

JRPP No:	2010SYE058
DA No:	LDA2010/0389
PROPOSED DEVELOPMENT:	Construction of mixed use retail/ residential development consisting of 4,450m² of retail floor space and 67 apartments - 52-80 Rowe Street & 20 First Avenue, EASTWOOD
APPLICANT:	Brooks Projects Architects
REPORT BY:	Sanju Reddy, Senior Town Planner, RYDE CITY COUNCIL

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

The following report is an assessment of a development application for construction of mixed use retail/ residential development. The development will contain 2 buildings that will be attached through a basement level. Areas for truck manoeuvring, garbage storage and car parking spaces are proposed within the basement levels. The building facing Rowe Street will contain 2 levels of retail floor space (4,450m²) and 4 levels of residential units (including a loft) as well as parking for 241 vehicles in 3 basement level car parks. The First Avenue building will contain 3 levels of residential units with car parking for 16 vehicles and vehicular truck manoeuvring area in the basement level.

As the application has a capital investment value in excess of \$10 million, the development is of regional significance under the provisions of State Environmental Planning Policy (Major Developments) 2005. The consent authority for the purposes of determining the subject application is the Sydney East Region Joint Regional Planning Panel.

The development generally complies with the objectives of the planning controls and is unlikely to result in any unacceptable adverse impact on the amenity of the locality.

During the notification period, one (1) submission was received which raised concerns in respect of floor space, overshadowing, and car parking.

The development application is recommended for approval subject to appropriate conditions of consent.

2. APPLICATION DETAILS

Name of Applicant: Brooks Projects Architects

Owner of the Site: BUCASIA Pty Ltd.

Estimated value of works is: \$20,430,617.00.

Disclosures: No disclosures with respect to the Local Government and Planning Legislation Amendment (Political Donations) Act 2008 have been made any persons.

3. SITE DESCRIPTION

The subject site is known as 52-80 Rowe Street & 20 First Avenue, EASTWOOD and the legal description of the land is Lots 1 and 2 DP 214786, Lot B DP 371880, Lots 1 and 2 DP 395709, Lot 9 DP 3962 and Lot 25 DP 660052.

The site is located on southern side of Rowe Street between East Parade and Blaxland Road. The site has a moderate fall in the order of 4m from its eastern side boundary to the western side boundary.

The properties contain old retail/commercial buildings that have been used by Complete Hardware Ltd for storage and sale of building materials. There is no significant vegetation on the site.

Figure 1: Location Map (Eastwood)

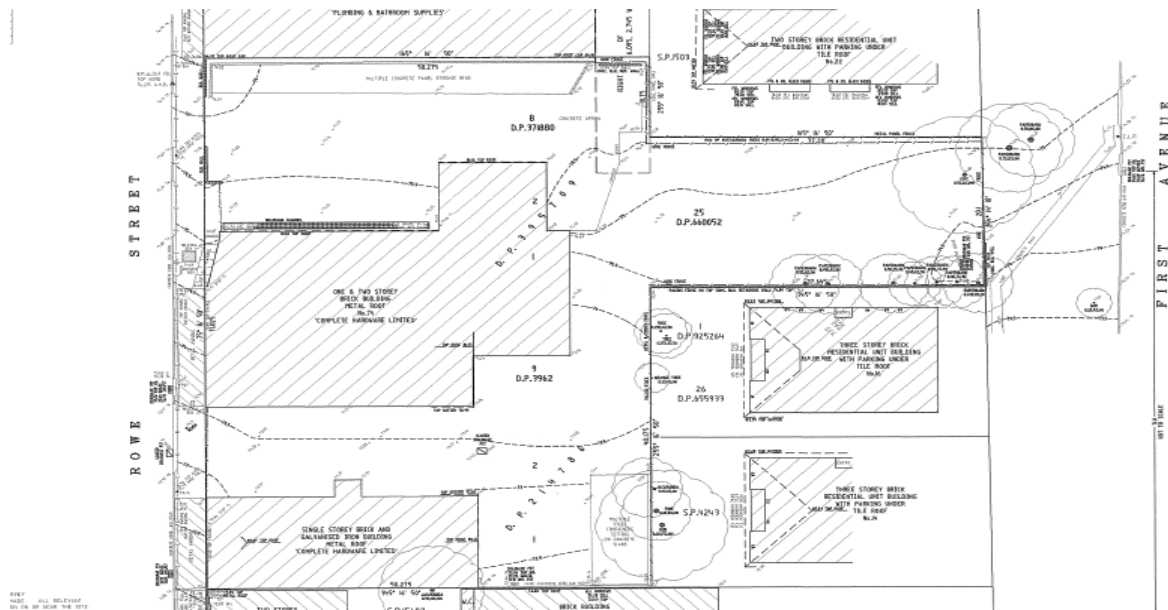


4. SITE DETAILS

Total Site Area:	4326m ²
Frontage Rowe Street:	71 metres
Frontage First Avenue:	21.1 metres

Depth of the Rowe Street site and First Avenue is 50.29 metres and 37.5 metres respectively.

Figure 2: Site Map



5. PROPOSAL

The development proposes the erection of a mixed use retail and residential development containing 2 buildings with a total retail floor area of 4,450m² and 67 residential apartments.

The larger of the two buildings is located on the site with a frontage to Rowe Street. This building will contain three levels of parking in the basement, two levels of retail floor space and four levels of residential development located above the retail floor space.

The building will have zero setbacks to the street, side boundaries and part of the rear boundary. Due to the slope of the site (which is approximately 4.3m cross fall along front boundary), the two retail levels have pedestrian access directly from Rowe Street. The two levels will be connected by a travelator as well as stairs and lifts. The development proposes a total of 38 tenancies ranging in size from 24m² to 1340m². In addition 411m² have been allocated for kiosks on the two levels. The largest tenancy is proposed to accommodate a large supermarket which would be subject to a new development application. There will be 55 residential apartments on the Rowe Street building. These apartments have all been erected around a communal open space in the middle of the site. The residential units will be accessed from either the basement or ground level via the lifts. The Rowe Street building will provide a total of 225 (142 for retail and 83 for residential) car parking spaces in the basement.

The second building is located on 20 First Avenue. This building will be 4 storeys in height with ground level parking and 3 levels of residential floors containing 12 apartments. An additional basement level provided on this site will be accessed from Rowe Street and used for loading dock and vehicle manoeuvring area in conjunction with the retail uses proposed on Rowe Street building. Vehicular access for the residential development on 20 First Avenue will be from the First Avenue frontage with a total of 16 parking spaces to be provided on the ground level.

The materials and finishes to be used in the construction of the external façade of the buildings will include:

- Walls – Partly face brick / partly rendered painted brick and glazed features.
- Windows – Pre-finished powder coated aluminium.
- Roofs – Colourbond steel flat roof.
- Balustrades – Pre-finished powder coated aluminium with glazed in-fills.

Strata subdivision of the development is also proposed.

6. **BACKGROUND**

- On 27 August 2009, development consent was granted for the construction of a mixed use retail residential development containing 4,975m² of retail / commercial floor space, 50 residential apartments and provisions of 243 car parking spaces via application number LDA2008/744. Based on the Planning Controls applicable at that time, a maximum of 4 storeys was approved. The approved development consisted of the following:
The development included 2 buildings (one fronting 52-80 Rowe Street and another fronting 20 First Avenue. The buildings were attached via a basement level truck manoeuvring area and common open space at podium level between the buildings. The building facing Rowe Street included 2 levels of retail and commercial uses and 2 levels of residential units and the First Avenue building contained 3 levels of residential units with car parking level (for 16 vehicles) beneath.
- On 30 June 2010, Council's new Local Environmental Plan 2010 (LEP2010) was gazetted. Under LEP2010 the height controls were converted from a maximum of 4 storeys to a maximum of 15.5m for the land comprised under 52 – 80 Rowe Street and maximum height of 11.5m for 20 First Avenue. Generally a number of controls were changed and a comparison is shown in the table below:

Planning Controls	Under RPSO	Under LEP2010
52 – 80 Rowe Street		
Zoning	Urban Village	Mixed Use (B4)
Maximum Height	2-4 storeys or 12m	15.5m
Floor Space Ratio	No FSR	No FSR
20 First Avenue		
Zoning	Residential 2(c5)	High Density Residential (R4)
Maximum Height	3 Storeys	11.5m
Floor Space Ratio	No FSR	0.75:1 if shop top housing

- The current development application is similar to the previously approved development with the exception of the number of storeys in the Rowe Street building.
- As a result of the increase in allowable height, the applicant has revised the approved proposal to incorporate two additional floor levels including a loft level to accommodate a total of 17 additional units.
- The current application was lodged on 5 August 2010.
- The proposal was advertised and notified to adjoining property owners from 1 September 2010 to 16 September 2010. During this time one submission was received.
- Following a detailed assessment of the development application, a letter was sent to the applicant on 1 October 2010. The applicant was requested to submit additional information / clarification in relation to the following matters:
 - Whether demolition was included under the current application.

- Statutory declaration in relation to the existing use rights.
- Garbage bin storage area along Rowe Street to be screened.
- Incorrect dimensions shown on the loft level of the proposed development, especially Sections 1, 2 & 3).
- Shadow diagrams have not been adequately labelled.
- Clarification as to which units would be adaptable.
- Proposed tree removal from the adjoining property. No consent has been obtained from the adjoining land owner. Additionally trees numbered on the Arborists Report have not been shown on any corresponding plan.
- Engineering issues in relation to floor to ceiling height, ramp height clearance etc.
- The applicant was advised that a submission had been received and a copy was forwarded for the applicant's consideration.
- A meeting was held with the applicant on 12 October 2010 to discuss the above issues.
- Amended plans were received on 14 October 2010. The nature of the amendments was considered minor and did not warrant a re-notification of the proposal.

7. APPLICABLE PLANNING CONTROLS

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

- Environmental Planning and Assessment Act, 1979;
- State Environmental Planning Policy (Major Developments) 2005;
- State Environmental Planning Policy 65;
- State Environmental Planning Policy (BASIX);
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Infrastructure) 2007;
- Deemed SEPP – Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Ryde Local Environmental Plan 2010;
- Ryde Development Control Plan 2010.

8. PLANNING ASSESSMENT

Matters for consideration pursuant to Section 79C of the Environmental Planning & Assessment Act 1979:

8.1 EP& A Act - Existing Use Rights provisions

The site contains two zonings, that is, 52-80 Rowe Street is zoned B4 and 20 First Avenue is zoned Residential R4 under the LEP2010.

The development as proposed on 52-80 Rowe Street (mixed use development consisting of retail, and residential use) is permissible with the consent of Council.

The development on 20 First Avenue consists of a residential flat building as well as a basement level to accommodate vehicular manoeuvring of trucks using the loading and waste storage facilities associated with the development on 52-80 Rowe Street. Although the residential flat building is permissible in R4 zone, the manoeuvring area is not permitted in the zoning as this is associated with the retail development on Rowe Street.

As retail use (and associated development) is not permissible in the R4 (High Density Residential) zoning, this part of the development (truck manoeuvring and loading area) would normally not be permitted in the zoning.

However, the truck manoeuvring and loading area is proposed on the R4 zone on the basis that 20 First Avenue benefits from *existing use rights* as prescribed under the Environmental Planning and Assessment Act, 1979.

Existing use is defined under Clause 106 of the Act as:

- (a) *The use of a building, work or land for a lawful purpose immediately before the coming into force of an environmental planning instrument which would, but for the Division 4A of Part 3 or Division 4 of this Part, have the effect of prohibiting that use;*
- (b) *The use of a building, work or land:*
 - i. *For which development consent was granted before the commencement of a provision of an environmental planning instrument having the effect of prohibiting the use; and*
 - ii. *That has been carried out, within one year after the date on which that provision commenced, in accordance with the terms of the consent and to such an extent as to ensure (apart from that provision) that the development consent would not lapse.*

In the context of this application, in order to establish that the site has the benefit of the existing use rights provisions it is necessary to establish that the site is currently being used for a prohibited use, the prohibited use was lawfully commenced and that use has not been abandoned.

Car parking associated with a retail activity is currently prohibited on 20 First Avenue, which is zoned R4 (High Density Residential). This site, however, has previously been used for parking purposes associated with the retail hardware operations conducted on 74 Rowe Street. Development consent no. A264 was granted by Council on 13 October 1969 for parking on 20 First Avenue associated with the hardware operations on 52-80 Rowe Street. Some time after this, the car park was constructed. The applicant has also provided a Statutory Declaration to verify that the use as parking has not ceased during the operation of the hardware store. As the development consent has been acted upon, it has been concluded that the prohibited use was lawfully commenced and based on the information provided by the applicant; this use has not been abandoned. This demonstrates that 20 First Avenue has the benefit of the existing use rights provisions.

Section 108 of the Environmental Planning and Assessment Act and Clause 41 of the Regulations allow an existing use to be altered, enlarged and the use to be changed to another use, including rebuilding for the same/existing use. The proposal for basement parking and vehicular manoeuvring on 20 First Avenue does not involve any significant intensification of that existing use and therefore is also consistent with Clause 41. Under these provisions, the change of use from car parking to a basement level to accommodate vehicular manoeuvring for trucks using the loading and waste storage facilities associated with the development on Rowe Street is permitted with the consent of Council.

This matter was previously considered by Council's General Counsel who also concluded that the subject property benefits from existing use rights and the aspect of the development application involving vehicular access on land zoned residential is a continuation of those rights.

