6(2) is not numerically limited, in contrast with the development standards referred to in, Subclause 4.6(6).

4. THAT COMPLIANCE WITH THE DEVELOPMENT STANDARD IS UNREASONABLE OR UNNECESSARY IN THE CIRCUMSTANCES OF THE CASE (CLAUSE 4.6(3)(a))

In *Wehbe V Pittwater Council* (2007) NSW LEC 827 Preston CJ sets out ways of establishing that compliance with a development standard is unreasonable or unnecessary. This list is not exhaustive. It states, inter alia:

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

The judgement goes on to state that:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development proffers an alternative means of achieving the objective strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

Preston CJ in the judgement then expressed the view that there are 5 different ways in which an objection may be well founded and that approval of the objection may be consistent with the aims of the policy, as follows (with emphasis placed on number 1 for the purposes of this Clause 4.6 variation [our underline]):

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;
5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard that would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

Relevantly, in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118 (paragraph 16), Preston CJ makes reference to *Wehbe* and states:

“...Although that was said in the context of an objection under State Environmental Planning Policy No 1 – Development Standards to compliance with a development standard, the discussion is equally applicable to a written request under cl 4.6 demonstrating that compliance with a development standard is unreasonable or unnecessary.”

Compliance with the building height development standards is considered to be unreasonable and unnecessary as the objectives of those standards are achieved for the reasons set out in Section 7 of this statement. For the same reasons, the objection is considered to be well-founded as per the first method underlined above.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard(s) will be in the public interest because it is consistent with the objectives of the particular standard(s) and the

objectives for development within the zone in which the development is proposed to be carried out. Clause 4.6(4)(a)(ii) is addressed in Section 6 below.

5. SUFFICIENT ENVIRONMENTAL PLANNING GROUNDS (CLAUSE 4.6(3)(b))

Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, the following planning grounds are submitted to justify contravening the prescribed maximum building heights:

- a. The non-compliance is numerically minor, being a maximum of 0.75m (7.9%) above the 9.5m height limit for the lift overrun which is located centrally within the building. The vast majority of the development complies with the height limit and thus, the non-compliance will not be discernible to the average passer-by, over and above a height compliant development.
- b. The encroachments above the maximum building height allow for the redevelopment of a highly constrained and difficult site. The non-compliances enable a building form to be achieved on site that is generally compliant with the applicable planning controls under RLEP 2014 and RDCP 2014, including precinct controls for the Shepherd's Bay, Meadowbank precinct. Without the height non-compliance proposed, it would not be possible to provide three levels of commercial floor space on the site with satisfactory floor to ceiling heights. The removal of the top floor in order to comply with the maximum height would therefore render the redevelopment of the site unviable.
- c. Despite the numerical height non-compliance, the development provides a scale and form of development that is compatible with surrounding developments and the emerging character of the Shepherd's Bay, Meadowbank precinct. The development maintains a fine grain form that is compatible with the lower scale of built form adjacent to Meadowbank Railway Station and is also compatible with the higher density built form of new developments in the precinct to the east.
- d. The design of the development carefully considers surrounding built context, including heritage assets in the locality. This includes Meadowbank shops, a local heritage item adjoining the site to the north. This is confirmed in the accompanying Heritage Impact Statement which concludes that:

"The proposed design for a three storey, Commercial development prepared by Curzon + Partners Architects is sympathetic to the adjacent Meadowbank shops through the sensitive visual and physical transition between the two, in both the separation of the buildings and in the careful articulation and materiality of the façade.

The siting of the proposal does not obscure any of the primary views of the Meadowbank Shops, and so the appreciation of the significance of the heritage item is retained and conserved.

The architectural character and detailed fenestration of the new building has been strongly influenced by the proximity of the Meadowbank Shops, specifically in the proportions of the architectural design of the facade. The awning relationship supports the expansion of an active retail edge, which in turn is a continuum from the existing retail shop frontage that turns the corner onto Railway Road. The rhythm of the vertical façade elements, along with the overall height of the building, reference the proportions established by the brick pilasters and bay windows on the row of heritage shop buildings. The outcome is that whilst a contemporary design, it sits comfortably alongside the heritage building in the streetscape.

The visual impact and proximity of the new building to the adjacent heritage item has an acceptable heritage impact."

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- e. New developments within the precinct generally comprise of solely residential developments with no non-residential uses on ground level (despite the B4 Mixed Use zoning). In contrast, the proposed development includes a development that is entirely made up of non-residential land uses. This achieves a provides much needed employment-generating floor space in the locality that will serve the whole precinct and wider locality. It also includes opportunities for outdoor dining at street level. The development therefore provides an exemplary response to desired future character that is envisaged for the locality and is consistent with the desired future character objectives for the precinct.
- f. There will be no adverse impacts on solar access to neighbouring properties as a result of the non-compliances. The proposed development will not give rise to additional adverse impacts on solar access to neighbouring private open space or living areas between 9am and 3pm on 21 June, consistent with the relevant provisions under the RDCP 2014. Shadow diagrams that have been prepared with the development application demonstrate that the additional height as a result of the non-compliance will not result in any significant increase in adverse solar impacts to neighbours, over and above a height compliant development. Shadows cast from the development between 9am and 3pm on 21 June will generally fall onto the adjacent railway corridor and streets, thus not affecting neighbouring residential properties.
- g. The height breach does not result in any additional adverse amenity impacts on neighbouring properties. Compliant building setbacks and separation have been provided in accordance with the RDCP 2014 requirements. As such, levels of visual and acoustic privacy, and outlook for neighbouring residences will not be adversely affected by the non-compliant part of the development.
- h. The height breach does not result in any adverse view impacts, including public or private views available across the site.
- i. The proposed development meets the objectives of the development standards and meets the objectives of the B4 Mixed Use zone (as further detailed in Section 7 below).
- j. The proposed development achieves the objects in Section 1.3 of the EP&A Act, specifically:
- The development facilitates ecologically sustainable development by providing much needed, well-designed commercial/retail floor space in an appropriate and highly accessible location. This will positively promote sustainable modes of transport and increase employment opportunities locally. Furthermore, the development will have a positive economic and environmental impact on the locality (1.3b);
 - The proposal promotes the orderly and economic use and development of land through the redevelopment of a difficult, constrained and underutilised site for an appropriate commercial development. There will be substantial uplift in employment generation on the site, which aligns with the desired future character of the Shepherd's Bay, Meadowbank precinct (1.3c);
 - As stated earlier in this statement, the development will not prejudice the heritage significance and setting of heritage items in the vicinity of the site (1.3e); and
 - The development has been designed to be compatible with the surrounding built form and despite the height non-compliance, will not adversely impact neighbouring amenity. The development will provide excellent levels of amenity for future occupants. Furthermore, the proposed development exhibits design excellence (1.3g).

