

**JOINT REGIONAL PLANNING PANEL
(Sydney East Region)**

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| JRPP No | 2013SYE005 |
| DA Number | MOD 2012/0207 |
| Local Government Area | City of Ryde |
| Proposed Development | Section 96(2) to amend a development consent for the demolition of existing buildings at the subject site (excluding the heritage listed cottage at 9 Monash Road) and construction of a 6 storey, mixed use development. |
| Street Address | 1-9 Monash Road & 407-417 Victoria Road, Gladesville |
| Applicant & Owner | Theo Lucas of Architecture & Building Works Hanna & Hanna Group Pty Ltd |
| Number of Submissions | 15 |
| Recommendation | Approval |
| Report by | Willana Associates on behalf of City of Ryde |

1. EXECUTIVE SUMMARY

The following report is an assessment of a Section 96(2) application to amend Development Consent No. LDA2011/0648 for the demolition of the existing buildings at 1-9 Monash Road & 407-417 Victoria Road, Gladesville (exclusive of a heritage listed cottage at 9 Monash Rd); construction of a 6 storey, mixed use (retail/residential) development; construction and dedication of a new public laneway; strata subdivision; and alterations and additions to the heritage listed cottage. The development application was approved on 2 May 2012 by the Sydney East Regional Planning Panel (Panel), subject to 155 conditions.

The consent authority for the subject Section 96(2) application is the Sydney East Region Joint Regional Planning Panel (Panel) in accordance with Part 4 of State Environmental Planning Policy (State and Regional Development) 2011 (SEPP 2011).

The building has been approved to comprise 2,520m² of retail floor space at ground level, 70 residential units on five levels above (14 x 1 bedroom, 48 x 2 bedroom and 8 x 3 bedroom), 3 levels of basement parking (accommodating a total of 204 car parking spaces). The subject application proposes to amend the approved development, including the deletion, rewording or addition of some conditions in the development consent. The main changes proposed include:

- Division of the approved retail component (2 tenancies) to provide a total of five (5) tenancies. This will include slight changes to parts of the southern, northern and eastern footprints at ground floor level.
- Provision of an ALDI Store within the larger retail tenancy.

- Extension to the hours of operation from 7am - 9pm Monday to Saturday and 8am - 8pm on Sunday, to 7:00am - 10:00pm, 7 days a week.
- Extension to the hours of deliveries to 6.00am - 10.00pm Monday to Sunday.
- Increase to the total number of units from 70 to 74 by extending the residential floors 1 to 4 close to the southern side boundary and altering a 3 bedroom unit to a 1 bedroom unit and a studio.
- Increase to the total number of car parking spaces from 204 to 211.
- Provision of a stratum and strata subdivision scheme as opposed to the approved strata subdivision scheme.
- Change to the car parking layouts of BL1 to BL3, including reduction to the lower basement level footprint.
- Reconfiguration of the loading dock to enable larger trucks (15.2m instead of 12.5m long) to use the dock.
- Change to the fire stair at northeast building corner at the 4th floor.
- Revision of the window proportions on the Monash Road, Victoria Road, south and internal elevations.
- Change to the RL's of the floors to result in changes to the floor-to-ceiling heights.
- Increase to the building height generally by a total of 400mm (i.e. from RL 72.9 to 73.3), except for 3 exhaust shafts which will add 1.4m in height.

The Section 96(2) Application has been publicly exhibited and notified from 18 January until 6 February 2013. During this time, fourteen (14) submissions were received, including one letter of support for the ALDI Store. This was followed by an extra objection by Council as a result of a resolution made at a Council Meeting held on 26 March 2013. The main issues raised have been: unacceptable traffic implications; excessive building height; unacceptable impact on residential amenity; unacceptable extension to delivery and operation hours; inappropriate vehicular access; unacceptable bulk/scale; overshadowing; loss of privacy; unacceptable heritage impact; and insufficient and incorrect information.

On the 14 March 2013 and 23 April 2013 the applicant submitted a written response to the issues raised in objections. This was followed by the submission of further amended plans and additional information on 25 March 2013 and 22 April 2013 in response to a request by the assessment officer for additional information and certain amendments.