8.2 State Environmental Planning Policy (Major Developments) 2005

The provisions of State Environmental Planning Policy (Major Developments) 2005 apply to the proposed development as the capital investment value is in excess of \$10 million. In accordance with the requirements of Section 13B(1)(a) of the SEPP, the application is

defined as 'regional development'. In this case the determining authority is the Joint Regional Planning Panel (Region East) as provided for under Clause 13F(1) of this Plan.

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

SEPP 65 came into force on 26 July 2002 and applies to the proposed development.

The Policy aims to improve the design quality of residential flat development in New South Wales. This Policy recognises that the design quality of residential flat development is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

The proposal has been assessed against the following matters for consideration:

- a) the advice of Council's Design Panel,
- b) the 10 design quality principles outlined in SEPP 65, and
- c) the Residential Flat Design Code published by Department of Planning and the NSW Government Architect (September 2002).

Design Review Panel Comments:

The development application was considered by the Council's Design Review Panel on 17 June 2010 and 16 July 2010. The Panel recommended that the applicant provide more information on the design and provide a more comprehensive documentation at the time of lodgement. In addition the Panel made specific suggestions in relation to the design of the loft level. These suggestions were that the applicant provide the following:

- *Shadow diagrams to demonstrate that there is no additional impact on the neighbouring properties or the communal open space.*
- *Sections showing architectural detail of new additions and loft.*
- *Landscape plans including roof level.*
- *Plans showing extent of habitable terraces/balconies and their relationship to the roof. (ie. Balustrades, planters between terraces and roof planes, etc)*
- *Updated physical model and 3d illustrations, including views along Rowe Street showing the building in its context and the relationship of additional height to the streetscape.*

The applicant has provided adequate details in relation to the above to with the current application.

Design Quality Principles (under SEPP 65)

The following table provides an assessment of the development against the ten Principles of the SEPP:

PLANNING PRINCIPLE	COMMENTS	COMPLY?
Context Context can be defined as the key natural and built features of an area. Good design responds and contributes to its context.	The site has two distinct context and streetscape settings as it fronts Rowe Street, which is retail in character, and First Avenue, which is residential in character. The two different zonings on these sites reflect the difference in context.	Yes

PLANNING PRINCIPLE	COMMENTS	COMPLY?
<p>Responding to context involves identifying the desirable elements of a location's current character or, in the case of precincts undergoing a transition, the desired future character as stated in planning and design policies. New buildings will thereby contribute to the quality and identity of the area.</p>	<p>The First Avenue character consists of a discrete row of residential flat buildings. The development on 20 First Avenue has responded to the existing context and streetscape by providing a building that respects the setbacks, height and density and building envelope of the adjoining buildings.</p> <p>The main street typology in Rowe Street is undergoing a transition with the desired future character of the locality identified in the current planning controls. The development has complied with either the controls or the objectives as outlined in these planning instruments.</p> <p>In addition to the retail development, the proposal will provide additional housing needed in the area to make the city centre more vibrant. The proposed development will contribute positively to the development of the Precinct within the regional context.</p>	
<p>Scale</p> <p>Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.</p> <p>Establishing an appropriate scale requires a considered response to the scale of existing development. In precincts undergoing a transition, proposed bulk and height needs to achieve the scale identified for the desired future character of the area.</p>	<p>The Rowe Street development incorporates a retail podium accessible from the street level and with residential floors above. This provides relatively low scale components of the building. The massing of the building has been reduced by providing a variety in the residential setbacks (above the retail level). The development in Rowe Street is undergoing a transition with the development providing a scale and bulk that reflects the desired future character of the area.</p> <p>The scale of the building on 20 First Avenue reflects the existing context of the streetscape and adjoining buildings.</p> <p>In terms of articulation and setbacks, the proposal is consistent with LEP2010 and Eastwood Town Centre Planning controls contained in the Council's DCP. The proposal complies with the bulk, scale and maximum height prescribed under LEP2010.</p>	Yes
<p>Built Form</p> <p>Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and</p>	<p>It is noted that the proposed built form generally reflects that of the original application which was supported and approved previously by Council.</p>	Yes

PLANNING PRINCIPLE	COMMENTS	COMPLY?
<p>the manipulation of building elements.</p> <p>Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.</p>	<p>The design is acceptable in terms of its alignment and articulation. Solar amenity is maximised due to the 7m – 11m separation between the Rowe Street residential component and the 20 First Avenue flat building.</p> <p>Additionally the development provides a 9 and 15 metre separation in the rear elevation of the Rowe Street building which adjoins the proposed communal open space. This separation combined with an articulated rear alignment of Rowe Street building has ensured an acceptable built form that will provide internal amenity and outlook as well as improving the impact of the development on the adjoining sites.</p> <p>The built form for the building on 20 First Avenue reflects the context of the adjoining buildings and is considered satisfactory.</p>	
<p>Density</p> <p>Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).</p> <p>Appropriate densities are sustainable and consistent with the existing density in an area or, in precincts undergoing a transition, are consistent with the stated desired future density. Sustainable densities respond to the regional context, availability of infrastructure, public transport, community facilities and environmental quality.</p>	<p>The maximum permitted height on the site fronting Rowe Street has been increased under LEP2010 to 15.5m. There are no applicable floor space ratio controls for the Rowe Street site.</p> <p>The density is therefore controlled through a restriction on height, setbacks and adequate provisions of solar and recreational amenities provided on site.</p> <p>The proposal generally complies with the density related controls and the maximum height limit provided under the LEP2010.</p> <p>The density on First Avenue reflects the density of the adjoining residential flat buildings.</p>	Yes
<p>Resource, energy and water efficiency</p> <p>Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.</p>	<p>The applicant has provided a BASIX Certificate (No. 219505M_03 dated 2 August 2010) which indicates that the residential component of the building will meet the energy and water use targets set by the BASIX SEPP.</p> <p>A waste management plan for the demolition</p>	Yes

PLANNING PRINCIPLE	COMMENTS	COMPLY?
<p>Sustainability is integral to the design process. Aspects include demolition of existing structures, recycling of materials, selection of appropriate and sustainable materials, adaptability and reuse of buildings, layouts and built form, passive solar design principles, efficient appliances and mechanical services, soil zones for vegetation and reuse of water.</p>	<p>of existing buildings has been submitted and is considered acceptable by Council's Environmental Health Officers.</p> <p>The design has also ensured the development will comply with the passive solar design principles, soil depth, cross ventilation and reuse of water as provided in the Residential Flat Design Code.</p>	
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in greater aesthetic quality and amenity for both occupants and the adjoining public domain.</p> <p>Landscape design builds on the existing site's natural and cultural features in responsible and creative ways. It enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.</p> <p>Landscape design should optimise useability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.</p>	<p>The development incorporates a large communal courtyard on the podium in the Rowe Street development. This space will be readily accessible for the residents of the Rowe Street building and will provide facilities such as seating and a BBQ.</p> <p>The design and landscaping of the communal area will also ensure a better relationship with the adjacent units by providing improved amenity for both the units and the users of the common area. In addition to the landscaped communal area each apartment has either a balcony or private courtyard.</p> <p>The First Avenue development does not incorporate a communal open space area. These residents will have access to the communal open space provided in the Rowe Street development. Each apartment in the First Avenue building will have a private balcony.</p> <p>The development is considered satisfactory in terms of this planning principle.</p>	Yes
Amenity	The development has provided adequate	Yes

PLANNING PRINCIPLE	COMMENTS	COMPLY?
<p>Good design provides amenity through the physical, spatial and environmental quality of a development.</p> <p>Optimising amenity requires appropriate room dimensions and shapes, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, outlook and ease of access for all age groups and degrees of mobility.</p>	<p>building separation between adjoining properties and also the development itself. This will ensure adequate amenity to residents as well as adequate ventilation and lighting to the apartments.</p> <p>The development generally complies with the controls contained in the Residential Flat Design Code in respect to apartment sizes, access to sunlight, ventilation, visual and acoustic privacy, storage layout and access requirements. Minor variations have been supported on merits where applicable.</p>	
<p>Safety and Security</p> <p>Good design optimises safety and security, both internal to the development and for the public domain.</p> <p>This is achieved by maximising overlooking of public and communal spaces while maintaining internal privacy, avoiding dark and non-visible areas, maximising activity on streets, providing clear, safe access points, providing quality public spaces that cater for desired recreational uses, providing lighting appropriate to the location and desired activities, and clear definition between public and private spaces.</p>	<p>Access to the residential component in the Rowe Street development is either via the basement or two separate entries along Rowe Street. These entries are adequately identified on the Rowe Street elevation.</p> <p>Security and safety to the communal open will be provided by units overlooking the space as well as part of the internal corridors being adjacent to the communal open space.</p> <p>Pedestrian access to the development on First Avenue is via a pathway along the eastern boundary to the entry that is located in the middle of the building as well as via the basement.</p> <p>The development has also incorporated pedestrian access through the buildings. An access ramp is provided at the rear of First Avenue to the rear of the ground floor level of the Rowe Street building. This will allow a connection through the building to Rowe Street. Pedestrian access will also be provided to the communal open space on Rowe Street. To ensure appropriate safety in these areas, conditions of consent will be imposed to ensure adequate lighting (see conditions 32, 33, 160).</p>	Yes
<p>Social Dimensions and Housing Affordability</p> <p>Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and</p>	<p>The development will include the following housing mix:</p> <ul style="list-style-type: none"> - 25 x 1 Bedroom - 33 x 2 Bedroom 	Yes

PLANNING PRINCIPLE	COMMENTS	COMPLY?
<p>access to social facilities.</p> <p>New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.</p> <p>New developments should address housing affordability by optimising the provision of economic housing choices and providing a mix of housing types to cater for different budgets and housing needs.</p>	<p>- 9 x 3 Bedroom</p> <p>It is noted that as a guide the Housing NSW Centre for Affordable Housing suggests 1 and 2 bedroom apartments contribute towards achieving housing affordability.</p> <p>The proposed mix of housing results in an affordable range of housing which should attract single, couples and family occupants alike into an area which is highly accessible to public transport and local shopping.</p> <p>The proposed mix of housing is considered satisfactory in meeting the needs of the town centre.</p>	
<p>Aesthetics</p> <p>Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.</p>	<p>The Rowe Street elevation has designed the lift cores and fire stairs to incorporate verticality into the façade and to unify the podium and residential component of the development. This will contribute to the existing streetscape.</p> <p>The development includes articulation, a range of materials and subtle finishes which are both complimentary and compatible to the architectural design and to the surrounding built environment.</p>	Yes

Residential Flat Design Code (RFDC)

The SEPP also requires the Council to take into consideration the requirements of the Residential Flat Design Code. The development complies with all of the numeric requirements provided in this document with the exception of the deep soil zones, open space, internal circulation and the setback to the street alignment. As demonstrated below, despite not complying with the numeric requirements, these aspects of the development comply with the general intent of these controls and are considered satisfactory.

Primary Development Control and Guideline	Comment	Compliance
<p>Building Separation</p> <p>Design and test building separation controls in plan and section. The suggested separation</p>	<p>It is noted that building separation applies across internal courtyards and to adjoining and adjacent properties.</p>	<p>No (but variation can be</p>

Primary Development Control and Guideline	Comment	Compliance
<p>provided within the RFDC is as follows:</p> <p><i>'...up to four storeys/12 metres</i></p> <ul style="list-style-type: none"> - 12 metres between habitable rooms/balconies - 9 metres between habitable/balconies and non-habitable rooms - 6 metres between non-habitable rooms <p><i>five to eight storeys/up to 25 metres</i></p> <ul style="list-style-type: none"> - 18 metres between habitable rooms/balconies - 13 metres between habitable rooms/balconies and non-habitable rooms - 9 metres between non-habitable rooms....' 	<p>Rowe St Building (4 level plus loft)</p> <p>There are commercial/retail buildings on the northern, eastern and western side of the proposed Rowe Street building. The residential floor levels have been set back from the side elevations which will assist in providing adequate building separation if these properties are redeveloped. The southern elevation, however, faces the residential flat building (RFB) at no 14, 16 & 18 First Avenue. Despite this, adequate separation (minimum of 14m) is achieved, and this combines with adequate design features and screening to address any potential visual and acoustic privacy issues.</p> <p>First Ave Building (4 storey)</p> <p>The built form for the building on 20 First Avenue (4 storey) reflects the context of the adjoining buildings. This building adjoins RFB at 14, 16 & 18 First Avenue. Because of the small size of the lot (and 20m width), full compliance with this numerical requirement would preclude the site from the type of development it is zoned for. A building separation of between 7.2m to 12m has been achieved. Despite the non-compliance with the 12m requirement, privacy between the buildings will be retained due to the window placement and the use of high sill windows (see condition 83). Solar access will be achieved as per Council's DCP. This separation combined with setbacks and an articulated built form of the building will provide outlook as well as improve the impact of the development on the adjoining sites.</p>	supported)
<p>Street Setbacks</p> <p>Identify the desired streetscape character, the common setback of buildings in the street, the accommodation of street tree planting and the height of buildings and daylight access controls.</p>	<p>DCP 2010 Part 4.1 requires a zero setback to Rowe Street for the first 2 storeys and a 3m setback thereafter, including balconies.</p> <p>The development generally complies with this requirement except for the lift and passageway which has a zero setback for the upper 2 levels. This however contributes positively to the vertical articulation of the development and has been supported by Council's Design Review Panel.</p> <p>The street setback to First Avenue is 5 metres, which is generally in-line with adjoining buildings. This is consistent with the adjoining buildings and the character of the area.</p>	Yes