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development. The additional height will facilitate a high quality commercial development with excellent levels

of internal amenity that does not prejudice the character or appearance of the local streetscape or levels of residential amenity enjoyed by neighbouring properties.

It is noted that in *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC 118, Preston CJ clarified what items a Clause 4.6 does and does not need to satisfy. Importantly, there does not need to be a "better" planning outcome:

86. The second way is in an error because it finds no basis in cl 4.6. Clause 4.6 does not directly or indirectly establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development. This test is also inconsistent with objective (d) of the height development standard in cl 4.3(1) of minimising the impacts of new development on adjoining or nearby properties from disruption of views or visual intrusion. Compliance with the height development standard might be unreasonable or unnecessary if the non-compliant development achieves this objective of minimising view loss or visual intrusion. It is not necessary, contrary to what the Commissioner held, that the non-compliant development have no view loss or less view loss than a compliant development.

87. The second matter was in cl 4.6(3)(b). I find that the Commissioner applied the wrong test in considering this matter by requiring that the development, which contravened the height development standard, result in a "better environmental planning outcome for the site" relative to a development that complies with the height development standard (in [141] and [142] of the judgment). Clause 4.6 does not directly or indirectly establish this test. The requirement in cl 4.6(3)(b) is that there are sufficient environmental planning grounds to justify contravening the development standard, not that the development that contravenes the development standard have a better environmental planning outcome than a development that complies with the development standard.

As outlined above, it is considered that in many respects, the proposal will provide for a better planning outcome than a strictly compliant development. At the very least, there are sufficient environmental planning grounds to justify contravening the development standard.

6. CLAUSE 4.6(4)(a)

Preston CJ in *Initial Action Pty Ltd v Woollahra Municipal Council* details how Clause 4.6(4)(a) needs to be addressed (paragraphs 15 and 26 are rephrased below):

The first opinion of satisfaction, in clause 4.6(4)(a)(i), is that a written request seeking to justify the contravention of the development standard has adequately addressed the matters required to be demonstrated by clause 4.6(3). These matters are twofold: first, that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case (clause 4.6(3)(a)) and, secondly, that there are sufficient environmental planning grounds to justify contravening the development standard (clause 4.6(3)(b)). This written request has addressed Clause 4.6(3)(a) in Section 4 above (and furthermore in terms of meeting the objectives of the development standard, this is addressed in 7a below). Clause 4.6(3)(b) is addressed in Section 5 above.

The second opinion of satisfaction, in clause 4.6(4)(a)(ii), is that the proposed development will be in the public interest because it is consistent with the objectives of the particular development standard that is contravened and the objectives for development for the zone in which the development is proposed to be carried out. The second opinion of satisfaction under cl 4.6(4)(a)(ii) differs from the first opinion of satisfaction under clause 4.6(4)(a)(i) in that the consent authority, or the Court on appeal, must be directly satisfied about the matter in clause 4.6(4)(a)(ii), not indirectly satisfied that the applicant's written request has adequately addressed the matter in clause 4.6(4)(a)(ii). The matters in Clause 4.6(4)(a)(ii) are addressed in Section 7 below.



7. THE PROPOSED DEVELOPMENT WILL BE IN THE PUBLIC INTEREST BECAUSE IT IS CONSISTENT WITH THE OBJECTIVES OF THE PARTICULAR STANDARD AND THE OBJECTIVES FOR DEVELOPMENT WITHIN THE ZONE IN WHICH THE DEVELOPMENT IS PROPOSED TO BE CARRIED OUT (CLAUSE 4.6(4)(a)(ii))

7a. Objectives of Development Standard

Clause 4.3 of RLEP 2014 contains the following objectives to be achieved by the height of buildings development standard:

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

The proposal’s compliance with these objectives and the objectives for development in the zone are demonstrated below.

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

As set out earlier, the proposed development will be compatible with the size of the subject site and its surrounding built and natural environment. The height breach does not result in a building form on site that is incompatible with the fine grain rhythm and scale of development adjacent to Meadowbank Railway Station, including the adjoining heritage buildings. The development also the Railway Road street frontage and provides an exemplary commercial development that will add to the visual quality of the Shepherd’s Bay, Meadowbank precinct.

It is further noted that the development was the subject of a Pre-DA meeting, which included a review by the Ryde Urban Design Review Panel (UDRP), who raised no objection to the proposed height non-compliance. Indeed, the UDRP were supportive of the scale and form of the proposed development, stating that:

“The assembly of smaller, fine-grained buildings close to the station retain a traditional low-scale character that is important to the sense of place associated with Meadowbank Station.

The Panel supports the proposed uses, scale and strong formal characteristics of the proposal. Subject to some minor comments and recommendations outlined in this report, the Panel is very supportive of this small, characterful commercial building, which has the potential of providing a strongly identifiable architectural expression of high quality at the heart of the Meadowbank precinct.”

Minor changes have been incorporated into the design to address the comments of the UDRP. However, the scale and general form of the proposal remains unchanged from the Pre-DA proposal. Accordingly, it follows that the scale and form of the subject development would also be supported by the UDRP and is considered to be in keeping with the character of nearby development.

Therefore, despite the non-compliance, objective (a) is achieved.





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

Despite the height non-compliance, the proposed development will not give rise to significant adverse overshadowing impacts on neighbouring properties, over and above those created by a compliant development.

Due to the orientation of the site, the majority of shadows cast by the proposed development fall on the adjoining railway corridor and street between 9am and 3pm on 21 June. As such, it will not give rise to any adverse solar impacts on neighbouring properties and will not affect the redevelopment potential of neighbouring sites.