A review of the submitted documentation indicates the majority of the amendments will be satisfactory with respect to the provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979, (the Act). There is one main exception. The submitted acoustic report has modelled noise impacts during the extended trading and deliveries hours based on a 4.7 metre wall located between 78 Eltham Street and the subject site. This is higher than that allowed under the current consent (Condition 48(c)) and the wall does not form part of the proposed amendments sought by the applicant. In the absence of the higher wall, the impacts on the nearest receivers would be unacceptable. In addition, any extension of trading hours or delivery hours is likely to affect the amenity of the area. No approval is recommended to the extended hours. Some other changes to conditions are recommended that vary to that proposed by the applicant. However, they are generally minor, consistent with the intents sought and/or are unlikely to prejudice the applicant. Most are related to standard environmental health compliance matters. One is an additional condition to amend the proposed layout of Unit B7 to provide an improved amenity outcome whilst still facilitating proposed changes to adjacent common areas.

2. SITE DESCRIPTION

The subject site is known as 1-9 Monash Road and 407-417 Victoria Road, Gladesville and comprises of 12 individual lots legally described as Lots 1-6 DP24099, Lots A&D DP371644 and Lots 2-5 DP264285.

The site is bound by Victoria Road (a State Road) to the west, Monash Road to the north and Eltham Street to the east. The intersection of Victoria and Monash Roads is a signalised T – intersection. Its frontage to Victoria Road is 50.23 metres in length. Its frontage to Monash Road is 98.84 metres in length, whereas its frontage to Eltham Street is 35.82 metres in length. The site has a total area of 4,456.7m².

Lots 1-6 DP24099 are burdened by a right of way (6.095m wide) that runs along their southeast boundaries, connecting Lot 5 DP 264285 to Eltham Street. Lot D DP 371644 is burdened by a right of carriageway (4.265m wide) that connects Lot 4 DP 264285 to Monash Road.

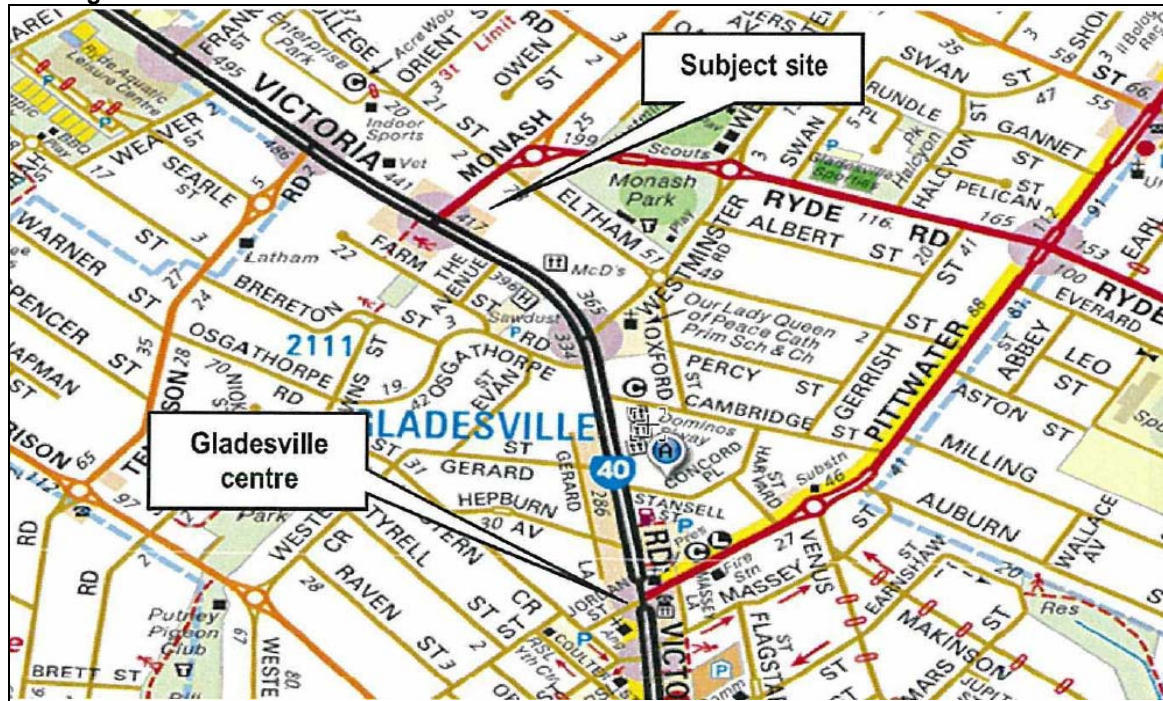
The site has more recently been subject to demolition and site preparation works. As a result all buildings and ancillary structures have been removed with the exception of the heritage listed dwelling at 9 Monash Road and its immediate landscaped surrounds. This building and its surrounds have been subject to upgrading works.