Primary Development Control and Guideline	Comment	Compliance
Side & Rear Setbacks Relate side setbacks to existing streetscape patterns	<p>DCP 2010 Part 4.1 provides a zero side and rear setback for the Rowe St building for the first two storeys and 3m for each storey thereafter, including balconies. The proposal complies with this requirement.</p> <p>With regards to the First Avenue building, DCP 2010 Part 3.4 provides a rear and side setback of 7.5m. The proposal allows for 3.0m to 6m to the western boundary and 3.3m to the eastern boundary. Accordingly, the proposal fails to comply with the requirements of this part.</p> <p>However, the proposed side and rear setbacks are similar to that established by adjoining and adjacent properties (refer to DCP assessment) and is considered acceptable.</p>	No. (Variation is considered acceptable)
Deep Soil Zones A minimum of 25% of the open space area of a site should be deep soil zone. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration. In these instances, stormwater treatment measures must be integrated with the design of the RFB.	<p>The Rowe Street site has provided less than 4% of the site as deep soil zones, however, exceptions are permitted. This is consistent with the Council's DCP that permits zero setbacks for all boundaries and consistent with the RFDC which allows exceptions in town centres. The deep soil zone only exists in order to provide an appropriate setback for the trees on the adjoining sites.</p> <p>The First Avenue site has incorporated approximately 15% deep soil zones. As this is a remnant site within an urban area, the Code does permit an exception to this requirement where the development incorporates stormwater treatment measures. The development provided on site stormwater detention which achieves compliance with this requirement.</p>	No. (Variation is considered acceptable).
Open Space The area of communal open space required should generally be at least between 25% and 30% of the site area. Where developments are unable to achieve the recommended communal open space, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public	<p>The Rowe Street building has provided communal open space that represents 19.3% of the site. In addition to this space, each unit has been provided with either a balcony or private courtyard. These spaces will ensure that adequate private space as well as communal open space will be provided for the occupants.</p> <p>The First Avenue building has not incorporated any communal open space, however the communal open space in the Rowe Street building would be available for the use of future occupants of the First Avenue building. Access to this space is via either a pathway which incorporates stairs at the rear of the buildings or</p>	No. (Variation is considered acceptable).

Primary Development Control and Guideline	Comment	Compliance
open space. The minimum recommended area of private open space for each apartment at ground level or similar space on a structure, such as on a podium or car park is 25m ² .	via a pathway into the building and then a lift. Even if the occupants of this building do not use the communal open space, residential amenity will still be maintained due to the balconies on each unit in the First Avenue building.	
Planting on Structures In terms of soil provision there is no minimum standard that can be applied to all situations as the requirements vary with the size of plants and trees at maturity. The following are recommended as minimum standards for a range of plant sizes: <ul style="list-style-type: none"> ▪ Large trees such as figs (canopy diameter of up to 16m at maturity) - minimum soil volume 150m³ - minimum soil depth 1.3m - minimum soil area 10m x 10m area or equivalent ▪ Medium trees (8.0m canopy diameter at maturity) - minimum soil volume 35m³ - minimum soil depth 1.0m - approximate soil area 6.0m x 6.0m or equivalent ▪ Small trees (4.0m canopy diameter at maturity) - minimum soil volume 9.0m³ - minimum soil depth 800mm - approximate soil area 3.5m x 3.5m or equivalent ▪ Shrubs - minimum soil depths 500 -600mm ▪ Ground cover - minimum soil depths 300 - 450mm ▪ Turf - minimum soil depths 100-300mm. ▪ Any subsurface drainage requirements are in addition to the minimum soil depths quoted above. 	<p>Given the level of details provided, the total depth of all areas for planting cannot be determined.</p> <p>It is noted that there is a central courtyard area that includes landscaping and planting.</p> <p>Depths of planter boxes and gardening beds have been provided on the Landscaping Plan and is considered satisfactory.</p> <p>Adequate screen planting has also been incorporated on the 20 First Avenue site.</p>	Yes
Pedestrian Access Provide barrier free access to at least 20% of dwellings in the development	Barrier free access is provided to each building from both streets.	Yes

Primary Development Control and Guideline	Comment	Compliance
Follow the accessibility standard set out in AS 1428 (parts 1 and 2), as a minimum.		
Vehicle Access Generally limit the width of driveways to a maximum of 6.0m. Locate vehicle entries away from main pedestrian entries and on secondary frontages.	Driveway access for the Rowe Street building exceeds 6.0m, however given that this driveway provides access for large delivery trucks as well as cars, the width is considered acceptable.	No (variation is supported)
Apartment Layout Single-aspect apartments should be limited in depth to 8.0m from a window	The residential component of the proposed building complies with this requirement.	Yes
Balconies Provide primary balconies for all apartments with a minimum depth of 2.0m. Developments which seek to vary from the minimum standards must demonstrate that negative impacts from the context-noise, wind – can be satisfactorily mitigated with design solutions.	Balconies and terraces have been provided to all units and the depth exceeds 2m. Privacy issues between balconies & terraces have been adequately addressed.	Yes
Ceiling Heights In mixed use buildings: <ul style="list-style-type: none"> • 3.3m minimum for ground floor retail • in general, 2.7m minimum for all habitable rooms on all floors, • 2.4m is the preferred minimum for all non-habitable rooms, however 2.25m is permitted. • for two storey units, 2.4m minimum for second storey if 50% or more of the minimum wall height at edge • for two-storey units with a two storey void 	The following is proposed: Rowe St Building: Retail Level 1 = 3.7m floor to floor Level 2 (ground) = 3.1m to 4.33m floor to floor The above is generally acceptable and would allow a min 3.3m floor to ceiling height except for a tenancy area (163m ²) on Level 2 retail which is 3.1m floor to floor height above the ramp. This is acceptable as the non-compliance occurs in a small section of the building that does not have direct access from the street (internally accessed). The affected tenancy will comply with the BCA and will allow a range of uses. The reason for non-compliance is that the floor has to be raised over the proposed access ramp which needs to provide at least 4.5m	No (Variation supported)

Primary Development Control and Guideline	Comment	Compliance
<p>space, 2.4m minimum ceiling heights.</p> <ul style="list-style-type: none"> attic spaces, 1.5m minimum wall height at edge of room with a 30° minimum - ceiling slope. 	<p>height clearance for trucks entering the site. In this instance the variation is considered acceptable.</p> <p>Residential levels: 2.7m</p> <p>Residential Loft: Average 2.4m</p>	
<p>Internal Circulation</p> <p>In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Exceptions may be allowed:</p> <ul style="list-style-type: none"> for adaptive re-use buildings. where developments can demonstrate the achievement of the desired streetscape character and entry response where developments can demonstrate a high level of amenity for common lobbies, corridors and units. 	<p>The development achieves this for the First Avenue building, however it is not achieved for the Rowe Street building. This building has provided 3 lifts from the basement to the residential floors. From these lifts, each residential floor will access either 5, 6 or 11 units. The non-compliance occurs in respect of the western portion of Level 3 and Level 4 where the corridor will access 11 apartments. This development does not satisfy any of the exceptions and the applicant has sought variation to this control on the basis that the access corridor is straight with a window at either end as well as being adjacent to the communal open space.</p> <p>It is noted that that the lift will service an additional 3 units on both floors and that the furthest unit is less than 40m from the lift. A separate fire stairs has been provided closer to the units that are furthest away from the lift to comply with the BCA. A similar variation has already been approved by Council in respect of LDA2008/744 and the above is considered satisfactory.</p>	<p>No (Variation is considered acceptable).</p>
<p>Storage</p> <p>In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates:</p> <ul style="list-style-type: none"> studio apartments - 6.0m³ one-bedroom apartments - 6.0m³ two-bedroom apartments - 8.0m³ three plus bedroom apartments -10m³ <p>50% of the above areas are located within each</p>	<p>Adequate storage space has been provided on Basement 3.</p>	<p>Yes</p>

Primary Development Control and Guideline	Comment	Compliance
<p>respective apartment while the remaining 50% is to be located within the car parking area.</p>		
<p>Daylight Access Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid winter.</p> <p>In dense urban areas a minimum of two hours may be acceptable.</p> <p>Limit the number of single-aspect apartments with a southerly aspect (SWSE) to a maximum of 10% of the total units proposed. Developments which seek to vary from the minimum standards must demonstrate how site constraints and orientation prohibit the achievement of these standards and how energy efficiency is addressed (see Orientation and Energy Efficiency).</p>	<p>71.6% of the units will receive at least 2 hours of sunlight to private open spaces and living areas.</p> <p>94% of units (private open spaces) will receive at least 2 hours of sunlight.</p> <p>None of the units have a single aspect on the southern side.</p>	<p>Yes</p>
<p>Natural Ventilation Building depths, which support natural ventilation, typically range from 10 to 18m.</p> <p>Sixty percent (60%) of residential units should be naturally cross ventilated</p> <p>Twenty five percent (25%) of kitchens within a development should have access to natural ventilation.</p>	<p>Building depth for both the buildings is less than 18m.</p> <p>Over 80% of the residential units achieve natural ventilation, ie, 54 units.</p> <p>Cross ventilation is achieved in 64% of the residential units.</p> <p>Total of 30% of kitchens have access to natural ventilation.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p>

Primary Development Control and Guideline	Comment	Compliance

8.4 State Environmental Planning Policy No. 55 – Remediation of Land

The requirements of State Planning Policy No. 55 – Remediation of Land apply to the subject site. In accordance with Clause 7 of SEPP 55, Council must consider if the land is contaminated, if it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

A contamination assessment by Environmental Investigations, Report No. E859.1AA, dated 12 March 2008 has been submitted with the development application. This report has identified that there is an underground tank that was used for the storage of turpentine. The report documents that 3 of the samples that were taken were found to exceed the threshold concentrations for sensitive land uses for a couple of parameters. However, it was concluded that since the contamination as encountered at shallow levels the source of the contamination was due to surface spillage rather than actual leakages from the underground tank.

This development will require the complete removal of the underground tank and the soil around it for the construction of the basement levels. This will mean that any contaminated soil will also be completely removed. As such the assessment report makes a number of recommendations in this respect. These recommendations have been incorporated as a condition of consent. (See condition 111).

Based on this report, it is considered that the site is suitable for the intended use.

8.5 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The development is identified under the Environmental Planning and Assessment Regulation 2000 as a BASIX Affected Building since it contains dwellings. In addition to the energy efficient fixtures and fittings, the applicant is required to provide a 5000L water tank for garden irrigation and car washing. As such, a BASIX Certificate has been submitted (No. 219505M_03 dated 02 August 2010) which provides the development with a satisfactory target rating.

Appropriate conditions will be imposed requiring compliance with the BASIX commitments detailed within the Certificate. (See conditions number 5 & 143).

8.6 State Environmental Planning Policy (Infrastructure) 2007

The proposed development is identified within Schedule 3 of this SEPP and in accordance with Clause 104 was referred to the Roads and Traffic Authority for comment. The matter was considered by the Sydney Regional Development Advisory Committee on 25 August 2010. The following comments have been provided to Council. (The RTA comments are in italics and any comment by Council's Officer has been identified in regular font).

The SRDAC's recommendations are as follows:

20 First Avenue:

1. *The design and construction of the proposed driveway and gutter crossing off First Avenue shall be in accordance with AS2890.1-2004 and the RTA's requirements (ie a minimum of 5m wide with 1m splays at the kerb line). Details of these requirements could be obtained from the RTA's Project Services Manager, Traffic Projects Section, Parramatta Ph:8849 2144.*

A certified copy of the design plans shall be submitted to the RTA for consideration and approval prior to the release of a construction certificate by Council and commencement of road works.

The RTA fees for administration, plan checking, civil works inspections and project management shall be paid by the developer prior to the commencement of the works.

Comment: This will be included as a condition of consent. (See condition 22).

2. *The entry and exit driveway on First Avenue is to be splayed and channelised to physically restrict vehicular movements in to and out of the development to left in/left out only. The existing footpath may need to be redesigned and relocated so that it is positioned clear of the channelisation to provide adequate sightlines for vehicles entering and existing the site and for pedestrians.*

Comment: This will be included as a condition of consent. (See condition number 23)

3. *The layout of the proposed car parking area on First Avenue (including driveways, grades, turn paths, sight distance requirements, aisle widths, and parking bay dimensions) should be generally in accordance with AS 2890.1-2004 – off street car parking.*

Comment: This will be conditional upon consent. (See condition number 94).

4. *The RTA has previously acquired a strip of road along the First Avenue frontage of the subject property, as shown by blue colour on the attached plan. The RTA has no other proposal that requires any part of the subject property for road purposes. However, should First Avenue be reconstructed, Council should ensure that the entry/exit driveway, as designed in this application, is of sufficient area, (that is width and length) to allow for the relocation of the splay and shortening of the driveway within the property boundaries, and that the shortened driveway will comply with the requirements of AS2890.1.*

Comment: The driveway layout and gradient is shown from the alignment of the front boundary after allowing for the RTA acquired land. Council's Development Engineer has reviewed these requirements and it is noted that the proposal would comply with this requirement.

5. *Any proposed landscaping and/or fencing must not restrict sight distance to pedestrians and cyclists travelling along the footpath of First Avenue.*

Comment: This will be conditional upon consent. (See condition number 24, 94).

6. *A Road Occupancy License should be obtained from the RTA for any works that may impact on traffic flows on First Avenue during construction activities.*

Comment: This will be conditional upon consent. (See condition number 25).