Thus, the level of overshadowing caused by the development is consistent with that which is reasonably expected by the building envelope controls that apply to the site and will not adversely impact existing levels of residential amenity on neighbouring sites.

Therefore, despite the non-compliance, objective (b) is achieved.

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

The proposal utilises a small and highly constrained site to provide a high quality commercial development in close proximity to Meadowbank Railway Station. This provides a development of a scale and type that is compatible with other developments in the Shepherd’s Bay, Meadowbank precinct and that is encouraged by the planning controls that apply to the site.

The development provides a significant uplift in employment generation on the site and is ‘car free’, in a location with excellent access to public transport. As such, it will encourage sustainable modes of transport and demonstrate a truly transit-oriented development that is encouraged in the precinct.

Therefore, despite the non-compliance, objective (c) is achieved.

Objective (d): “to minimise the impact of development on the amenity of surrounding properties,”

As set out earlier, the proposed development does not result in any unreasonable adverse amenity impacts on neighbouring properties. Compliant building setbacks and separation have been provided in accordance with the RDCP 2014 requirements.

Consequently, the development has been designed to not adversely impact levels of visual and acoustic privacy, and outlook for neighbouring residences. Furthermore, as set out under Objective (b) above, the level of overshadowing caused by the development is considered to be reasonable and in accordance with what is anticipated by the building envelope controls that apply to the site.

Therefore, despite the non-compliance, objective (d) is achieved.

Objective (e): “to emphasise road frontages along road corridors.”

The development follows the alignment of Railway Road, with a zero setback provided the building. Level access is provided from the street to emphasise this road frontage. Ground floor uses activate the street and the development includes opportunities for outdoor dining which will further enhance the road corridor.

Therefore, despite the non-compliance, objective (e) is achieved.



7b. Objectives of the Zone

Clause 4.6(4)(a)(ii) also requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of Zone B4 are as follows:

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

The proposed development will provide a mixture of compatible non-residential uses on the site. This includes small scale commercial tenancies and a café tenancy, including opportunities for outdoor dining.

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

The proposal provides an uplift in employment generating uses on the site. Given the excellent accessibility of the site adjacent to Meadowbank Railway Station, this will encourage sustainable modes of transport for future occupants. Furthermore, the public domain adjacent to the site will be enhanced as part of the development, improving the pedestrian and walking environment in the locality.

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

This objective does not apply to the subject site.

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

This objective does not apply to the subject site.

The proposed development is consistent with the objectives of Zone B4 in that it will result in the development of a mixture of compatible uses in a highly accessible area. The use will be compatible with the mix of uses in the zone and will be compatible with the existing environmental and built character of the locality, as well as the desired future character for the Shepherd's Bay, Meadowbank Precinct.

The building height variation is not antipathetic to the objectives for the zone and for that reason the proposed variation is acceptable.

8. THE CONCURRENCE OF THE SECRETARY HAS BEEN OBTAINED (CLAUSE 4.6(4)(b))

The second precondition in cl 4.6(4) that must be satisfied before the consent authority can exercise the power to grant development consent for development that contravenes the development standard is that the concurrence of the Secretary (of the Department of Planning and the Environment) has been obtained (cl 4.6(4)(b)). Under cl 64 of the Environmental Planning and Assessment Regulation 2000, the Secretary has given written notice dated 5 May 2020, as part of Planning Circular PS 20-002, to each consent authority, that it may assume the Secretary's concurrence for exceptions to development standards in respect of applications made under cl 4.6, subject to the conditions in the table of the notice.

9. WHETHER CONTRAVENTION OF THE DEVELOPMENT STANDARD RAISES ANY MATTER OF SIGNIFICANCE FOR STATE OR REGIONAL ENVIRONMENTAL PLANNING (CLAUSE 4.6(5)(a))

Contravention of the building height development standard proposed by this application does not raise any matter of significance for State or regional environmental planning.



10. THE PUBLIC BENEFIT OF MAINTAINING THE DEVELOPMENT STANDARD (CLAUSE 4.6(5)(b))

As detailed in this submission there are no unreasonable impacts that will result from the proposed variation to the building height. As such, there is no public benefit in maintaining strict compliance with the development standard. Whilst the proposed building height exceeds the maximum permitted on the site, the proposed development is consistent with the objectives of the development standard and the objectives for development of the zone in which the development is proposed to be carried out. It is the proposed development's consistency with the objectives of the development standards and the objectives of the zone that make the proposed development in the public interest.

11. CONCLUSION

Having regard to all of the above, it is our opinion that compliance with the building height development standards is unreasonable and unnecessary in the circumstances of this case as the development meets the objectives of that standard and the zone objectives. The proposal has also demonstrated sufficient environmental planning grounds to support the breach.

Therefore, insistence upon strict compliance with that standards would be unreasonable. On this basis, the requirements of Clause 4.6(3) are satisfied and the variation is supported.



18 February 2022

The General Manager
City of Ryde
Locked Bag 2069
North Ryde NSW 1670

ATTENTION: Kimberley Kavwenje

Dear Sir/Madam,

**STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007
DEVELOPMENT APPLICATION – LDA2021/372 – CNR-30677
27 Railway Road, Meadowbank NSW 2114**

“Excavation and construction of a commercial development with associated tree removal and landscaping”

I refer to Council’s Referral requesting concurrence for the above development application in accordance with Clause 86 of the *State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP)*.

Council is advised that Sydney Trains, via Instruments of Delegation, has been delegated to act as the rail authority for the Northern Line heavy rail corridor, including infrastructure, and to process the concurrence for this development application.

As such, Sydney Trains advises that the proposed development has been assessed in accordance with the requirements of Clause 86(4) of the Infrastructure SEPP being:

- a) *the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:*
 - i) *the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - ii) *the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and*
- b) *what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*

Sydney Trains has taken the above requirements into consideration and has decided to grant its concurrence to the development proposed in development application **LDA2021/372** subject to Council imposing the Deferred Commencement condition as written in Attachment A, and operational conditions as written in Attachment B that will need to be complied with upon satisfaction of the Deferred Commencement condition.