Prior to the demolition and site preparation works, the site was relatively flat with a slight fall of approximately 2 metres from east to west, with the lowest point being at the corner of Victoria Road and Monash Road. Most of the site contained a landscape supply yard known as 'Materials in the Raw' and the premises 'Posh Pavers'. At the western corner was a row of two storey, traditional style buildings with a continuous awning over the footpath. The buildings were occupied by a variety of uses including a Chinese restaurant, newsagency mobile phone shop and post office.

The site is surrounded by commercial, industrial and residential developments generally as described below:

- South: A two storey residential dwelling house is located at 78 Eltham Street. This property adjoins the rear length of the southern side of the site. A domestic and commercial storage facility known as National Storage (at 397-401 Victoria Road), adjoins most of the southern side of the site.
- East: The opposite side of Eltham Street is generally characterised by one and two storey detached housing.
- North: To the north, on the opposite side of Monash Road, are four older-style attached commercial buildings, a Dulux retail paint centre and two dwelling houses. One of the dwelling houses is used as a dental surgery.
- West: On the opposite side of Victoria Road is a two-storey commercial building with four tenancies at the ground floor, including a photography studio, cafe, engineering/construction firm and video rental store. A Business Park is further to the northwest at 436-484 Victoria Road, Gladesville. It consists of a prominent, contemporary style, multi-level building.

Figure 1: Location Plan



3. SITE DETAILS SUMMARY

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| Total site area: | 4,456.7m ² (including Heritage Site: 9 Monash Rd) |
| Site area: | 3,780.7m ² (excluding Heritage Site: 9 Monash Rd) |
| Frontage to Victoria Road: | 50.23m |
| Frontage to Monash Road: | 98.84m |
| Frontage to Eltham Street: | 35.82m |
| Land use zone: | Zone B4 – Mixed Use under Ryde Local Environmental Plan 2010 |

Figure 2: Site Details



4. PROPOSAL

Development Consent No. LDA2011/0648 was issued on 2 May 2012 for the following:

1. Demolition of the existing buildings at 1-9 Monash Road & 407-417 Victoria Road, Gladesville (exclusive of the heritage listed cottage at 9 Monash Road).
2. Construction of a 6 storey, mixed use (retail/residential) development comprising a retail tenancy (2,520sqm) and café/kiosk at ground floor, 70 residential units on five levels above (14 x 1 bedroom, 48 x 2 bedroom and 8 x 3 bedroom units), and 3 levels of basement parking with a total of 204 car parking spaces.
3. Construction and dedication of a new public laneway to allow vehicular access to the site and future vehicular access along the rear of the properties in the street block that faces Victoria Road.
4. Strata subdivision of the development.
5. Alterations to the heritage listed cottage at 9 Monash Road, including the removal of air conditioning units, boundary walls and replacement of the existing carport.

The development consent is subject to 155 conditions. It is proposed to amend this consent via Section 96(2) of the E P & A Act, 1979 in the manner described below. This includes rewording, addition or deletion of some conditions to cater for the proposed changes as indicated in **Table 4** below.

Table 1 – Proposed Amendments

| BASEMENT LEVELS | |
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| 1. | <u>Setback of western shoring wall 1.2m from the Victoria Street boundary, part of the southern shoring wall 300mm from the southern boundary and eastern shoring wall a maximum of 1.5m from the eastern boundary.</u> The setbacks will be provided at all basement levels with the exception of the eastern setback which will only be provided at Basement Levels 1 and 2. |
| 2. | <u>Reduction to the area of the lower basement level and revision of the car park spaces at all levels:</u> The lower basement will be minimised in footprint via a setback from the eastern side. This will result in the reduction of the number of approved car spaces at this level, however additional spaces will be added to the upper two levels to increase the total number of approved spaces from 204 to 211. The revision will include the relocation of car spaces (including accessible spaces and shared zones). A total of 106 residential spaces will be provided and located at Basement Levels 2 and 3. A total of 105 retail car parking spaces will be provided on Basement Levels 1 and 2. The number of disabled spaces will be increased 12 to 18. |
| 3. | <u>Changes to residential storage areas.</u> This will include the reconfiguration of the approved residential storage areas. Separate stores will be added to the western and eastern sides of Basement Levels 2 and 3. All the approved stores on Basement Level 1 will be deleted. |
| 4. | <u>Relocation of the basement vehicular access ramp.</u> The ramp will be shifted further to the west. The fire stairs and garbage facilities (including a garbage lift extending from Basement Level 3 to the 1 st floor, residential garbage store on Basement Level 2 and a commercial garbage store on Basement Level 1) will be relocated to the eastern side of the ramp. |
| 5. | <u>Deletion of the travelator at Basement Level 1 and Ground Floor Level and provision of ramps / stair access and changes to lifts:</u> An access ramp/stairs is proposed in a similar location. |
| 6. | <u>Amended Lifts and Lobbies on the Basement and Ground Floor Levels.</u> This will include the addition of a lift further north (Lift D), alteration to the size of the lifts and deletion of the 'Retail Lift'. Lift C will only extend to Basement Levels 1 and 2 |