7. *All demolition and construction vehicles are to be contained wholly within the site and vehicles must enter the site from Rowe Street. A construction zone will not be permitted on First Avenue.*

Comment: This will be conditional upon consent. (See condition number 26).

8. *All works / regulatory signposting associated with the proposed development are to be carried out at no cost to the RTA.*

Comment: This will be conditional upon consent. (See condition number 21).

In addition, the RTA provides the following advisory comments to Council for its consideration in the determination of the development application:

9. *Council should ensure that the post development storm water discharge from the subject site into the RTA drainage system does not exceed the pre-development application discharge.*

Should the post development stormwater discharge exceed the pre-development discharge, detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RTA for approval, prior to the commencement of any works.

Details should be forwarded to:

*The Sydney Asset Management
Roads and Traffic Authority
P O Box 973
Parramatta CBD NSW 2124*

A plan checking fee will be payable and a performance bond may be required before the RTA's approval is issued. With regards to the civil works requirement please contact the RTA's Project Engineer, External Works Ph 88492114 or Fax: 88492766.

Comment: The development can comply with this requirement through the stormwater disposal proposal designed for the site. Council's Development Engineer has reviewed the proposal in relation to this matter and the development was found to be satisfactory.

52-80 Rowe Street

10. *The RTA has concerns that the entry and egress driveway is a shared driveway which provides access for visitors and residents for the residential component, retail and commercial component, to a waste collection area and for the loading dock for the retail component of the development.*

Should Council be satisfied with the access arrangement as proposed in this application then Council should ensure that:

- *The proposed residential car parking area is clearly segregated and secure from the retail and commercial car parking area.*

Comment: This comment is in relation to the car parking provided for the Rowe Street development. The residential component of the development is required to provide car parking for 81 vehicles (83 residential spaces are proposed). A condition of consent will be imposed to ensure that this car parking will be segregated and secure from the retail parking. This can be achieved by the provision of appropriate barrier such as boom gates. (See condition number 28).

- *The loading dock is clearly segregated from general car parking areas within the development and is used by all vehicles and unloading goods for the retail and commercial component of the development. Provision has not been made for these activities in the general car parking areas and they should be restricted to the loading dock only;*

Comment: The loading dock is separated from the general car parking area.

- *An appropriate loading dock management plan should be prepared to ensure that the loading dock and its access can satisfactorily accommodate the maximum number of medium and heavy vehicles likely to use the loading dock at the same time. It should also address the issue of where service vehicles are to park should the loading dock be fully occupied.*

Comment: This will be included as a condition of consent. (See condition number 30).

- *The implementation of the above Management Plan should ensure that the roller door to the loading dock is kept closed when not in use. Adequate signage should be put in place to ensure that the loading dock area is clearly identified and is not mistaken as additional car parking;*

Comment: This will be included as a condition of consent. (See condition number 31).

- *The bin and waste collection facilities are adequate for the size of the development in particular to cater for the retail component of the development. The waste collection area should be relocated to a more suitable location away from the entry and exit driveway to avoid conflict between waste collection vehicles, vehicles entering/exiting the residential/retail car parking areas;*

Comment: Council's Environmental Health Officer has reviewed the waste collection facility proposed on the site and has advised that it would be satisfactory.

The applicant was requested to relocate the garbage bin storage area from the Rowe Street entrance to the basement level in a consolidated area. The plans have been revised to incorporate a consolidated waste storage area within the basement level 2.

This is considered satisfactory subject to conditions (refer to condition 50 & 51).

- *Trucks accessing and leaving the site preferably do not cross to the other side of the entry/exit driveway thereby driving over the 70mm raised concrete median and conflicting with vehicles entering and exiting the development.*

Comment: The driveway is divided via a low height median strip to allow separate entry and egress driveway. The use of such median strip is not uncommon and will facilitate safety for cars and at the same time allow large trucks to enter and exit while turning from and to the site. The frequency of trucks accessing the site will be limited to 2- 3 per day which will be outside peak hours (subject to a Loading Dock Management Plan). The proposal is considered satisfactory in relation to this matter.

11. *The submitted 19m vehicle swept path plans illustrate that these vehicles would be required to turn right-in and right-out of the site. Should the vehicle turn left out of the site then it will cross the wrong side of Rowe Street when exiting the development. Council must ensure that 19m semis do not turn left out of the sites driveway.*

Should Council have concerns with the abovementioned swept paths, then the applicant will need to make appropriate design changes to the development to address these issues.

Comment: This matter has been investigated by Council's Development Engineer who has advised that the 19 metre articulated vehicle and 12.2 metre heavy rigid vehicle will not encroach over the centre line in Rowe Street when exiting the site. The plans demonstrate that a 4.5m clearance over the entry and access ramp is achieved.

12. *A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate.*

Comment: This will be included as a condition of consent. (See condition number 102).

13. *The car parking provision is to be to Council's satisfaction.*

Comment: The development will provide adequate car parking that complies with the Council's requirement.

14. *Provision should be considered for appropriate access for removalist vehicles.*

Comment: There would be the potential for removalist trucks to use the existing loading dock on the site. This however would be a matter for the management of the centre to coordinate with the other vehicle usage in the loading dock. It should also be noted that Council's controls do not require a space to be provided for removalists trucks. Notwithstanding this, a condition has been recommended for applicant to make arrangement on the site for removalist trucks should it be required. This could be within the loading dock or the residential parking level where there will be 2 additional parking spaces than required under council's code (see condition 95).

15. *The layout of the proposed car parking areas on Rowe Street (including driveways, grades, turn paths, sight distance requirements, aisle widths, and parking bay dimensions) should be generally in accordance with AS2890.1/2004 – Off street car parking.*

Comment: Conditions have been recommended requiring compliance with the above standards (see condition 94).

16. *Any proposed new residential development should be designed such that road traffic noise from First Avenue is mitigated by durable materials and complies with the requirements of Clause 102 – (Impact of road noise or vibration on non-road development) of State Environmental Planning Policy (Infrastructure) 2007.*

Comment: The applicant has provided an acoustic report that addresses road traffic noise. The report has concluded that appropriate noise levels will be achieved for the development subject to the recommendations in this report being adopted. A condition of consent will be imposed to ensure compliance with these recommendations. (See condition 149).

8.7 Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the subject site and has been considered in this assessment.

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above SREP. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the SREP are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Council's Development Control Plan 2010 Part 8.2. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the SREP.

8.8. Local Environmental Plan 2010 (LEP 2010)

The following is an assessment of the proposed development against the applicable provisions from the Ryde Planning Scheme Ordinance.

Zoning

The site contains two zonings, that is, 52-80 Rowe Street is zoned B4 and 20 First Avenue is zoned Residential R4 under the LEP2010.

The development as proposed on 52-80 Rowe Street (mixed use development consisting of retail, and residential use) is permissible with the consent of Council.

The development on 20 First Avenue consists of a residential flat building as well as a basement level to accommodate vehicular manoeuvring of trucks using the loading and waste storage facilities associated with the development on 52-80 Rowe Street. Although the residential flat building is permissible in R4 zone, the manoeuvring area is not permitted in the zoning as this is associated with the development on Rowe Street. However as the site enjoys the benefits of the existing use rights provisions and the vehicular access on land zoned residential is a continuation of those rights and is permitted with the consent of Council (this has been discussed under Part 8.1 of this report)

Mandatory Requirements

Clause 2.6(1): Subdivision

Land to which this Plan applies may be subdivided, but only with consent.

Strata subdivision is proposed of the completed development. This is permitted subject to Council's consent.

Clause 4.3(2): Height of Buildings

The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

Rowe Street: A maximum building height of 15.5m is permitted on Rowe Street site. The development proposes a part 4 part 5 storey building on Rowe Street resulting in a maximum height of 15.5m from existing ground levels.

First Avenue: A maximum building height of 11.5m is permitted on First Avenue. The development proposes a 4 storey residential flat building resulting in a maximum height of 11.35m.

The proposal complies with the maximum height controls.

Clause 4.4: Floor Space Ratio (FSR)

(2) The maximum floor space ratio for a building on any land is not to exceed the floor space ratio shown for the land on the Floor Space Ratio Map.

The Floor Space Ratio Map provides no FSR for the Rowe Street site (zoned B4). However, a FSR of 0.75:1 applies to 20 First Avenue subject to Clause 4.4A (refer below).

Clause 4.4A: Residential zone Floor Space Ratio

(1) Despite clause 4.4 (2), the maximum floor space ratio shown for a building on land in Zone R2 Low Density Residential on the Floor Space Ratio Map only applies to development for the purposes of a dwelling house or dual occupancy (attached).

(2) Despite clause 4.4 (2), the maximum floor space ratio shown for a building on land in Zone R4 High Density Residential on the Floor Space Ratio Map does not apply to development for the purposes of dual occupancy (attached), multi dwelling housing or residential flat buildings unless they are part of shop top housing.

The development on 20 First Avenue proposes a FSR of 0.97:1. However, the development is exempt from FSR control by virtue of being a residential flat building in R4 zone that is not part of a shop top housing.

Clause 4.5B: Density controls for multi dwelling housing and residential flat buildings in Zone R4 High Density Residential

The consent authority must not consent to the erection of multi dwelling housing or residential flat buildings on land in an area specified in Column 1 of the Table to this clause and shown on the Residential Density Area Map unless the area of the land on which that development is to be carried out is not less than the total of the areas specified in Column 2 of that Table in respect of each of the dwellings to be contained in that development.

Table—Density in areas shown on Residential Density Area Map

Column 1	Column 2
Area and development	Site size (in m²)
Area 4	
1 bedroom dwelling	70m ²
2 bedroom dwelling	100m ²
3 or more bedroom dwelling	130m ²

The building on 20 First Avenue proposed 9X1bedroom and 3X2 bedroom apartments requiring a site area of 930m². The existing lot has an area of 755.2m². This results in a

shortfall of 174.8m². A variation to this standard is proposed pursuant to Clause 4.6 of the LEP2010 and is discussed below.

Clause 4.6: Exceptions to development standards

Clause 4.6(3) provides for a mechanism whereby Council could grant consent for development that does not comply with development standards if it can be demonstrated via a written request from the applicant that:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant has submitted a written request to Council seeking variation to the density control for the flat building proposed on number 20 First Avenue. The following justifications are submitted in support of the proposed development:

- *the development on First Avenue will have a height, bulk, scale and setback commensurate with the standards prevailing with established residential flat developments on adjoining properties fronting First Avenue;*
- *the building will be indistinguishable in the context of the character and streetscape created by residential development in First Avenue when viewed from the public domain.*
- *The building is to contain an appropriate density of residential development in this locality; and*
- *The building can be accommodated within the capacity and capability of existing social, physical and utility service infrastructure serving this area.*

Under clause 4.6(4) consent must not be granted unless the Consent Authority is satisfied as to the following matters:

- (a) *the applicant's written request has adequately addressed the matters required to be demonstrated by (a) & (b) above and 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,*

As this site benefits from existing use rights, Section 108(3) of the Environmental Planning and Assessment Act specifies that any provision of a planning instrument that would derogate or have the effect of derogating from the provisions in the Regulations in respect to existing use rights, have no force or effect while these provisions remain in force. In other words, the development is not required to comply with these controls. However, these controls are considered to be appropriate as a guide for the site area requirements of future development and have been applied in that capacity.

In this case, the non-compliance occurs partly due to the site being a remnant site and it would not be possible for the site to be consolidated with adjoining properties in order for the site to comply with these requirements. The majority of the units proposed are 1 bedroom apartments because of the small size of the allotment and follows a similar layout on all three residential floors. Also the development on 20 First Avenue has been designed in context with the adjoining residential flat buildings as these buildings also would not comply with the density. Even though the density requirement is not complied with, the bulk, scale and provision of general amenity for the future residents is similar to the adjoining flat buildings. The height and setbacks are generally consistent with the adjoining residential flat buildings. In these circumstances, based on merits the above non-compliance is considered appropriate.

(b) *the concurrence of the Director-General has been obtained.*

Circular number PS 08-003 issued on 9 May 2008 by Department of Planning, provides that concurrence can be assumed with respect to the application of Clause 4.6 of the LEP.

Clause 5.9(3) Preservation of trees

Under this Clause consent or permit is required for removal of trees from the site.

The application seeks removal of a number of trees from the site to facilitate the proposed development. An Arborist Report has been submitted which identifies existing trees on the subject and neighbouring sites that are to be retained / removed, and safeguards to be provided during construction to protect the trees to be retained.

The following trees will be removed:

- Lemon scented Gum – located close to the southern boundary – tree is suppressed by bitumen and show visible signs of deadwood.
- Bottlebrush – located on eastern side boundary.
- Willow bottlebrush
- Lemon tree
- Jacaranda – a skewed tree which is unsafe. To be removed and replaced.
- Tallowwood – will be affected by the proposed excavation.

A number of trees will be retained. The building on Rowe Street will be set back at least 3m from its southern boundary to provide a clear 6m setback from the trees located on the adjoining site. Existing *Melaleuca quinquenervia* & *Clallistemon salignus* will be retained and protected along the First Avenue frontage. Various *Clallistemon salignus* species located on the First Avenue site will be removed and replaced with super advanced *Syzygium paniculatum*.

It is noted that removal of all of the above mentioned trees were approved on the site previously under LDA2008/744. No issues are raised in relation to the removal and replacement of trees subject to the recommendations in the Arborist Report and condition of consent in relation to care and protection of the remaining trees (See Conditions 114 & 115).

Clause 5.10(2) Heritage Provisions.

Under this Clause, consent is required for development involving “heritage item” or if in a heritage conservation area.