Should Council choose not to impose the Deferred Commencement condition as written in Attachment A and the operational conditions as written in Attachment B, then concurrence from Sydney Trains has not been granted to the proposed development.

In the event that this proposed development is the subject of a Land and Environment Court appeal, Council's attention is drawn to Section 8.12 of the Environmental Planning and Assessment Act 1979 which requires Council to give notice of that appeal to a concurrence authority. Sydney Trains therefore requests that Council comply with this requirement should such an event occur.

Council is also advised that Sydney Trains concurrence is not to be amended, replaced, or superseded by any concurrence issued by any other rail authority, without further agreement from Sydney Trains.

Please contact Sydney Trains Town Planning Management via email to DA_sydneytrains@transport.nsw.gov.au should you wish to discuss this matter. Finally, Sydney Trains requests that when the proposed development's Determination is issued by the Council, a copy of the Notice of Determination and conditions of consent are provided to Sydney Trains.

Yours sincerely,

Steven Heapy
Manager Property Services
Transport for NSW

As delegate for Sydney Trains

Deferred Commencement condition

This consent is not to operate until the Applicant/Developer satisfies the Council, within 12 months of the date of this consent, that it has obtained approval/certification from Sydney Trains as to the following matters and the approval/certification has been forwarded to the Council:

A1. The Applicant/Developer shall prepare and provide to Sydney Trains for review, comment, and written endorsement the following final version items in compliance with the relevant ASA Standards (<https://www.transport.nsw.gov.au/industry/asset-management-branch>):

1. Geotechnical and Structural report/drawings that meet Sydney Trains' requirements. The Geotechnical Report must be based on actual borehole testing conducted on the site closest to the rail corridor.
2. Construction methodology with construction details pertaining to structural support during excavation. The Applicant is to be aware that Sydney Trains will not permit any rock anchors/bolts (whether temporary or permanent) within its land or easements.
3. Cross sectional drawings showing the rail corridor, sub soil profile, proposed basement excavation and/or structural design of sub ground support adjacent to the rail corridor. All measurements are to be verified by a Registered Surveyor.
4. Detailed Survey Plan showing the relationship of the proposed development with respect to the rail corridor.
5. If required by Sydney Trains, a Hydrologic Assessment report demonstrating that dewatering will not have any adverse settlement impacts on the rail corridor.
6. If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.
7. If required by Sydney Trains, a Monitoring Plan.

Any conditions issued as part of Sydney Trains' endorsement of the above documents will also form part of the consent conditions that the Applicant/Developer is required to comply with.

Attachment B

- The proposed development is to comply with the deemed-to-satisfy provisions in the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines".
- Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
- No work is permitted within the rail corridor or any easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, unless the prior approval of, or an Agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- Prior to the issue of a Construction Certificate, the Applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have any impact on rail services and signalling. Should rail services be identified within the subject development site, the Applicant must discuss with Sydney Trains as to whether these services are to be relocated or incorporated within the development site.
- Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains' requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains' requirements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.
- No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the Applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.

- The design, installation and use of lights, signs, and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare, reflectivity, and illumination to the satisfaction of the rail operator. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows, and other external features (e.g., roof terraces and external fire escapes) that are within 20 metres of, and face, the rail corridor, the development must have measures installed, to the satisfaction of Sydney Trains (e.g., awning windows, louvres, enclosed balconies, window restrictors etc.) which prevent the throwing of objects onto the rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- Prior to the commencement of any works appropriate fencing must be in place along the rail corridor to prevent unauthorised access to the rail corridor during construction works. Details of the type of fencing and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
- The development shall have appropriate fencing fit for the future usage of the development site to prevent unauthorised access to the rail corridor by future occupants of the development. Prior to the issuing of an Occupation Certificate the Applicant shall liaise with Sydney Trains regarding the adequacy of any existing fencing along the rail corridor boundary or design and construction of new fencing. Details of the type of new fencing to be installed and the method of erection are to be to the satisfaction of Sydney Trains prior to the fencing work being undertaken.
- The Applicant is to ensure that the development incorporates appropriate anti-graffiti measures, to the satisfaction of Sydney Trains.
- During all stages of the development the Applicant must take extreme care to prevent any form of pollution entering the rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.
- Excess soil is not allowed to enter, be spread, or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of.
- The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the rail corridor unless prior written approval has been obtained from Sydney Trains.
- Rainwater from the roof must not be projected and/or falling into the rail corridor and must be piped down the face of the building which faces the rail corridor.

- There is a need to ensure that the roots and foliage of trees being planted beside the rail corridor do not have an impact on the rail corridor or rail operations. A final landscaping and planting plan demonstrating measures to ensure compliance with this condition must be prepared to the satisfaction of Sydney Trains. No construction certificate can be issued until written confirmation has been received from Sydney Trains confirming that this condition has been complied with.
- Prior to the issuing of any Occupation Certificate the Applicant must provide to Sydney Trains for review and endorsement a plan of how future maintenance of the development facing the rail corridor is to be undertaken. The Principal Certifying Authority is not to issue any Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied. The maintenance plan must be implemented for the life of the approved development.
- No metal ladders, tapes, and plant, machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.
- If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- If required by Sydney Trains, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required within 10 days following the undertaking of the inspection, unless otherwise notified by Sydney Trains.
- If required by Sydney Trains, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.

- Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into TAHE (Transport Asset Holding Entity) property or easements, unless agreed to by TAHE (Transport Asset Holding Entity). The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.
- If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for public liability insurance cover. If insurance cover is deemed necessary, this insurance must be for a sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor and rail infrastructure, and must be maintained for the duration specified by Sydney Trains. The Applicant is to contact Sydney Trains External Interface Management team to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains' written advice to the Applicant on the level of insurance required.
- If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.
- If required by Sydney Trains, prior to the issue of a Construction Certificate the Applicant is to engage an EMF (Electromagnetic Fields) expert to prepare an EMF Impact report. If required by Sydney Trains, the EMF report is to be submitted to Sydney Trains for review and endorsement. Any recommendations from the EMF report are to be incorporated and implemented in the construction drawings and documentation.
- Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.
- Copies of any certificates, drawings, approvals/certification, or documents endorsed by, given to, or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.