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| given the reduction to the lower basement level footprint. Lift A will be setback further from the western boundary. |
| GROUND FLOOR LEVEL |
| 7. <u>Subdivision of the approved retail area to allow for additional tenancies.</u> It is proposed to separate the approved retail area to provide an ALDI Store to the southern side, plus 4 other retail tenancies (including the originally approved the café/kiosk) along the Monash Road frontage. |
| 8. <u>Changes to ground level footprint and increase to retail floor area:</u> Slight changes to parts of the southern, northern and eastern footprints are proposed. Part of the shop front along Monash Road (north) is proposed to be extended to delete a 600mm street setback. This will include the deletion of the street setback of the approved 'café/kiosk' located at the northeast building corner. The total gross floor area will be slightly increased from 2520m ² to 2538m ² . |
| 9. <u>Reconfiguration of the loading dock and driveway.</u> The purpose of this is to enable larger trucks (15.2m long instead of 12.5m long) to use the dock. |
| 10. <u>Fit out the retail tenancy further south as an ALDI Store.</u> The internal layout of the ALDI Store will generally consist of checkouts located adjacent to the storefront (Victoria Road), an office near the checkouts, product aisles behind, back of store zone to the south, and staff amenities area and loading facilities to the east. The applicant has advised the store will employ up to 20 people on a full-time and part-time basis. |
| 11. <u>Alteration to the hours of operation</u> to allow the ALDI Store to operate between 7:00am to 10:00pm, 7 days a week instead of 7am to 9pm Monday to Saturday and 8am to 8pm on Sunday. |
| 12. <u>Alteration to the delivery hours to 6.00am till 10.00pm Monday to Sunday.</u> The applicant has advised up to a maximum of 6 deliveries will be made to the ALDI Store each day by HRV trucks and small semi-trailers. |
| 13. <u>Alteration to the form of approved subdivision from a strata subdivision to a stratum plus separate strata schemes.</u> |
| CHANGES ON FLOORS 1 UP TO 4 |
| 14. <u>Increase to the number of Units from 70 to 74 and change to the unit configuration as indicated in Table 3 below.</u> The approved 3 bedroom units at the southwest corner of Levels 1 to 4 will each be altered to a 1 bedroom unit and a studio unit. |
| 15. <u>Extension of the building at the southwest corner close to the southern side boundary on Levels 1 to 4.</u> This will increase the bedroom areas at Levels 1 to 4 and extend west facing terraces close to the side boundary |
| 16. Deletion of the internal facing bedroom window of Unit A-2 (Level 1), Unit A-6 (Level 2) and Unit A-10 (Level 3). |
| 17. Slight reduction to the area of Unit C-1 (first floor), Unit C-7 (2nd floor), Unit C-13 (3rd floor), Unit C-19 (4th floor) via the provision of an indent at the internal western side wall to provide a common service area. |
| CHANGES FIRST FLOOR LEVEL ONLY |
| 18. Relocation of fire stair along the southern boundary (as per Basement Levels 2-3). |
| 19. Change to Unit C-4 (including an indent to the northeast corner, slight shifting of the fire stairs, change in layout, provision of a wall setback to the west side and an addition of an awning in this location). |
| 20. <u>Change to the shape and area of Unit A-3.</u> This will include an indent at its southwest corner which will reduce the floor area of the unit. |
| 21. Change to the internal/ external area at the northwest of the 1 st floor by reducing the external landscaped area/terrace (adjacent to Unit B-7), re-angling of an internal wall of Unit B-7 (1 st floor), addition of a larger common bin room including a slight extension of the external wall to the south. |