The existing buildings and the site have not been identified as heritage items. No issues are raised in relation to this matter.

Clause 5.10(5) Heritage impact assessment

The consent authority may, before granting consent to any development on land:

- (a) *on which a heritage item is situated, or*
- (b) *within a heritage conservation area, or*
- (c) *within the vicinity of land referred to in paragraph (a) or (b),*
require a heritage impact statement 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.

There are no heritage items adjoining or within a close vicinity of the site that requires consideration.

Clause 6.1: Acid Sulphate Soils

The objective of this clause is to ensure that development does not disturb expose, or drain acid sulphate.

The Acid Sulphate Map has classed the subject site as having Class 5 affectation, which is the mildest form of affectation. Where this is the case, any works below 5m AHD, will require an acid sulphate soil management plan.

In this instance the site is located at a altitude of approximately 77m AHD. The proposed excavation (maximum depth of 11m is unlikely to impact on water table or the acidity level within the area.

Clause 6.2: Earthworks

Consent and (additional consideration under subclauses (6.2(3)) is required for earthworks if ground level is likely to be altered by greater than 300mm.

The proposed development involves excavation of up to a depth of 11m in order to provide basement car parking. The proposed excavation will be adequately supported and is unlikely to result any disruption in the drainage pattern, soil stability or the amenity of the area. Appropriate conditions are recommended for adequate excavation management (see conditions 7 & 98)

Clause 6.4: Development Intensification

- (1) Development intensification restricted
This clause applies to land shown on the Eastwood Urban Village Map as “Development Intensification Restricted”.
- (2) *Despite any other provision of this Plan, development consent must not be granted to the carrying out of development on land to which this clause applies if the development would increase the intensity of use of the land unless the consent authority is satisfied that the extent of stormwater inundation of the land, and the access to the land during an estimated 100 year ARI stormwater inundation event, would not constitute a hazard, or increase a hazard, to persons or property.*
- (3) Development intensification constrained
This clause applies to land shown on the Eastwood Urban Village Map as “Development Intensification Constrained”.
- (4) *Despite any other provision of this Plan, development consent must not be granted to the carrying out of development on land to which this clause applies if the development would increase the intensity of use of the land unless the consent authority is satisfied that, if any conditions to which the development consent would be subject to were to be complied with, the extent of stormwater inundation of the land during an estimated 100 year ARI stormwater inundation event would not constitute a hazard, or increase a hazard, to persons or property.*

The development site is outside the ‘development intensification restricted area’ as per the Eastwood Urban Village Map.

Clause 6.5: Eastwood & West Ryde Urban Village Objectives

- (1) *This clause applies to land shown as “Eastwood Urban Village” and “West Ryde Urban Village” on the Centres Map.*
- (2) *The objectives for the land to which this clause applies are as follows:*
- (a) to create a safe and attractive environment for pedestrians,*
 - (b) to create a mixed use precinct with emphasis on uses that promote pedestrian activity and safety at ground level (existing),*
 - (c) to create a precinct that contains opportunities and facilities for living, working, commerce, leisure, culture, community services, education and public worship,*

- (d) to increase the number of people living within walking distance of high frequency public transport services,
- (e) to increase the use of public transport.
- (3) The consent authority must not grant consent to development on land to which this clause applies unless it has considered whether the proposed development is consistent with the objectives stated in subclause (2).

In relation to the above objectives the development incorporates following characteristics to ensure compliance:

- Adequate landscaping and improvements to the footpaths and public domain areas.
- Adequate lighting of common areas to ensure surveillance and visibility in the night.
- Safer by design measures have been incorporated and the Eastwood Police have reviewed the proposal and did not raise any objections.
- The development proposed a mixed use development especially on the Rowe Street site. This will ensure opportunities for employment, shopping and housing. The site is within close proximity of the Eastwood railway station and will thus contribute to increased use of public transport.

8.9 City of Ryde DCP 2010

The following sections of DCP 2010 are relevant to the proposed development:

Part 3.4 Residential Flat Building

This part of the DCP is applicable to 20 First Avenue only as it is excluded from the Eastwood Town Centre. The DCP specifies controls in respect to density, landscaped area and parking. The DCP also contains controls in respect to height, setbacks and parking. A number of these controls are also included in LEP2010 which has been discussed earlier in this report.

The development results in non-compliances with a number of these controls, largely due to the site being a remnant site and the building being designed in context with the adjoining residential flat buildings. These aspects are discussed below:

Control/Requirement	Proposed	Compliance
Height 3 storeys	4 storeys	No ¹
Encroachments on setbacks RFB to be designed with irregular elevations. Council may allow variation to front, side and rear setback.	Irregular elevations and varied setbacks are proposed.	(see below)
Setbacks First Avenue – 12.5 metres	5.1 metres	No ²
Rear – 7.5 metres	N/A as the building adjoins the Rowe Street building.	N/A
Side – 7.5 metres	Eastern side – 3.315m to 7.7m (articulated) Western side – 3.315m to 6.06m (articulated)	Yes No ³

Control/Requirement	Proposed	Compliance
Internal Setbacks 10 metres to living room windows of adjoining properties	Eastern side – 10.2m Western side – 7.2m	Yes No ⁴
Balconies Balconies are to be provided to each unit	Each unit has been provided with a balcony.	Yes
Parking Quantity For properties within 400m of Railway Station: 1.0cps/1 bed (9 Units – 9 cps) 1.2cps/2 bed (3 units – 4 cps) 1.6cps/3 bed (N/A) 1.0 cps/ 4 dwelling for visitors (12/4 = 3 cps for visitors)	16 car parking spaces proposed.	Yes
Parking under Buildings Minimum ceiling height 2.2 metres. Ceiling height not to exceed an average of 1.5 metres above NGL or overall 2.1 metres. Where parking encroaches in the setback, should not exceed 0.75 metres along boundaries.	2.7 metres Along the eastern boundary the ceiling height above ground is 1.2 – 1.4m and along western boundary the ceiling height above ground is 1.5m to 1.8m. Parking is within the building footprint above.	Yes Yes No ⁵

The variations to the controls are discussed below:

Height¹

The development fails to comply with the number of storeys specified under the DCP as it contains 3 residential levels and a car parking level. The control is exceeded by 1 storey as the car parking level is defined as a storey under the LEP2010. Notwithstanding the proposed 4 storey building is consistent with the number of storeys contained in the other residential flat buildings along First Avenue and is below the maximum height (in metres) permitted under the LEP2020. This variation is supported.

Front & Side Setbacks^{2 & 3}

The development fails to comply with the front and side setback requirements. However, it is noted that if all the setbacks prescribed under this part of the DCP were strictly applied to this site, then only a 4.5m X 17.5m area would be left for the building footprint. As this is undesired, more reasonable setbacks have been considered on their merits.

In terms of the front setback, the development has provided the same setback as the adjoining residential flat buildings. If the development was required to comply with a greater setback it would result in the building being inconsistent with the streetscape.

In terms of the side setbacks, the DCP does allow variations to the controls provided that a minimum setback of 3 metres is provided and the variation to the control does not extend for more than 50% of the elevation. This occurs along the eastern boundary, however the western boundary will not comply with this requirement. The setbacks are consistent with the setbacks of the other residential flat buildings in this locality.

The variation is supported.

Internal Setback⁴

The separation between the western balcony of the proposed development on 20 First Avenue and the adjoining window is 7.2m. Privacy between the development and the adjoining residential flat building will be retained due to the window placement and the use of high sill windows (see Condition 83). It should be noted that the proposed setbacks are exactly the same as the previous development that has recently been approved on the site.

Parking under buildings⁵

The controls specify that the ceiling height of the parking should not exceed an average of 1.5 metres above natural ground level. In addition, where the basement parking encroaches into the side setback, it should not be more than 0.75 metres above natural ground level.

The development does not comply with this requirement along part of the western side boundary. The wall of the basement parking will protrude approximately 1.8m above ground level where it encroaches into the side setback. Full compliance cannot be achieved in this instance for the following reasons:

- The lower basement level is also aligned with the development on Rowe Street especially with the access ramp and loading dock/ truck manoeuvring area. This makes it difficult to lower the basement level 1A on 20 First Avenue any further.
- The variation also occurs due to the slope of the land.

The height of the proposed basement level is acceptable in this instance for the following reasons:

- The variation occurs towards the rear of the lot and thus is unlikely to impact on the streetscape.
- The 1.8 metre height encroachment will be the same height as the height of the adjacent boundary fence. Thus will be adequately screened from views.
- There is unlikely to be a loss of amenity to the adjoining property due to the height of this wall.

The variations are supported.

Part 4.1 – Eastwood Town Centre

This part of DCP 2010 is only applicable to the Rowe Street building.

Planning Principles for Eastwood

When considering an application to which this clause applies, Council must take into consideration the planning principles set out under this part of the DCP.

The following planning principles apply to the land:

- (a) ***Regional Role:*** *development should contribute to location as important business, employment and residential location.*

The proposal provides an opportunity for the site to be developed to revitalise the area which is located within the Town Centre. The site is well connected to the transport network and other amenities within Eastwood and will contribute positively to the location as an important residential, business and employment centre. The proposed development promotes compatible land uses within the Eastwood Urban Village with easy access from business/employment areas. The proposal will support and

strengthen Eastwood's role as a Town Centre. The development is consistent with the planning principle.

- (b) ***Integrated Planning & Development:*** *Ensure that social, economic, environmental and urban design issues are considered together with proper regard to their mutual and cumulative impacts. Must take into account the interface between the public & private land.*

In terms of the built form, the proposal incorporates an awning along the Rowe Street footpath; the footpath will be improved, disabled access provisions will be improved and a suitable built form of the development will improve the Town Centre. The height of the building complies with the planning controls.

The proposed mixed use development is likely to revitalise this part of the Town Centre. The development proposed entails a general improvement to the site and the precinct and will contribute to the local economic development of the Eastwood Town Centre.

The proposal has been developed with due regard for the social, economic and environmental impacts and the design requirements specified under Council's Development Control Plan. Urban design issues such as the setting, height, amenity and shape of the development site have been considered. The development is responsive to the site constraints and it integrates with the surrounding built form / land uses. The proposal is consistent with the above principle.

- (c) ***Public Domain:*** *Contribute to a high quality physical setting, enhance public domain, encourage recreation facilities, car parking should be setback from public places which should not compromise pedestrian and cycle use of public space.*

The proposal allows for adequate opportunity to enhance the pedestrian environment (public domain) around the development site, including new landscaping works and paving along the frontage of the site. The development is considered to enhance the enjoyment of the footpath through providing a more visually attractive building and improving safety of pedestrians. (see condition 87)

- (d) ***Urban Form:*** *To reflect its location to transport nodes, existing land uses/ precincts, be architecturally rich and diverse, building to be high quality, consider and protect heritage items.*

The building is contemporary in design with high quality street presentation.

The site is not heritage listed. The proposal also takes advantage of its location adjacent to the major transport node including the railway, bus station and taxi services.

- (e) ***Land use mix*** *to provide a variety of housing types and employment based activities.*

The proposed development includes retail and residential flat buildings that will provide appropriate mix of activities that will make the precinct more vibrant especially encouraging employment and living in one place.

- (f) ***Transport and Access:*** *promote reduction in motor vehicle dependency, promote accessible developments and parking.*

The development will be accessible. The on site parking provisions acknowledge accessibility by foot, bicycle and public transport. The site is located within a close

vicinity of public transport including bus, taxi and train services. Only the required number of car parking spaces is proposed on the site. Footpath along the First Avenue frontage will connect the development towards the bus and railway interchange.

- (g) **Environmental Performance:** *promote safe and comfortable environment for shoppers, residents and workers. Development to consider wind effect; reflectivity; noise attenuation; solar access and energy conservation; water conservation and re-use; stormwater management; use of recycled materials; and waste reduction.*

The development will promote ecologically sustainable development best practice by maximising solar access to the building. The fittings and fixtures will be energy efficient (refer to condition 18).