- The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:
 - oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;
 - acts as the authorised representative of the Applicant; and
 - is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.
- Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.
- Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team. In this instance the relevant interface team is North Interface, and they can be contacted via email on North_Interface@transport.nsw.gov.au.
- Where a condition of consent requires Sydney Trains or Transport for NSW endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates dealing with specific works and compliance conditions can be issued subject to written agreement from those entities to which the relevant conditions applies.
- All plans/documentation(s) provided and endorsed by Sydney Trains as part of the Sydney Trains Deferred Commencement Conditions will form part of this Consent, unless said plans/documentation(s) are otherwise superseded and confirmed in writing by Sydney Trains as a result of compliance with any Sydney Trains related conditions of consent. All recommendations, final findings, and subsequent requirements (including where specified in the written endorsement letter from Sydney Trains) of such plans/documentation(s) are to be reflected in the Construction Certificate construction plans/documentation(s) where relevant, and compliance with those plans/documentation(s) must be certified prior to the issue of any Occupation Certificate.



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Project 5276
9 December 2021

Snap Fitness Gladesville

Attention: Ms Valerie Vega
Level 4, 84 Pitt Street
SYDNEY NSW 2000

Email: va_vega@outlook.com
Mb: 0417 265 000

Dear Ms Vega

SNAP FITNESS 1 MERITON ST GLADESVILLE – PEER REVIEW & RESPONSE TO RFI
ACOUSTIC SERVICES & ADVICE

1 INTRODUCTION & BACKGROUND INFORMATION

1. Acoustic Dynamics is engaged by **Snap Fitness Gladesville** to conduct a review of the acoustic assessment prepared by Blackett Acoustics, in support of the development application, with the following document referenced as part of this review:
 - o Blackett Acoustics report: BA200622, version A, dated July 2020, titled “*Snap Fitness Studio 1 Meriton Street, Gladesville Development Application (DA) Noise Assessment*”;
 - o The City of Ryde *Determination & Statement of Reasons*, dated 13 May 2021; and
 - o The City of Ryde Local Planning Panel Agenda No. 3/21, dated 13 May 2021.
2. This peer review document provides a review of the acoustic assessment, the relevant criteria and considers whether these are appropriate criteria and have been addressed adequately. In addition, this peer review considers whether the refusal of the proposal by Council is a reasonable determination.
3. Further to the above, Acoustic Dynamics provides responses and clarifications to the request for information from Council (dated 19 November 2021), in **Section 4** and **Appendix A** of this letter.
4. Acoustic Dynamics has extensive experience in conducting gym noise and vibration investigations and the provision of acoustic advice for tenants and occupants within mixed-use developments. Operating for over 30 years, Acoustic Dynamics has an established relationship with relevant agencies and authorities for the provision of acoustic services and advice.

2 PEER REVIEW – BLACKETT ACOUSTICS ACOUSTIC REPORT

5. **(1) Introduction:** The acoustic report identifies the noise and vibration activities and transmission paths to adjacent receivers within the building. Acoustic Dynamics agrees that the report has adequately identified the worst-case airborne and structureborne noise impacts (i.e. music & patron noise, and weight drop impacts).
6. **(2) Site Description and Identified Residential Receivers:** Acoustic Dynamics confirms that the report has correctly identified the potentially most impacted receivers. The assumed (training session) internal noise level and spectrum is in general agreeance with internal reverberant measurements that we have conducted within other fitness facilities.
7. **(3) Existing Noise Environment:** Acoustic Dynamics agrees that the noise monitoring location and methodology is appropriate. Based on the layout of the gym and the location of the primary entrance, the noise logging location (as presented in Figure 2.1 and Figure 2.2 of the report) is likely to be representative of the external noise environment of the potentially most impacted receiver.
8. Within the noise logging charts, it can be seen that the background (L_{90}) noise level ranges from approximately 35 dB to 58 dB during the night time. Although the lowest measured background noise level is less than the night time RBL, the time period of the lowest measured background level (i.e. measured $L_{A90(1hour)}$ 35 dB) is between 4:00am and 5:00am which would generally be outside of the peak use of the gym.
9. **(4) Noise and Vibration Requirements:** Acoustic Dynamics advises that the report has established appropriate external noise emission goals, in accordance with the requirements of the EPA's Noise Policy for Industry. Furthermore, a Sleep Disturbance screening criterion has been determined based on the measured background noise level in accordance with the requirements of the EPA.
10. In lieu of relevant policy or guidelines specific to the assessment of transient structureborne and airborne noise impacts associated with gym activities, the report has adopted an internal noise objective of L_{Amax} 30 dB, which is based on World Health Organisation guidelines. Acoustic Dynamics agrees that the report has satisfactorily interpreted the intention of the World Health Organisation (WHO) document "*Night Noise Guidelines for Europe*" and the justification for the internal transient noise objective is appropriate.
11. Further to the above, the internal noise objective is in agreeance with the Association of Australasian Acoustical Consultants (AAAC) star rating for the assessment of intermittent building services and appliance noise within bedrooms (i.e. to achieve a 5 star rating the $L_{Amax} \leq 30$ dB). It should be noted that the AAAC internal noise objective is not based on a measured background noise level and is suitable for the assessment of transient noise impacts.