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| 22. Change to the internal layout of Unit B-7, including access to the terrace located on the eastern side. |
| 23. Reduction to the external void area located adjacent to the southern side boundary, provision of turfing over the void, extension to paving near the external terrace of Unit B7 and internalisation of the paving in between Units A-4B and Unit A-3 and in between Unit B3 and B4. |
| 24. Slight south setback and south side terrace realignment at the southwest side of the building on the first floor level (i.e. in the location of the proposed studio). |
| CHANGES ON SECOND UP TO FOURTH FLOORS |
| 25. Extension to part of the southern wall and east facing terrace close to the south side boundary on the 2nd, 3rd, 4th and 5th floors. |
| 26. Slight reduction to the area of Unit A-6 (2nd floor), Unit A-10 (3rd floor), Unit A-14 (4th floor) due to the addition of an indent at the front entry of each unit. |
| 27. Re-angling of a front wall of Unit B-13 (2nd floor), Unit B-19 (3rd floor), Unit B-28 (4th floor). This will reduce the floor area of each unit. |
| 28. Change to the common garbage rooms located at the northwest of the 2nd to 4th floors via the extension to the south facing building wall. |
| 29. Change to the shape and area of Unit C-10 (2nd floor), C-16 (3rd floor) and C-22 (4th floor) by the provision of an indent at the northeast corner and extension at the northwest corner (all internally facing). |
| 30. Addition of an awning to the west side of Unit C-10 (2nd floor), C-16 (3rd floor) and C-22 (4th floor). |
| 31. Slight extension to the terraces of Units B-12, C-11 and C-12 on the 2 nd floor and Unit B-18, C-17 and C-18 on the 3 rd floor level to change the setback from northern boundary from 2.7m to 2.56m. |
| FOURTH FLOOR |
| 32. Change to the stair at northeast building corner (i.e. relocation from the internal to the external side as per levels below) and extension to the area of Unit C-19 as a result. |
| 33. Extension to the terraces of Units B-22 and B-23 by 910mm to result in a 1m setback from the northern boundary. |
| FIFTH FLOOR |
| 34. Extension of the fire stair to the 5th floor at northeast end of building. |
| 35. Extension of west facing terrace and awning closer to the south side boundary. |
| 36. Extension of the building void (next to the lift shaft) further west as per building line of the level below. |
| 37. Change to void and stairs and increase to internal studio unit mezzanine floor area of Unit A-16B. |
| 38. Change to the void and stairs of Unit A-15 and Unit A-14. The stair relocation will include a slight reduction to the terrace areas. |
| 39. Change to Unit B-28 (i.e. the provision of an indent, relocation of stairs within the unit, reduction to the void area and extension of the unit's floor area into some of the void area). |
| 40. Change to a minor section of the south building line to reflect extension of the garbage store below. |
| 41. Change to the internal area on Unit B-29 via extension into some void area and relocations of stairs. The stair relocation will increase the terrace area. |
| 42. Slight increase to the terrace of Unit C-22. |
| 43. Deletion of two skylights on the eastern roof section. |
| 44. Slight extension of lift tower along Victoria Road frontage. |
| ROOF PLAN |
| 45. Extension of the southwest roof sections |
| 46. Provision of pitched roof portions to the southwest, northwest and northern sides. |
| 47. Provision of an indent to the eastern side (internally facing) to reflect building line |

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| changes below. |
| 48. Provision of an exhaust for the ALDI store. |
| MONASH RD ELEVATION |
| 49. Removal of a planter box to cater for the revised building line. |
| 50. Revised window shapes at Level 4. |
| 51. Increase to the roof fire stair profile. |
| 52. Revised size of windows of residential levels (as per Section D). |
| 53. Change to the RL's of the floors to result in changes to the floor-to-ceiling heights, in particular an increase to those of the residential levels (except the loft level) and that of the retail level and decrease to those of Basement Levels 1 and 2. |
| 54. Extension of the terraces of Units B-22 and B-23 (at the 4 th floor) by 910mm to result in a 1m setback from the Monash Road frontage. |
| VICTORIA RD ELEVATION |
| 55. Change to some of the window proportions on the residential levels. |
| 56. Change to the ground floor entry and window portions. |
| 57. Slight extension of the approved lift tower. |
| SOUTH ELEVATION (INTERNAL) |
| 58. Revised window proportions (shorter). |
| 59. Revised balcony and wall profiles to the southwest. |
| INTERNAL ELEVATIONS (02, 03, 04, 05) |
| 60. Revised window portions (i.e. most made smaller and/or shorter). |
| 61. Deletion of bedroom windows on Elevation 04. |
| 62. Addition of ground level door and window on Elevation 05. |
| 63. Addition of awnings above windows of Elevation 05. |
| GENERAL AMENDMENTS |
| 64. Rewording of proposal and development description specified on the development consent to include: <ul style="list-style-type: none"> - Reference to 407-417 Victoria Road, in addition to 1-9 Monash Road, Gladesville; - Reference to the 12 separate allotments which make up the whole of the Site, i.e. the addition of Lots A DP371644 and Lots 2-5 DP264285. - The change in approved retail component from a single tenancy with an area of 2520m² to an ALDI Store and other tenancies with a gross floor area of 2538m². - The increase to the total number of units from 70 to 74, as well as the change to the composition to provide 4 x studios, 18 x 1 bedroom, 48 x 2 bedrooms and 4 x 3 bedrooms. - The increase to the approved total number of car parking spaces from 204 to 211. - The proposed stratum and strata subdivisions as opposed to the approved strata subdivision scheme. |
| 65. Reallocation of adaptable units as described in Table 4 below. |