Development Policies for Eastwood

Development is required to comply with the following development policies. The applicable matters have been addressed in the following table:

Control	Proposed	Compliance
Mixed Use Developments		
Car parking is to be provided at either street level or basement level.	All car parking for the Rowe Street site has been provided in the basements.	Yes
Retail and other more active public uses are to be located at or around street level.	Two retail floors are proposed. Both the floors are accessible from street level because of the cross fall of the land. In addition to the 2 wide primary entries from the street level into the shopping centre, 4 of the retail shops (active uses) will be directly accessible from the street frontage. The development complies with the DCP requirement.	Yes
Upper levels could be used for either commercial or residential.	The first floor level is proposed to contain a mix of retail uses. Above this, there are 3 – 4 levels of residential development.	Yes
Buildings should be designed to overlook public and communal streets and other public areas.	The residential component has been designed to either overlook the Rowe Street or the communal recreation area to the central / rear section of the development.	Yes
Private living spaces and communal or public spaces should be clearly identified and defined.	The communal open space proposed for the residents within the building is clearly identified and defined. The pathways to this space are wide and part of the internal circulation space is adjacent to the communal open space.	Yes
Sufficient lighting to be provided to all pedestrian ways, building entries and car parks to ensure safety and security for residents.	No lighting details have been provided with the development application. Appropriate conditions of consent will be imposed to ensure that suitable lighting will be provided. (See conditions 32, 33 & 34).	Yes
Pedestrians and communal	The design of the pedestrians and communal	Yes

Control	Proposed	Compliance
areas to be well lit and designed to minimise the opportunities for concealment.	areas will prevent areas for concealment. This will be reinforced with the above condition in respect to lighting. Also NSW Police have raised no objections to the development. Appropriate additional conditions are recommended (see conditions 32 – 37)	
Pedestrian entry to the residential component of mixed use developments to be separated from entry to other land uses in the building.	The proposal has incorporated two separate pedestrian entries that are accessed from Rowe Street. The development complies with this requirement.	Yes
Stormwater Management		
A stormwater inundation impact assessment to be submitted for all developments.	This was not necessary for this development application. Council's Catchment and Assets Engineers have raised no objection to the development.	Yes
Floor levels within new developments are to be a minimum of 300mm above the calculated flood level.	The development complies with this requirement as advised by Council's Drainage Engineer.	Yes
Development is to comply with Part 8.2 Stormwater Management of Council's DCP.	Council's Development Engineer has advised that subject to appropriate conditions of consent, the development satisfies the DCP requirements.	Yes
Architectural Characteristics		
Height		
Buildings are to comply with the maximum height limit shown on Height of Buildings Map under LEP2010.	The proposal complies with the maximum height of 15.5m permitted on the site.	Yes
All parapets to remain at existing levels. Vertical extensions designed so they cannot be seen from the opposite side of the street. <i>* Variations permitted in certain circumstances.</i>	This control is only applicable to extensions and alterations to the existing buildings.	N/A
Development is to be within the envelope of the "sun altitude height plane" being the plan projected at an angle of 26° over a building site measured from the property boundary on the opposite side of the road. <i>* Variations permitted in certain circumstances.</i>	The proposed lifts which extend to the top of the building and is located along the front boundary encroach into the "sun altitude height plane". The rest of the development complies with this requirement with an exception of minor encroachment of Unit 401 loft level. This encroachment occurs by approximately 2-3m. Variations are permitted where the breach results in an improved design solution for the site, the extent of the variation is only minor and the development plans demonstrate that the	No. The variation is considered acceptable

Control	Proposed	Compliance
	<p>intention of the control is largely met. In this instance, the lifts provide suitable 4m wide architectural feature within the front façade of the building at equal intervals along the site frontage which is over 70m wide. The minor encroachment of the loft level which is set back approximately 5m back from the front boundary is unlikely to adversely impact on the intent of the control.</p> <p>In this instance, the variation is considered acceptable.</p>	
Setbacks		
New buildings are to have street frontages built predominantly to the street alignment for the first 2 storeys.	The development has provided a zero setback for the first 2 levels of the building.	Yes
Buildings may be constructed to the side and rear boundaries for the first 2 storeys.	The development has been built to the boundaries along the eastern and western side boundaries. The rear setback of the building will provide 0m – 3m setback. The 3 metre setback is located adjacent to 14 and 16 First Avenue while the zero setback is proposed adjacent to 22 First Avenue. The setback area will be used for landscaping.	Yes
Buildings (including balconies) are to be setback a minimum of 3 metres from all boundaries above the first 2 storeys.	The development complies with this requirement for the side and rear boundaries. There is a non-compliance along the Rowe Street elevation with the lift and passageway having a zero setback. Although this does not comply with the DCP requirement, the variation does allow the development to provide relief and architectural modulation to the front elevation. Such an approach was supported by the Urban Design Review Panel and approved under a previous consent.	No. The variation is considered acceptable
Urban Design / Exterior Finishes		
Building exteriors are to be designed to avoid extensive expanses of blank glass or solid walls.	The Rowe Street elevation complies with this requirement. The side and rear elevations of the first 2 floors has proposed solid walls. This cannot be avoided as the development is being constructed to the boundaries, which is permitted by the controls. This control is really only appropriate to the street facades of developments and in this case, the Rowe Street elevation complies.	Yes
Balconies and terraces are to be provided.	The development complies with this requirement.	Yes
All new buildings should incorporate a colour scheme	A schedule of materials and finishes has been submitted with the DA and this is considered	Yes

Control	Proposed	Compliance
using the colour palette.	satisfactory. The development has been conditioned to comply with this schedule. (See conditions 17 & 139).	
The siting and configuration of buildings should take into account the impact on surrounding development and public spaces in terms of amenity, shadowing and visual privacy.	The development is considered acceptable in terms of overshadowing, visual privacy and amenity. Sufficient plans and information have been submitted to confirm that the acceptable level of amenity (as per DCP provision) on the surrounding development will still be maintained.	Yes
Tops of buildings are to be designed so they integrate with the design of the building and conceal plant equipment.	The plant equipment will not be visible from either First Avenue or Rowe Street as it is proposed on Level 1 in the south western corner of the Rowe Street building.	Yes
Access and Parking		
Car parking associated with uses other than retail should be provided below ground level or where it is not visible from the street.	All of the car parking is proposed within the basement.	Yes
To minimise conflict between resident, delivery and customer vehicles, car parking associated with residential uses should be provided separately from parking for other land uses.	The residential car parking is proposed to be provided on basement level 3. A condition of consent will be imposed to ensure that these spaces are segregated and secure from the other car parking spaces within the building. (See condition 28).	Yes
Location of Vehicle Access and Footpath Crossings		
The design and location of vehicle access is to minimise conflicts between pedestrians and vehicles as well as minimise the visual intrusion and disruption of streetscape continuity.	The proposed width of the vehicular crossings is 11m. This 11m width is a good balance in terms of providing separate entry and exist and significantly improvement in the streetscape appearance while also contributing to improved pedestrian safety.	Yes
New vehicle access points are to be restricted in retail /pedestrian priority streets. Where possible access is to be via minor streets and lanes.	The development has incorporated the one access point in Rowe Street. Although Rowe Street is a retail / pedestrian priority street there is no alternative to this access point as the site does not adjoin a minor street or lane. The RTA would not approve any access from First Avenue through to the Rowe Street due to the adverse impacts this would have on the traffic movements within First Avenue. Current access arrangements are satisfactory.	Yes
Service vehicle access is to be combined with parking access and limited to a maximum of 1 access point per building.	The development complies with this requirement. All service vehicles will use the combined access driveway.	Yes
Design of Vehicle Access		

Control	Proposed	Compliance
Wherever practicable, vehicle access is to be a single crossing, perpendicular to the kerb alignment.	The vehicular crossing is a single crossing from Rowe Street that would be perpendicular to the kerb alignment.	Yes
Active uses or items of visual interest above vehicle access points are required in the horizontal line of sight of pedestrians.	The awning has been provided above the vehicular entry. This is considered to satisfy the requirement.	Yes
Vehicle entries are to have high quality finishes to walls and ceilings. No service ducts or pipes are to be visible from the street.	From the finishes proposed the development will comply with this requirement. A condition of consent is proposed to ensure that no service ducts or pipes are visible from the street (Condition 80).	Yes
Pedestrian Access and Amenity		
Buildings that face retail /pedestrian priority streets are to contribute to the liveliness and vitality by providing one or more of the following: <ul style="list-style-type: none"> • Retailing, food/drink outlets, customer counter services or other services which provide pedestrian interest. • Enclosed shop fronts with window displays of goods and services. • Open shopfronts to food outlets and/or interiors with tables and chairs for diners. • Indoor queuing space for activities that may involve queuing so that footpaths remain free for pedestrian movements. • A high standard of finish for shopfronts. 	At this stage the uses of the various tenancies within the development is not known. However, <ul style="list-style-type: none"> • The development has proposed various tenancies with frontages to Rowe Street which would be used for retailing and shops that would be of pedestrian interest. • A number of tenancies are enclosed with glazed panels which will allow for the display of goods and services. • There are two entries to the retail component and these will clearly serve as the main entrances to the building. • As the tenancies which adjoin Rowe Street are enclosed, there is no opportunity for queuing onto the streetscape. 	Yes
Ground floor is to be flush with the street footpath for the predominant level of the street frontage and at the main entry to the building.	It is intended that access will be provided directly to the tenancies from Rowe Street. Both of the retail levels achieve direct entry from the Rowe street (flush with the footpath) because of the cross-fall of the site. The rest of the retail tenancies will be accessed internally via internal mall. From the levels provided on the plans, it will be possible for access to be flush with the street.	Yes
All street frontage windows at	From the plans and schedule of finishes, glazing	Yes

Control	Proposed	Compliance
ground level are to have clear glazing.	will be provided to the street frontage. A condition of consent will be imposed to ensure this glazing is clear. (See condition 40).	
Enclosed shopfronts are preferred to open shopfronts.	Enclosed shop front is proposed. The development complies with this requirement.	Yes
Security grilles to be fitted only within the shopfront. Such grilles are to be transparent.	No security grilles are shown on the plan. A condition of consent will be imposed to ensure that in the future any security grilles are transparent. (See condition 14).	Yes
Circulation		
Where circulation is provided through a site or within a building serving to connect 2 points, the thoroughfare should function as a shortcut, be continuous and level with pedestrian areas and incorporate an active edge of retail or commercial uses.	<p>The retail component has incorporated circulation through the site with each level being connected by a travelator or lift. Each tenancy or kiosk will be accessed directly from the internal circulation which will ensure that an active edge is provided.</p> <p>The development also incorporates a through site link from the level 1 plan to 20 First Avenue. This will function as a shortcut for the occupants of 20 First Avenue to access the Rowe Street building.</p>	Yes
Landscaping and Trees		
Ground level entry areas to upper level dwellings should be well lit and not obstructed by planting.	All entrances are unobstructed and identifiable. The residential entrances have been appropriately separated from the retail entrances. A condition of consent will be imposed to ensure the entrances are appropriately lit. (See condition 33).	Yes
Street trees are to be provided in accordance with the Master Plan for the Centre.	No street trees are proposed along Rowe Street frontage. However, Council's Draft Street Tree master plan requires that Acer negundo (Box Elder) be planted along the Rowe Street frontage and Rough-barked Apple be planted along the First Avenue frontage. Relevant conditions have been recommended for compliance with this requirement (see condition 87)	Yes
Where a proposal involves redevelopment of a site with a frontage of at least 40m to a public road, electricity and telecommunications utilities are to be undergrounded along the entire length of the frontage.	A condition of consent will be imposed to ensure that all telecommunication and utilities are under-grounded. This work would be required to be completed to the satisfaction of the responsible authority. It is likely that Council may also undertake these works. The condition has been written to ensure that if the works are undertaken by Council, then the applicant will be required to pay a monetary contribution for these works.(See conditions 88 & 145). The condition requires that the undergrounding work is to be coordinated with the public works program.	Yes

Control	Proposed	Compliance
Where utility installations are undergrounded, Council will waive 50% of the total contribution towards public space acquisition and embellishment normally paid under Section 94 Contribution Plan.	This will be reflected in the Section 94 calculation.	Yes
Awning and Colonnades		
Buildings must incorporate an awning or colonnade along the street.	The development has incorporated an awning along the Rowe Street elevation.	Yes
The height of the awning shall not be less than 3 metres or greater than 4.5 metres.	The awning will have a height from ground greater than 3m. Because of the cross fall of the site and the long frontage, the height clearance of the awning exceeds 4.5m in some places. The awning has also been provided over the entry to the car park. As the car park entry needs to accommodate 12m rigid trucks and 19m semi trailers, the opening height of the car park must be a minimum of 4.5 metres. This results in the awning exceeding the maximum height of 4.5m. The awning is split into 3 different sections to minimise its height clearance on the lower side, to improve its functionality and to improve the aesthetic appearance along the front façade. The non-compliance occurs over the entry to the car park only and cannot be avoided in these circumstances.	Yes
The width of the awning shall not be less than 3 metres.	The awning will have a minimum width of 3 metres.	Yes
Any awning should: <ul style="list-style-type: none"> • Be continuous for the entire length of the site frontage. • Be set back from the kerb by 0.6 metres. • Have cut outs 1m wide by 1 m deep to accommodate street trees. • Be weather sealed to the face of the building to which they are attached. • Have a height clearance above the footpath level of at least 3m. • Maintain sufficient clearances from any overhead electricity or 	<p>The awning complies with the requirements. Condition 1 has been recommended to ensure compliance with this requirement.</p> <p>The plans submitted are in compliance with this requirement.</p>	Yes

Control	Proposed	Compliance
telecommunications installation.		
Ground level shops may incorporate see-through security grills or translucent barriers to ensure that maximum light is transmitted to footpath areas.	This matter has been addressed as a condition of consent. (See condition 14).	Yes
Environmental Management		
Sunlight		
Major public spaces should receive at least 50% sunlight for 2 hours between 10am and 2pm on June 21.	The development will not overshadow any major public spaces. The communal open space located in the Rowe Street building will receive a minimum of 2 hours of sunlight for at least 50% of the area during mid winter.	Yes
Windows to north facing living areas should receive at least 3 hours of sunlight between 9am and 5pm on June 21. North facing windows to living areas of neighbouring dwellings should not have sunlight reduced to less than the above 3 hours.	All north facing windows within the development will receive 3 hours of sunlight. Approximately 73% of the apartments will receive 3 hours of sunlight. The north facing windows in the units within the adjoining development at 14 and 16 First Avenue will maintain 3 hours of sunlight.	Yes
Wind Standards		
Building design is to minimise adverse wind effects on recreation facilities and open terraces.	The design of the residential development will limit the impacts of wind effects on the communal open space due to the development surrounding this space.	Yes
Energy Efficiency of Buildings		
Buildings are to be designed to ensure that energy usage is minimised.	The development will be constructed in accordance with the requirements provided in the BASIX Certificate.	Yes
Reflectivity		
New buildings and facades should not result in glare that causes discomfort or threatens safety of pedestrians or drivers.	A condition of consent has been imposed to require the applicant to provide a report from an appropriately qualified person to verify that the Rowe Street building and facades will not cause any reflections that would cause either disability glare for passing motorists or unacceptable discomfort for passing pedestrians. (See condition 81).	Yes
Visible light reflectivity from building materials on the facades of new buildings should not exceed 18%.	A condition of consent will be included to ensure compliance. (See condition 159).	Yes
Waste Management		
A waste cupboard or other appropriate space is to be provided within the dwelling	The development complies with this requirement.	Yes

Control	Proposed	Compliance
for temporary storage of wastes.		
In residential developments where communal facilities are proposed, the area or room is to be of sufficient size and is to be easily accessible.	The applicant has designed the size of the waste areas following a meeting with Council's Waste Coordinator. The residential properties will access the waste area from a lift that will go directly to the basement adjacent to the waste area. This is considered satisfactory.	Yes
Every commercial and retail building is to be provided with a waste storage and recycling area that is to be flexible in size and layout to cater for the future changes of use.	The development complies with this requirement.	Yes

Part 7.1 Energy Smart, Water Wise

This part provides a strategic framework for achieving sustainable development (through energy and water savings) and new developments are required to comply with the minimum energy performance standard.