12. The vibration emission goals are determined in accordance with the requirements of the EPA's *Assessing Vibration: A Technical Guideline*, and the impulsive targets (for the assessment of weight drops) are applied appropriately.
13. **(5) Assessment of Operational Noise & Vibration:** The external noise modelling assumptions, scenarios and methodology are acceptable and would be representative of the noise emission associated with the typical use of the gym.
14. It is noted that the assessment does not explicitly consider the noise impact associated with gym patrons entering or exiting the premises, nor the impact associated with patron vehicles accessing or departing the site. It is likely that due to the considerable margin of predicted compliance, the additional noise contribution due to patron ingress/egress and vehicles would not cause an exceedance of the criteria.
15. Acoustic Dynamics agrees with the weight drop testing scenarios and methodology presented in Section 5.2 of the report. The results indicate that with the installation of suitable gym flooring and adherence to a strict weight drop policy, noise and vibration associated with weight drops will be inaudible within the most affected receiver properties.
16. **(6) Discussion and Recommendations:** The recommendations (once implemented) would be considered satisfactory for the control of noise associated with weight drops (i.e. suitable gym flooring and adherence to a weight drop policy). Further measures that are typically incorporated may be:
 - a) Restricting the use of weights (dumbbells, barbell, kettlebells, plates, slam balls and medicine balls) and pin loaded machines to areas within the gym where appropriate impact isolating flooring has been installed;
 - b) Communicating to staff the strict requirement that members must not conduct activities likely to generate excessive vibration;
 - c) Frames and equipment fasteners should be de-coupled from the building structure via the use of a resilient pads or sleeves; and
 - d) Restricting the playback of music and any amplified instructors to an audible level where conversation can be conducted without effort.
17. **(7) Conclusion:** The report states that with the implementation of the gym flooring and a weight drop policy, compliance is predicted to be achieved with the intrusive noise goals and the short-term noise goals at all nearby tenancies, and the amenity of tenants will be adequately protected. Acoustic Dynamics agrees that based on the field measurements conducted and the predicted results, the conclusion is reasonable.

3 REVIEW AND COMMENT ON COUNCIL DETERMINATION

18. Acoustic Dynamics has reviewed the City of Ryde *Determination & Statement of Reasons* and *Local Planning Panel Agenda No. 3/21*. It is understood that Council has refused the proposal on a number of grounds inclusive of acoustic concerns. In particular, the acoustic refusal is based on the premise, that the acoustic report has not provided sufficient information to demonstrate that the use of the gym will not cause unreasonable amenity impacts (i.e. noise and vibration) at neighbouring dwellings.

19. Council has provided the following information regarding the likely impacts of the development (section 6.6):

“Acoustic Impact

The proposal is likely to have a detrimental impact on the surrounding residential properties with regard to noise and vibration impacts.

The proposal has failed to demonstrate that the noise from the gym will be inaudible between the hours of 10pm and 7am from the adjoining residential apartments (specifically bedrooms), which is the industry accepted standard for protecting sleeping areas.

As such, the proposal will have an unreasonable environmental impact on the residential amenity of adjoining units. Suitable noise mitigation measures to ensure that the premises will not cause offensive noise have not been proposed.”

20. In addition, section **7. Referrals** makes comment on the location of the background noise measurement:

“Background noise measurements (RBL vs L_{A90})

- The background noise readings are taken from the first level balcony of Unit 111, 1 Meriton St, which faces Victoria Road.

- Blackett have stated “Establishing the background noise level at this location is deemed to be adequate”. I do not consider this to be appropriate because noise on the balcony where traffic noise is experienced is not the same as the background noise level inside the most affected residences (in a habitable room) directly above the gym.

- It is also understood that the building designed required acoustic treatment to external facing openings to satisfy the noise criteria set out in clause 102 of the Infrastructure State Environmental Planning Policy.”

3.1.1 COMMENT ON INAUDIBILITY

21. With regard to the matter of inaudibility, Acoustic Dynamics advises that an inaudibility objective is unreasonable and is not a typical noise objective when assessing the night time (i.e. between 10:00pm and 7:00am) noise impacts associated with the use of a gym.

22. For guidance on the impact of sleep disturbance, the NSW Environmental Protection Agency’s document “*Noise Guide for Local Government*” can be referred to. The NSW EPA has previously published the following additional information relating to findings of significant research carried out for sleep disturbance:

“Maximum internal noise levels below 50-55 dBA are unlikely to cause awakening reactions... One or more noise events per night, with maximum internal noise levels of 65-70 dBA, are not likely to affect health and wellbeing significantly.”

23. Although the above internal design objectives (i.e. $L_{Amax} \leq 50-55$ dB) are generally prescribed for the assessment of road traffic noise impacts, they are commonly applied as a screening criterion to determine if transient noise events (such as weight-drops or similar activities) have the potential to cause sleep disturbance.

24. Acoustic Dynamics considers that an internal $L_{Amax} \leq 50-55$ dB objective would be the minimum design target when assessing the potential for sleep disturbance.

25. Further to the above information, the AAAC “*Guideline for acoustical star ratings for apartments and townhouses*” recommends residential indoor design targets for external and internal noise sources, for transient noise events (described using L_{Amax}) and steady state noise (described using L_{aeq}). The following internal noise source L_{Amax} design targets are detailed within the guideline:

Table 2.1 Internal Noise Intrusion Design Targets (AAAC Star Rating Guide), L_{Amax} Day and Night Levels¹

Internal Noise Intrusion	2 star	3 star ²	4 star	5 star	6 star
Bedrooms	45	40	35	30	27
Other habitable rooms	55	45	40	35	32

Note 1) Examples of internal L_{Amax} sources of noise include mechanical plant serving the building or commercial tenancies and hydraulic noise.

2) It is recommended that a 3 star rating is the minimum design target for developments in urban areas.

26. Acoustic Dynamics advises that the 5 star target (i.e. $L_{Amax} < 30$ dB) is a practical noise goal that will ensure the amenity of residents is adequately protected and will not preclude gym proponents from operating a facility during the night time assessment period.

3.1.2 COMMENT ON BACKGROUND NOISE MEASUREMENTS

27. With regard to the background noise measurement location, Acoustic Dynamics advises that the location is selected to be representative of the external noise environment at a given receiver.
28. During the planning stage of a development, internal noise objectives are based on Australian Standards and planning policies (e.g. AS 2107:2016 *Acoustics - Recommended design sound levels and reverberation times for building interiors*, NSW State Environmental Planning Policy (SEPP) (Infrastructure) (2007), NSW DP&I, Development Near Rail Corridors and Busy Roads – Interim Guidelines (2008)).
29. As Council has stated within their comment, the facade of the development has been designed to attenuate external intrusive noise in accordance with the State Environmental Planning Policy.
30. The acoustic report has designed external noise emission to comply with the project noise targets (a noise target that is based on the measured background noise level and the amenity target for a receiver). By designing to the project noise target, the facade of the development can adequately control external noise intrusion (inclusive of gym noise) and ensure the internal noise objectives of the SEPP are achieved.
31. With regard to the internal background noise environment, the acoustic report has adopted an internal design target based on the WHO guidelines for reducing sleep disturbance (i.e. $L_{Amax} \leq 30$ dB). Acoustic Dynamics advises that the (commonly applied) internal design target is more onerous than the AS2107 internal objective (i.e. Due to the relatively short duration of the noise events, the 1 hour or even 15 minute L_{Aeq} sample periods do not adequately describe the intrusiveness of the associated noise nor do they convey the potential for sleep disturbance), SEPP 2007 and NSW DP&I internal criteria and will ensure amenity impacts are adequately controlled, without restricting the feasibility of night time operations.