Other minor changes (not indicated above) will include the following:

- A minor change to the RL's of the driveway.
- Addition of a small gable to the east elevation at ground level.
- Addition of piers/columns at basement and ground levels.
- Change to the trolley bays.
- Changes to service rooms in Basement Level 1.
- Addition of a motorcycle space at Basement Levels 2 and 3.
- Relocation of internal staircases of some units.
- Changes to the landscape scheme, generally including: a redesigned BBQ area and central feature planting; change to the landscaping resulting from the proposed fire stair relocation and smaller void; deletion of the planter box within the Monash Road setback; alterations to the landscaping around the heritage cottage resulting from the realignment of the driveway to ensure adequate turning circles and increase to the area set aside for any future substations (i.e. to cater for future easements).

- Ground Level: Deletion of the bike storage area, addition of a fire hydrant booster, change to the configuration of Lobbies A and B (including an increase in the RL of Lobby A to match that of the footpath).
- Deletion of the approved water tank.
- Marginal extension to the open space tiling adjacent to Unit A-4B (internal), Unit B-4 (internal), and Unit B-7 (external).
- Relocation of the female and male change rooms facilities from Basement Level 2 to the ground level.
- Provision of bicycle parking as follows: 7 spaces near Lifts A and D at Basement Level 3, 5 spaces near Lift D at Basement Level 2, and 12 spaces near Lifts B and D at Basement Level 1.

The RL's of the building are proposed to be amended as indicated in Table 2 below.

Table 2 – Approved and Proposed RLs

| Approved RL of Building | Proposed RL of Building |
|--------------------------------|--|
| Basement Level 3 RL 44 | Basement Level 3 RL 44.2 |
| Basement Level 2 RL 47 | Basement Level 2 RL 47.2 |
| Basement Level 1 RL 50 | Basement Level 1 RL 50.1 |
| Ground Level RL 53.5 | Ground Level RL 53.2 |
| Level 1 RL 58.5 | Level 1 RL 58.5 |
| Level 2 RL 61.4 | Level 2 RL 61.5 |
| Level 3 RL 64.3 | Level 3 RL 64.5 |
| Level 4 RL 67.2 | Level 4 RL 67.5 |
| Level 5 RL 70.1 | Level 5 RL 70.5 |
| Ceiling RL 72.5 | Ceiling RL 72.9 |
| Roof Max. RL 72.9 | Roof Max. RL 73.3 Exhausts: RL 74.3 |

Table 3 gives a comparison of some of the key statistics for the approved development and the current Section 96(2) application.

Table 3 – Key Development Parameters

| Key Development Parameters | Approved | Amended |
|-----------------------------------|---|---|
| Land Use Mix | 70 units and 2 retail tenancies | 74 units and 5 retail tenancies |
| GFA | 9,486m ² | 9484m ² |
| Number of Storeys | 6 | No change |
| Maximum height of building | RL 72.9 | RL 73.3 for built roof and RL 74.3 for exhausts |
| Car Parking | 204 spaces | 211 spaces |
| Unit Mix | 14 x 1 bed 48 x 2 bed. 8 x 3 bed. | 4 x studios 18 x 1 bed. 48 x 2 bed. 4 x 3 bed. |

Primarily as a result of the above changes, the applicant has requested changes to the following conditions of consent: The changes to the conditions are shown in either strikethrough or bold. (NB: Only that part of a condition proposed to be altered is indicated in the table below. The other part is not proposed to be changed and/or deleted).