Notwithstanding the above, where proposals are subject to BASIX legislation, the *State Environmental Planning Policy (Building Sustainability Index: BASIX)* operates to ensure that applications assessed under BASIX are not subject to provisions of environmental planning instruments and development control plans which seek to achieve the same objectives as BASIX. The residential component of the development is subject to BASIX and generally complies (and can be made to comply) with the BASIX requirements.

The retail part of the development can be made to comply with this part of the DCP. The proposal is generally consistent with the objectives of this requirement in the following ways:

- Best practice water conservation measures will be put in place through installation of water efficient fitting and equipment. Water efficient fixtures are to be installed to all showerheads and toilet cisterns. These are to achieve AAA rating.
- Sufficient solar access to the residential/retail frontage with north aspect.
- Hot water systems are to achieve a minimum 3.5 Star Greenhouse score. Energy efficient fittings will be used (refer condition 18).

Part 7.2 Waste Minimisation and Management

The applicant has submitted a Waste Management Plan (WMP) which has been reviewed by Council's Environmental Health Officer and is considered satisfactory.

This DCP also requires that development provide an appropriate space for the storage of wastes. This space is to be separated for the retail and residential uses.

As requested by Council staff, the garbage storage area adjacent to the Rowe Street entrance has been relocated to the basement level. This will alleviate any odour, visual impact and traffic/sightline impact at the entrance driveway.

Appropriate conditions of consent will be imposed to ensure that the waste materials will be disposed off satisfactorily.

Part 9.2 Access for People with Disabilities

The DCP requires that Class 5 & 6 buildings must be accessible to people with disabilities, via a continuous accessible path of travel to and through the entrance, with doors and doorways of appropriate design to be used by people with a disability, and appropriate tactile ground surface indicators, furniture, and sanitary facilities. The ground floor must comply with all applicable provisions of these parts, and that in developments of two or more storeys, where the aggregate floor area of all storeys above the ground storey is 400m² or more, all storeys must comply with all applicable provisions. In particular, lift access is to be provided to the upper storey or storeys. The DCP also sets out requirements for parking and for outdoor areas.

For residential development it is necessary to provide an accessible path of travel from the street to and through the front door to all units on each level of the building. Also since more than 30 units are proposed, at least 10% of the units are to be adaptable units in terms of AS4299 that is 7 units must be adaptable. Units 308, 319, 321, 441, 443, 501, 506 and 510 are adaptable.

Rowe Street Development:

The plans show two main pedestrian access points from the public footpath on Rowe Street. Based on the levels provided on the plans shop numbers 101, 102 and 117 fronting Rowe Street could also have direct street access. In addition there are two separate residential entrances and two exit points for the emergency stairs fronting Rowe Street. Access from the Rowe Street basement parking is provided by two passenger lifts adjacent to Rowe Street and one lift to the rear of the car park. The lifts provide vertical access to all Rowe Street retail and residential floors.

Rowe Street slopes significantly to the west resulting in small change in levels at the entrance (eg. change from RL 73.20 to RL 73.30 at the residential foyer in front of the lift on Level 1, and on Level 2 a change from RL 75.80 to RL 76.07 at the shopping centre entry). The levels will be adequately managed by adequate grading of the footpath. An independent review of the proposal by Council's Access Consultant has indicated that the any change in level that exceeds 3 mm must be ramped or an alternative access means provided and that the plans appear to be capable of compliance.

In light of the above, further compliance details are not required as it can be submitted with the application for Construction Certificate.

First Avenue

The First Avenue building is built above a ground level car park which is accessed via a driveway and footpath on the eastern boundary direct from First Avenue. The footpath links into the rear of the Rowe Street Level 1 retail component.

The First Avenue building contains twelve units within three residential storeys and therefore is required to provide an accessible path of travel to all units.

A lift to all floors can be accessed from within the ground floor car park. A two metre wide continuous accessible path of travel from First Avenue through the site to level 1 of the Rowe Street building will enable residents to access the shops and services within the Rowe St building, and enable users of the Rowe St shops to directly access First Avenue. It would seem that a security gate control system would be used on the site, however the

management would be required to ensure disabled access is always provided as per the AS 1428.1.

Disabled Parking

Class 2 residential developments require 1 wide bay space for each accessible or adaptable unit and at least 1 wide bay visitor's space. For Class 5 and 6, Council's DCP 2010 Part 9.2 requires 3% of parking spaces to be wide-bay spaces for parking for people with a disability. Eight (8) wide parking bays are proposed. The proposal therefore complies with the number of spaces required by Part 9.2 of the DCP. All the wide-bay spaces are conveniently located close to lifts.

The following advice have been received from Council's Access Consultant:

Our assessment of the proposal has identified no major issues with regard to compliance with Council's DCP 2010 Part 9.2 Access for People with Disabilities, and generally the proposal seems capable of achieving compliance.

It is considered that the proposal is satisfactory in terms of disabled access requirement for the development. Conditions 84 to 86 will ensure this outcome.

Part 9.3 Car Parking

This Part of the DCP prescribes car parking requirement for various types of developments. The car parking requirements for the development on the Rowe Street site is as follows:

Requirements	Proposed	Compliance
<p><u>Rowe Street Development</u></p> <p>Off street parking is to comply with the following:</p> <p><u>Residential rate:</u> 1 bed unit – 1 space 2 bed unit – 1.2 spaces 3 bed unit – 1.6 spaces Visitor – 1 space/ 4 units</p> <p>16X1bed = 16 spaces 30X2bed = 36 spaces 8X3bed = 14.4spaces Visitors = 13.75spaces Required: 81 spaces</p> <p><u>Retail parking rate::</u> 1 space/ 25m² floor area accessible to the public.</p> <p>Proposed total gross retail floor space is 4,450m².</p> <p>The retail car parking is based on the area of site accessible to the public. At</p>	<p>The Rowe Street development proposes 55 units in the following manner:</p> <p><u>Residential:</u> Based on the applicable rate, a total of 81 car parking spaces is required for residential units on Rowe Street site. The following is provided:</p> <ul style="list-style-type: none"> • 8 parking spaces for disabled persons • 14 visitors spaces • 1 disabled/visitor space • 2 car wash bays <p>Total Proposed: 83 spaces</p> <p><u>Retail spaces:</u> Car parking for the retail use is separated from the residential parking. A designated loading/unloading will also be provided on Basement 2.</p> <p>Total number of parking spaces proposed for the retail use will be 142 spaces within the basement 2 & basement 1. This is 6 spaces over the minimum requirement, which is</p>	<p>Yes</p> <p>Yes</p>

<p>this stage the final uses of the retail is not known so it is not possible to accurately know what spaces will be available for the public. In these circumstances, the RTA guidelines have assumed that 75% of the floor space will be accessible to the public. The development proposes 4450m² of retail space. (This figure excludes the passageways & mall). 75% of this figure is equivalent to 3337.5m². Based on this, the parking for the retail component will be 134 spaces.</p> <p>Required: 134 spaces</p> <p><u>20 First Avenue Development:</u></p> <p>Parking Quantity Properties within 400m of Railway Station: 1.0cps/1 bed (9 Units – 9 cps) 1.2cps/2 bed (3 units – 4 cps) 1.6cps/3 bed (N/A) 1.0 cps/ 4 dwelling for visitors (12/4 = 3 cps for visitors)</p> <p>Total Required: 16</p>	<p>considered satisfactory in Eastwood since it will allow greater flexibility to occur with the permitted uses in the building.</p> <p>Total Proposed: 142 spaces</p> <p>16 spaces proposed.</p>	<p>Yes</p>
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8.10 Draft Ryde Local Environmental Plan

There are no draft planning instruments to be considered for this development application.

9.0 SECTION 94 DEVELOPMENT CONTRIBUTIONS PLAN 2007

Development Contributions Plan – 2007 allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density/ floor area.

The contributions that are payable with respect to the increase in floor area (for retail development) and increase in the number of dwelling units on the subject site are as follows:

Contribution Item	Total Payable
Community and Cultural Facilities	\$231,941.90

Open Space and Recreational Facilities	\$381,300.41
Civic and Urban Improvements	\$252,252.81
Roads and Traffic Management Facilities	\$52,220.56
Cycleways	\$21,500.27
Stormwater Management Facilities	\$82,848.57
Plan Administration	\$5,772.79
Total	\$1,027,837.31

NOTE:

- a. *The rate effective June 2010 has been used in the calculation of Section 94 contributions.*
- b. *The Total contributions figure of \$1,027,837.31 has been derived from the spreadsheet used for calculating the S94 contributions amount.*
- c. *The calculation spreadsheet and rates have been reviewed by Team Leader – Major Development Team and placed on file.*
- d. *Condition 65 requiring the payment of a Section 94 contributions amount prior to the issue of Construction Certificate has been included in the attached draft conditions of Consent.*

10 LIKELY IMPACTS OF THE DEVELOPMENT

10.1 Built Form

The proposed development involving the redevelopment of the site into a 5 storey mixed (retail & residential) development will not have any significant adverse impacts on the existing built environment or the amenity of the surrounding area.

The proposed development complies with the objectives of the planning controls applicable to the Eastwood Town Centre. The development complies with the maximum height and design requirements to address both the frontages.

The architectural characteristic and function of the building has been dictated by the planning control for Eastwood which requires the following:

- *In the future, Eastwood will be a place specifically designed for the enjoyment and utility of pedestrians and a place which allows convenient access for people between home, work, shopping and leisure. It will also be a place which has a high level of aesthetic amenity at street level; have safe attractive and convenient public spaces; be a vibrant, viable and profitable commercial centre; and contain an appropriate mix and arrangement of uses, which satisfactorily integrate with existing surrounding activities.*

It is noted that this part of Eastwood is in transition with the desired future character of the locality identified in the planning controls. The desired future character in respect of the architectural characteristics of buildings identified in the LEP and DCP include controls on height, setbacks, exterior finishes, access and parking and pedestrian access and circulation. The development complies with these requirements with the exception of building setbacks and density in respect of the First Avenue building only. These variations are considered acceptable in the circumstances of the proposal as presented.

The proposed built form and character of the development will contribute to an attractive public domain as well as producing a desirable setting for the intended uses.

10.2 Access and Traffic

The development has proposed two separate entry / exit driveways, one for the Rowe Street building and the other for the First Avenue building.

The Rowe Street entry / exit will be 11m wide and will be shared between the residential parking as well as the retail parking and service vehicles/trucks. The width of this entry/ exit will cater for the largest vehicle required to service the site being a 19 metre long articulated vehicle. The single crossing on Rowe Street will reduce the impact of the vehicular entry / exit on the streetscape as well as improve pedestrian safety along the Rowe Street footpath.

The access to the First Avenue building will be via a 5 metre wide combined entry / exit driveway in compliance with the width requirement under AS2890.1:2004. This access way will service the 12 units only within this building, that is, it will service 16 car parking spaces.

The traffic report submitted with this development application has been reviewed and is supported by Council's Traffic Engineers. This report has estimated the likely traffic generation and impacts from the development based on information in the RTA's document "Guide to Traffic Generating Developments". Using the criteria in this document, the proposed development would generate approximately 336 weekday pm peak hour vehicle trips. As the development is replacing the old hardware use on the site, to determine the exact increase in traffic movements, the traffic generated by the proposed development should be discounted by the traffic generated from the previous hardware use. This results in an increase in traffic generation over the previous development to be 84 weekday pm peak hour vehicle trips.

The traffic report has concluded that there will be no significant impact on the adjacent road system or nearby intersections.

10.3 Road Traffic Noise

An acoustic report submitted to Council indicates that necessary noise reduction for habitable rooms can be achieved if the recommended noise control construction measures are adopted. An acoustic certification would be required prior to the issue of Occupation Certificate (see condition 149).

10.4 Overshadowing and Solar Access

The extent of overshadowing is an important consideration in terms of amenity to the proposed development as well as adjoining properties.

At least 71.6% of units within the development will achieve a minimum of 3 hours of sunlight during mid winter. This complies with the SEPP 65 requirements. Ninety four (94%) of units (private open space) will receive at least 2 hours of sunlight. Approximately 50% of the communal open space will also achieve 2 hours of sunlight in mid winter. The development will comply with the requirements of Council's codes and the SEPP 65 requirements in terms of providing acceptable amenity within the development.