4 RESPONSE TO COUNCIL RFI

32. Acoustic Dynamics has been instructed by the client to provide responses to the following items contained in the Request for Information (RFI) from Council.
33. RFI Point 1:
“Recommendations have been made restricting the use of weights to areas of the gym that will not impact the closest residential receivers. City of Ryde requires updated detailed plans of the layout of the gym and descriptions of how these areas that are going to obtain ‘loud’ gym equipment will not have an impact on adjacent residents.”
34. In response to Council RFI Point 1, Acoustic Dynamics advises that airborne and structure borne noise and vibration from a gym is generally dominated by weight drop activities, music and treadmills operating in sync. Suitable mitigation measures (e.g. appropriate location of activities, restricting activities to certain areas and installation of a music limiter/decibel meter), to control those sources, will also control impacts associated with lesser noise generating

activities. A mark-up of the gym layout and proposed locations of equipment is provided in **Appendix A**.

35. RFI Point 2:

“There is no mention of team training in either report and how loud these activities will be. City of Ryde has experience in dealing with gyms that are producing offensive noise during training classes and this activity must be assessed. Noise in classes can consist of louder than normal music, yelling of instructors and frequent and repetitive weight dropping. These classes will also be held in the early hours of the morning at times where sleep disturbance is highly likely.”

36. In response to Council RFI Point 2, Acoustic Dynamics advises that the Blackett Acoustic report provides an assessment of team training and includes measured source octave band levels associated with that activity. The relevant noise source table from the report is reproduced below:

“Table 2-1 presents the octave band levels of the typical L_{Aeq} noise levels of training session.

Table 2-1 Typical Internal Noise Levels of a Fitness Training Session – dBA

Description	Octave Band Levels								Overall Measured L_{Aeq} Level	
	31.5Hz	63Hz	125Hz	250Hz	500Hz	1kHz	2kHz	4kHz		8kHz
Measured typical music noise during training session	62	67	71	71	70	70	68	63	59	75

37. The Blackett Acoustic report then demonstrates that noise associated with the group training session (detailed as *Scenario 1* in the report), when assessed to an internal receiver located above the gym tenancy, would achieve compliance with the Sleep Disturbance L_{Amax} screening objective and the internal $L_{Aeq(15minute)}$ objective. The calculated results are reasonable and management measures and mitigation options are provided with the report to ensure impacts are acceptable.

38. Acoustic Dynamics advises that additional control measures for noise associated with group training sessions would include, setting appropriate music levels, installation of decibel meters and training staff in noise control. Although detailed advice is usually provided following development approval and prior to fitout, further measures that are typically incorporated may be:

- i. Restricting the use of weights (dumbbells, barbell, kettlebells, plates, slam balls and medicine balls) and pin loaded machines to areas within the gym where appropriate impact isolating flooring has been installed;
- ii. Communicating to staff the strict requirement that members must not conduct activities likely to generate excessive vibration;
- iii. Frames and equipment fasteners should be de-coupled from the building structure via the use of a resilient pads or sleeves; and

- iv. Restricting the playback of music and any amplified instructors to an audible level where conversation can be conducted without effort.

39. RFI Point 4:

“Acoustic Dynamics have provided contradicting information in relation to inaudibility that needs to be clarified. They have stated that the noise produced by weight dropping will be inaudible (this will be the only noise source from 10pm to 7am) however, also state that this is an unreasonable expectation that City of Ryde is enforcing. Before this application can proceed further, City of Ryde will require clarification that this will be incorporated into the plan of management.”

40. In response to Council RFI Point 4, Acoustic Dynamics advises that even though the expectation of inaudibility from Council is considered to be atypical and possibly unreasonable, Blckett’s acoustic report demonstrated that with the installation of suitable gym flooring and adherence to a strict weight drop policy, noise and vibration associated with weight drops will be inaudible within the most affected receiver properties. I.e., if weights are being used correctly by patrons, and staff are enforcing a no drop policy, and a suitable gym floor system is installed, noise from weights dropping will be inaudible.

41. It would be unreasonable and overly prohibitive to include an operating condition relating to inaudibility. Amenity of neighbouring residents can be adequately protected (and the gym can operate effectively) with the inclusion of the suitable conditions or the following condition wording (or similar):

- i. Continuous noise from the gym must not exceed an $L_{Aeq(15minute)}$ greater than the measured L_{A90} background + 5dB during the day and evening time periods, when measured within the closest sensitive receiver location;
- ii. Continuous noise from the gym must not exceed an $L_{Aeq(15minute)}$ greater than the measured L_{A90} background during the night time period when measured within the closest sensitive receiver location; and
- iii. Impact noise from the gym must not exceed L_{Amax} 30 dB during the night time period when measured within the closest sensitive receiver location.

42. Furthermore, an appropriate plan of management is to be implemented by the gym that includes measures to ensure that any noise and vibration emission associated the use and operation of the gym is minimised. The plan would include policies and procedures, enforcement strategies, staff training, monitoring, use of signage and a noise complaint procedure.