Table 4: Changes to conditions requested by the applicant

| Current Condition | Proposed rewording or deletion of condition |
|---|--|
| 1 Approved Plans | This condition is proposed to be reworded to reflect the amended plans and BASIX Certificate. |
| 1(a) Unit numbers A6, A7, C10, C16, A10, C21, and A11 are to be designed as adaptable units, each unit is to be allocated an accessible parking bay. | This condition requires rewording to reflect the changes to the allocated adaptable units. Unit numbers A6, A7, C10, C16, A10, C21, and A11 A2, A6, A10, C2, C8, C14 and C20 are to be designed as adaptable units, each unit is to be allocated an accessible parking bay. |
| 20 Vehicle accessing the site. <i>To ensure that the proposed loading dock and the site access arrangements can be operate in a safe manner, the largest vehicle permitted to access the site, including the loading dock area is to be restricted to a Heavy Rigid Vehicle as defined under AS/NZS 2890.</i> | Rewording of this condition is proposed to enable a semi-trailer which is 15.2m long to service the site, as well as bread trucks with a max. length of 12.5m. Vehicle accessing the site. <i>To ensure that the proposed loading dock and the site access arrangements can be operate in a safe manner, the largest vehicle permitted to access the site, including the loading dock area is to be restricted to a Heavy Rigid Vehicle as defined under AS/NZS 2890 15.2m long semi-trailer.</i> |
| 33 Section 94 Contribution | This condition is proposed to be reworded to reflect the amended scheme, i.e. unit numbers and configuration. |
| 42 Basis Commitments. <i>The development must comply with all commitments listed in BASIX Certificate numbered 385805M_02, dated 21/11/2011.</i> | A revised BASIX certificate has been prepared. This condition requires rewording to include reference to the new certificate as follows: BASIX Commitments. <i>The development must comply with all commitments listed in BASIX Certificate numbered 385805M_02, dated 21/11/2011. 385805M_04, dated 17 March 2013.</i> |
| 44 Disabled parking. <i>Disabled parking should be provided for both residential and commercial activities. At least twelve (12) parking spaces including an accessible parking space are to be provided evenly distributed over all 3 basement level.</i> | The amended plans show 18 accessible spaces. Condition 44 is proposed to be reworded to delete the reference to “evenly distributed over three basements” as follows. Disabled parking. <i>Disabled parking should be provided for both residential and commercial activities. At least twelve (12) parking spaces including an accessible parking space are to be provided within the development.</i> The applicant has advised this is proposed to avoid confusion with the interpretation of the condition. |
| 46 Driveway access in Monash Road. <i>(a) Limited in size, such that it can accommodate the turning manoeuvre of a HRV vehicle entering the site from Eltham Street and exiting via a left turn</i> | Rewording of this condition is proposed for consistency with Condition 20. The suggested rewording of this condition is: Driveway access in Monash Road. <i>(a) Limited in size, such that it can accommodate the turning manoeuvre of a HRV vehicle or a</i> |