In terms of overshadowing impact on the adjoining properties, Council's controls require that the north facing windows of adjoining buildings retain 3 hours of sunlight to part of the windows in mid winter. The north facing windows (of adjoining affected properties) are located in the rear elevation of the residential flat buildings at 14, 16 and 22 First Avenue.

As shown in the background section of this report, the current proposal is a result of increased height permitted under the new LEP whereby the applicant is adding 2 additional levels on the Rowe Street site. The two additional floors consist of one full level and one as loft level. Notwithstanding the increase in height, the applicant has ensured that there is no significant change in overshadowing on the adjoining properties from what was previously approved. This has been achieved by the following design measures:

- While the rear setback for floors 1- 4 of the Rowe Street building along the rear boundary is generally 3 – 5 metres, the proposed loft level is offset 9 metres on the western wing and 7 metres on the eastern wing. This allows greater sun penetration to the rear adjoining residential flat building sites.
- The layout (and consequently the roof) of the loft level of unit 512 is such that it minimises shadow cast on the rear properties. This ensures that the overshadowing is within the acceptable threshold as per Council's DCP and the SEPP 65 requirement.
- Shadow analysis has been carried out at various time intervals for 21 June to demonstrate that the proposed building does not significantly affect the rear buildings.

10.5 Visual Privacy

Visual privacy is another important amenity consideration under Council's planning controls.

Visual privacy from the Rowe Street building to 14, 16 and 22 First Avenue will be maintained due to adequate building separation. Although there are no residential developments currently located on the adjoining side properties to the Rowe Street building, the setbacks for the residential component have allowed for future development to occur and provide sufficient distance between developments to maintain visual privacy.

The design of the First Avenue building has incorporated high sill windows as well as window placement and screening to balconies to limit the potential overlooking to 16 and 22 First Avenue. The adjoining developments along First Avenue are similar in setback and design compared to the proposed flat building.

10.6 Safety By Design

In assessing this development application Council must have regard for the "*Crime Prevention Guidelines to Section 79C of the Environmental Planning and Assessment Act, 1979*" issued by the Department of Planning in April 2001.

These guidelines include 4 key areas for assessment:

1. Surveillance
2. Access Control
3. Territorial Reinforcement
4. Space Management

Generally, the proposed development is capable of addressing each of the above criteria in an acceptable manner. The development application was referred to NSW Police in accordance with the Protocol for Assessment of Development Applications entered into between the City of Ryde and the Eastwood Local Area Command and a response was provided on 31 August 2010.

The Police have advised that they had commented on a similar application on the subject site back on 24 April 2007. Since the development is essentially the same as previously considered (except for additional 2 levels), the previous comments are still applicable.

Having regard to the matters raised by NSW Police via their previous correspondences, appropriate conditions of consent have been included in the recommendation of the report (see conditions 32 - 37).

10.7 Construction Impacts

Construction impacts are controlled by Part 8.1 of the Ryde DCP 2010. Council's standard conditions of consent have been imposed to control the impact of the construction activities.

In addition to these conditions, it is proposed to include a condition to require a Construction Management Plan to be submitted and approved by Council prior to the issue of any Construction Certificate.

10.8 Public Domain

Council has a draft Town Centre Public Domain Technical Manual that applies to Eastwood Town Centre. The landscaping and public domain design requirements are set out under this draft. A condition of consent has been recommended to ensure the public domain is upgraded to Council's requirements (see condition 87). The design has incorporated an awning, shop fronts to the street, lighting, street furniture and plantings and the entries to the building. Additional tree planting will be required as per the recommended condition. All of these features will contribute positively to the streetscape. The development will also contribute to the renewal of the area and reinforce the Eastwood Town Centre as an important cultural, civic, commercial, retail, employment, education, residential and recreational location.

10.9 Hours of Operation

The applicant has not proposed any hours of operation for the retail development. At this stage although as the intended uses are not known and it is appropriate to include a condition of consent to restrict the hours of operation of the retail development. This will ensure all future uses within this building will need to operate within the times specified as well as ensuring the amenity of the future and surrounding residential uses is maintained.

In the recent approved development of the Eastwood Shopping Centre, the hours of operation were same as what occurs in the West Ryde Shopping Centre. These hours of operation are between 7.00am to 12.00am, Monday to Saturday and 7.00am to 10.00pm on Sundays. These hours are also considered appropriate for this development. This has been imposed as a condition of consent (see condition 163).

11 REFERRALS

Development Engineer, 15 October 2010:

I have reviewed the amended architecturals and drainage plans for the proposed S96 and the proposal is essentially the same as the earlier proposal with slight variation in floor levels.

The proposal is generally satisfactory, however as the basement clearance is now limited to 2.55m a structural engineer certification is required, prior to C.C confirming that the proposed floor levels can accommodate a minimum 2.2m and 4.5m headroom clearance when structural beam and slab depths are accounted for along the travel paths of a B85% car and an Articulated vehicle (AV) respectively. This matter will be conditioned.

In view of the above, no objections are raised to the proposal, subject to the recommended engineering conditions.

NOTE: The recommended conditions have been included in the attached conditions (see 43-46, 89-102, 116- 118, 152- 157)

Eastwood Police, 1 September 2010:

On 18th August 2010, the above mentioned development application was received from Ryde Council with regards to the property situated at 52-80 Rowe Street & 20 First Avenue at Eastwood. The application was in relation to the construction of a mixed-use retail/residential building.

In December 2008, Eastwood Police made comments in regards to the development application and forwarded the report for the attention of the Ryde Council. Police are of the understanding that the main amendments to the Development Application since then are the addition of 17 residential apartments and additional parking.

Eastwood Police have reviewed the development application and it is the opinion of Police that no further comments are necessary. The council should take into account the original comments made in December 2008.

Police would like to have the opportunity to review any further major retail development applications such as the one for ALDI and any applications in relation to licensed premises and ATM's.

NOTE: Any such future applications if lodged with Council would be referred to Eastwood police for comments in accordance with Council's adopted procedure for referrals.

Environmental Health Officer, 15 September 2010:

At this stage it is not known what type of retail tenancies will occupy the building except for the nominated Aldi store. As such, separate applications for fitout of regulated premises will be required.

Waste will be handled from 3 areas. For the main building fronting Rowe Street, one area on basement level 1 will handle residential & commercial waste from where it will be hoisted to the loading dock located directly above. The other waste storage area will be located adjacent to the entrance of loading dock in Rowe Street. It is not nominated whether this is retail or residential waste. Waste management arrangements should be clearly delineated between the retail and residential components. This particular area may not be the most convenient with residents having to take their waste out into the street before accessing the garbage area, Also this area may not be aesthetically the best location unless it is appropriately screened from view. The waste containers for the Rowe Street building will be emptied by a contractor. For the residential building fronting First Ave garbage and recycling will be handled via 12x240l bins to be collected by council contractors via First Ave as is the case with the adjacent apartment buildings. No garbage chutes or compactors shown.

The basement carparking will require mechanical ventilation. This is covered by the requirements of AS1668.2 – 1991 and called up by the Building Code of Australia. Standard conditions have been included for this requirement.

Submitted with the report is a contamination assessment by Environmental Investigations, Report No. E859.1AA, dated 12 March 2008, for the underground tank that was used for the storage of turpentine. The report documents that a 3 of the samples that were taken were found to exceed the threshold concentrations for sensitive land uses for a couple of

parameters. However, it was concluded that since the contamination as encountered at shallow levels the source of the contamination was due to surface spillage rather than actual leakages from the underground tank.

This development will require the complete removal of the underground tank and the soil around it for the construction of the basement levels. This will mean that any contaminated soil will also be completely removed. As such the assessment report makes a number of recommendations in this respect. Conditions have been incorporated to include the recommendations of the report. Application will be satisfactory subject to recommended conditions.

Note: These conditions have been included in the recommended condition in the Attachment No. 1.

Traffic Engineer, 27 September 2010:

A 'low' level splitter island should be used to physically delineate opposing traffic movements at the driveway entrance. To ensure safe operation and minimise traffic conflict, A Plan of Management of the loading dock shall be submitted to Council for approval. The plan shall restrict the operational hours of the loading dock to early morning and late evening to minimise conflict between passenger vehicles and semi trailers using the site. Additionally, a suitably sized space shall be made entirely on site for the safe loading and unloading of furniture removalist truck without impeding on traffic flows.

The applicant would be required to provide a Construction Management Plan prior to CC covering construction vehicle routes, number of trucks, hours of operation, access arrangements and Traffic Control measures (plans) as an all inclusive document.

Note:

The above has been incorporated in the proposed conditions of consent (refer to condition 102).

12 PUBLIC NOTIFICATION & SUBMISSIONS

The proposal was notified and advertised in accordance with Development Control Plan 2010 - Part 2.1, Notification of Development Applications. The application was advertised on 1 September 2010. Notification of the proposal was from 12 August 2010 until 16 September 2010. During this time one submission was received.

Some of the plans were revised and resubmitted to Council on 14 October 2010. The nature of amendments was not significant enough in nature to warrant a re-notification of the proposal.

The issues raised in the submissions included the following:

- a) **FSR:** *The proposal exceeds the allowable floor space ratio especially on 20 First Avenue.*

Assessment Officer's Comment:

The Floor Space Ratio Map provides no FSR for the Rowe Street site that is zoned B4. Similarly, the development on 20 First Avenue is exempt from FSR control by virtue of being a residential flat building in R4 zoned that is not part of a shop top housing. This exemption is provided under Clause 4.4A of the LEP2010. Notwithstanding the above, the development is consistent in terms of height, bulk and scale compared to other similar developments along the First Avenue frontage.

- b) **Overshadowing:** *It should be clearly demonstrated that overshadowing to the residential apartments at No. 14 and No. 16 First Avenue does not significantly reduce their amenity. Applicant should show that a minimum of 3 hours of sunlight is maintained to the living areas of each affected building.*

Assessment Officer's Comment:

Council's controls require that the north facing windows of adjoining buildings retain 3 hours of sunlight to part of the windows in mid winter. The north facing windows (of adjoining affected properties) are located in the rear elevation of the residential flat buildings at 14, 16 and 22 First Avenue (is on the southern side of the proposed building on Rowe Street).

It is acknowledged that rear properties will be affected by overshadowing in the mid winter months because the nature of the development site. However the northern windows of the rear residential flat buildings will retain at least 3 hours of sunlight in midwinter. This complies with the Council's requirements.

The development is considered acceptable in terms of overshadowing and access to sunlight. Sufficient plans and information have been submitted to Council to confirm that acceptable level of amenity (as per Council's Development Control Plan and State Planning Policy No. 65 provisions) on the surrounding development will still be maintained.

- c) **Retail carparking:** DA does not provide satisfactory retail car parking which proposes 142 retail spaces for 4450m² of floor space. This is equivalent to 1 car space for every 31m² of retail area and is well below DCP requirement of 1space/25m² of retail area. The traffic consultant has used 75% measure for "accessible area". However, this is flawed as this would exclude the mall.

Assessment Officer's Comment:

Under Council's Car Parking DCP, parking for retail use is to be provided at the rate of 1 space per 25m² of site accessible to the public. As the uses within the building are not yet known the RTA provisions have been adopted which require 75% of the retail area as being accessible to the public. The retail component requires 134 spaces whereas 142 is proposed and therefore complies with the Council's requirements in terms of car parking.

- d) **Parking for restaurant:** *Uses such as restaurants have not been nominated on the site which requires higher rates of parking and may result in problems in parking later on.*

Assessment Officer's Comment:

Council has assessed the car parking requirement based on the details shown in the application. Should the future use changes to the likes mentioned in the submission; it will be subject to separate assessment/ approval process.

- e) **Under-grounding of Cable:** A condition of consent should be imposed to underground overhead electrical cables.

Assessment Officer's Comment:

A condition to this effect has been recommended (condition 145).

13 CONCLUSION

The proposed development represents an opportunity for consolidation of smaller lots (which produces a better development outcome but is otherwise difficult to achieve) and provide a new mixed use development in accordance with the newly adopted planning controls for the Eastwood Town Centre.

The development involves the erection of two (connected) buildings. These buildings are subject to separate planning controls because of different zoning of the sites.

The development on 20 First Avenue provides a new residential flat building that has been designed to be in context with the adjoining buildings while providing improved amenity to occupants with the provision of disabled access and adequate car parking for visitors to the site.

The development on 52-80 Rowe Street provides an opportunity for the redevelopment of part of Eastwood and revitalise that part of the Town Centre. This development will be in accordance with the current planning controls that provide for a desired future character of the area. The development results in minor non-compliances with some of the numerical controls which have merits and have been supported by the planning staff including the Council's Design Review Panel. In each instance, the proposed variation will result in a better design outcome without any significant compromise to the amenity of the adjoining properties. The development provides an appropriate streetscape to Rowe Street with significant articulation and complies with the height requirements.

The development also results in variations to the setback, deep soil zone and density controls. These variations are all supported as the site is a remnant site and the impacts from the variations are minimal.

The development application is recommended for approval subject to conditions.

14 RECOMMENDATIONS

A. Pursuant to Section 80 of the Environmental Planning and Assessment Act, 1979 the following is recommended:

- (a) That the Sydney East Region Joint Regional Planning Panel grant a consent to development application LDA2010/389 for the construction of mixed used development at located at 52-80 Rowe Street & 20 First Avenue EASTWOOD subject to the conditions of consent in Attachment 1 of this report.

B. That the objector be notified of this decision.

C. That a copy of the development consent be forwarded to the RTA.

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