5 OPINION & CONCLUSION

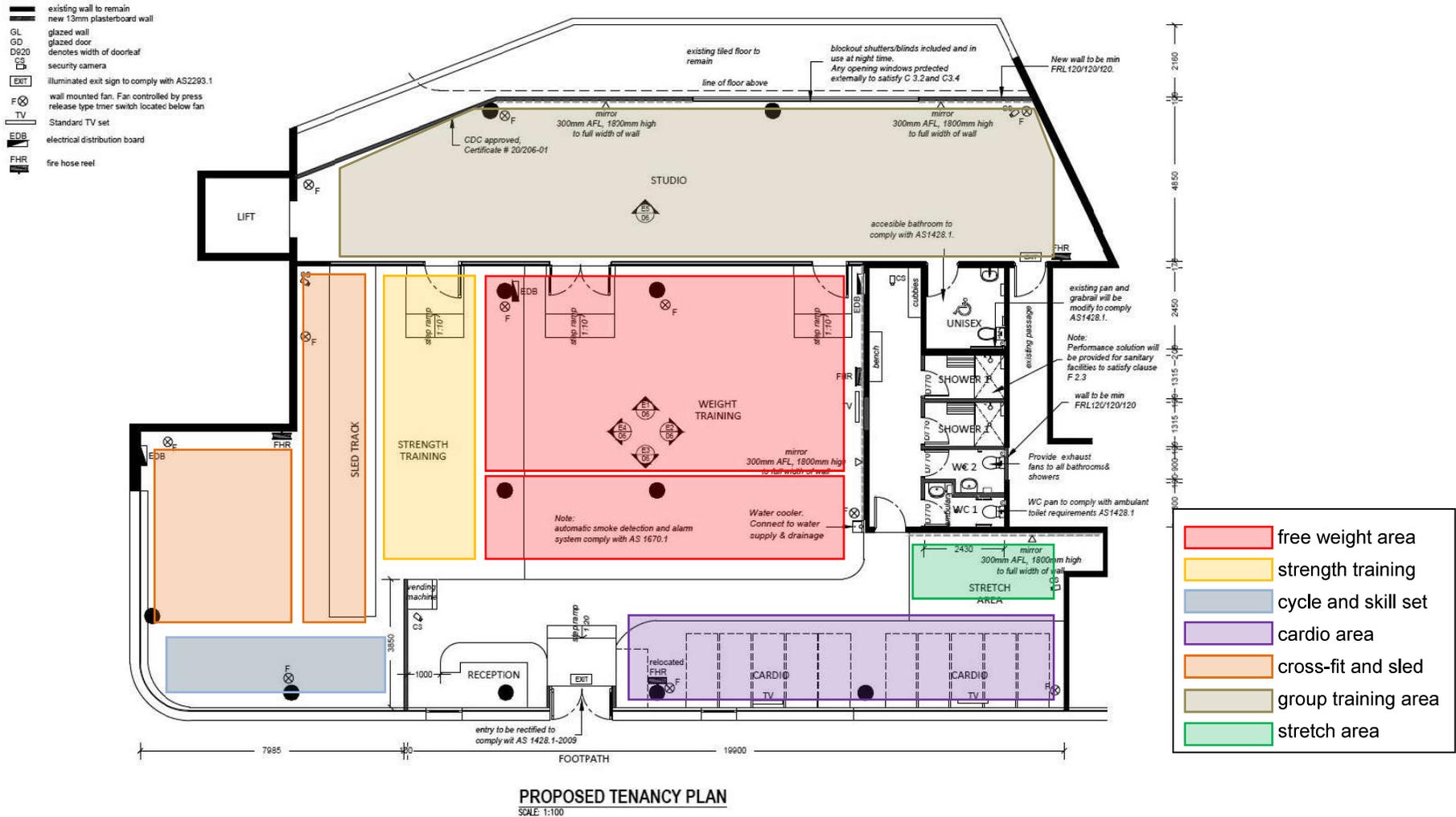
43. Acoustic Dynamics has reviewed the acoustic report prepared in support of the application. The assessment methodology is acceptable and has applied typical and appropriate noise and vibration objectives for the assessment of external and internal noise and vibration impacts associated with a gym.

44. Acoustic Dynamics is satisfied that the report has demonstrated that noise and vibration associated with the use of the gym can be managed using practical and feasible control measures.
45. Acoustic Dynamics is satisfied that the report has adopted appropriate criteria and noise objectives for the assessment of external and internal noise impacts.
46. Acoustic Dynamics does not consider the reasons provided by Council to be sufficient grounds for refusal of the proposal. The application of an inaudibility criterion is not typical for the assessment of gyms in mixed-use developments and sets an unreasonable noise emission target.
47. We trust the above information meets with your immediate requirements and expectations. Please do not hesitate to contact us on 02 9908 1270 should you require more information or clarification.

Document	Rev	Date	Prepared	Reviewed	Authorised	Approved
5276L002.LB.211207	0	9 December 2021	LB	RH	RH	

APPENDIX A – GYM TENANCY

A.1 EQUIPMENT LOCATION MARKUP



A.2 REQUIRED ACOUSTIC TREATMENTS

Table A2 Proposed Acoustic Treatment for Various Areas of Use¹

Area	Required Flooring	Alternate	Construction/Fitout
Free weight	A system which consists of 2 layers of Regupol® 4080 40mm underlay with 8mm Everroll® rubber flooring laminated to the top.	A system which consists of Embelton NXS14 mounts, acoustics insulation, 2 layers of 19mm structure ply, 1 layer of 30mm A1 rubber and 1 layer of 15mm rubber tile as top finish.	<ul style="list-style-type: none"> All penetrations within the existing slab ceiling must be infilled and sealed airtight All gaps along the perimeter of ceilings/wall junctions must be sealed with mastic sealant All items of exercise equipment must not be mechanically coupled to the building structure;
Strength training	Installation of resilient pads, mounts or sprung platform to feet of high impact equipment; on 8mm Everroll® rubber flooring	-	
Cycle and skill set	Installation of resilient pads, mounts or sprung platform to feet of high impact equipment; on 8mm Everroll® rubber flooring	-	
Cardio area	Installation of resilient pads, mounts or sprung platform to feet of treadmills; on 8mm Everroll® rubber flooring	-	
Cross-fit and sled	A system which consists of 1 layer of Regupol® 4080 40mm underlay with 8mm Everroll® rubber flooring laminated to the top	-	
Group training	A system which consists of 1 layer of Regupol® 4080 40mm underlay with 8mm Everroll® rubber flooring laminated to the top	-	
Stretch area	8mm Everroll® rubber flooring	-	

Note. 1) Acoustic Dynamics advises that the proposed acoustic treatments are based on the gym floor systems tested and recommended by Blackett Acoustics, and our experience within similar types of developments.