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| <p>onto Monash Road only (HRV shall not be permitted to perform a right turn out and into the site from Monash Road). The turning manoeuvre must also allow for the docking manoeuvre of the HRV vehicle without encroaching onto Monash Road footpath.</p> | <p>15.2m long semi-trailer entering the site from Eltham Street and exiting via a left turn onto Monash Road only (HRV or 15.2m long semi-trailers shall not be permitted to perform a right turn out and into the site from Monash Road). The turning manoeuvre must also allow for the docking manoeuvre of the HRV vehicle or 15.2m long semi-trailer without encroaching onto Monash Road footpath.</p> |
| <p>48 Noise requirements.</p> <p>(d) The following is recommended to attenuate noise generated from the external sources:</p> <ul style="list-style-type: none"> - Glazing to achieve appropriate internal noise criteria as per table 11 included in the Acoustic Report prepared by SLR Global Environmental Solutions dated 29 November 2011 (Ref # 610.07939.05469). - To prevent sleep disturbance, no truck deliveries are to occur during the time period 9:00pm and 7:00am during weekdays and 5:00pm to 8:00am during weekday. | <p>Condition 48(d) is proposed to be reworded to reflect the findings of the submitted acoustic report as follows:</p> <p>(d) The following is recommended to attenuate noise generated from the external sources:</p> <ul style="list-style-type: none"> - Glazing to achieve appropriate internal noise criteria as per table 11 included in the Acoustic Report prepared by SLR Global Environmental Solutions dated 29 November 2011 (Ref # 610.07939.05469). - The design and construction of the building envelope as described in Part 6.6 – Design Recommendations of the Acoustic Report prepared by SLR Global Environmental Solutions dated 17 December 2012 (Ref # 610.11805-R4). - To prevent sleep disturbance, no truck deliveries are to occur during the time period 9:00pm 10.00pm and 7:00am during weekdays and 5:00pm to 8:00am during weekday 6.00am. |
| <p>52 Separate Waste and recycling storage rooms must be provided on the Ground Floor for the storage of residential and commercial waste. These rooms must have separate keys and locking systems to prevent commercial tenants from using the residential waste facilities.</p> | <p>This condition is proposed to be reworded to reflect the new locations of the garbage storage areas as follows:</p> <p>Separate Waste and recycling storage rooms must be provided on level B1 (commercial) and level B2 (residential) for the storage of residential and commercial waste.</p> |
| <p>53 Goods Lift: A dedicated goods lift must be provided to convey the residential waste containers between the ground and first floors.</p> | <p>This condition is proposed to be reworded to reflect the new locations of the garbage storage rooms.</p> <p>Goods Lift: A dedicated goods lift must be provided to convey the residential waste containers between the ground and first floors the level B2 and first floors.</p> |
| <p>68g Proposed Laneway to be dedicated: g. Provision of signage prohibiting left turn from Monash Road into the site, including limiting the largest</p> | <p>This condition is proposed to either be deleted or reworded to reflect the access of a 15.2m long semi-trailer into the site.</p> |

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| <i>vehicle accessing the site and loading dock area to a Heavy Rigid Vehicle (HRV) as per AS 2890</i> | |
| 80 Noise and Vibration: <i>The L10 noise level measured for a period of not less than 15 minutes while demolition and construction work is in progress must not exceed the background noise level by more than 20 dB(A) at the nearest affected residential premises.</i> | This condition is proposed to be deleted for the reason that as a restriction to noise and vibration is already covered in Condition 79. |
| 116 Connection to Sewer: <i>All sanitary fixtures must be connected to the sewerage system by gravity flow and documentary evidence of compliance must be submitted to the Principal Certifying Authority before the issue of any Occupation Certificate.</i> | This condition is proposed to be deleted on the grounds that it is unnecessary and onerous. The applicant has advised that 'the Sydney Water Coordinator does not require such a condition to be imposed' and that not all facilities within the development maybe capable of being connected by gravity, such as the waste storage facilities in the basement'. |
| 117 Acoustic report required: <i>A report from a qualified acoustical consultant demonstrating compliance with the relevant noise criteria must be submitted to PCA before the issue of the Occupation Certificate.</i> | This condition is proposed to be deleted as an acoustic report has been prepared and forms part of the original application and modified application. |
| 126 Positive Covenant, Vehicle Size Limitation. <i>The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to ensure the largest vehicle utilising the loading dock and garbage facility be limited to a Heavy Rigid Vehicle (HRV) as defined under AS 2890.</i> | <p>This condition is proposed to be reworded to reflect a 15.2m long semi-trailer as follows:</p> <p><i>The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to ensure the largest vehicle utilising the loading dock and garbage facility be limited to a Heavy Rigid Vehicle (HRV) 15.2m long semi-trailer. as defined under AS 2890.</i></p> |
| 133 Traffic, parking and loading dock requirements. <i>The following conditions apply to the development on the site in relation to traffic, parking and loading dock management on the site:</i> <i>(a) The number of car parking spaces to be provided in the basement car parking area for the retail component shall not exceed 101 spaces and for residential/visitor it must not</i> | <p>This condition is proposed to be reworded to reflect the increase to the number of car parking spaces, the use of larger truck sizes, increased delivery frequency to the ALDI Store and extended delivery hours. (NB: Condition 146 of the development consent allows deliveries to occur between 7.00am and 10.00pm, 7 days). The proposed rewording is as follows:</p> <p><i>(a) The number of car parking spaces to be provided in the basement car parking area for the retail component shall not exceed 101 105 spaces and for residential/visitor it must not</i></p> |

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| <p>exceed 103 spaces.</p> <p>(d) The number of HRV deliveries to the retail tenancy be limited to 2 per day.</p> <p>(e) The largest truck to service the site must not exceed 12.5m in length (heavy rigid vehicle).</p> <p>(h) Delivery of goods to and from the site must not occur outside the hours between 7:00am – 9:00pm Monday to Friday and 8:00am - 5:00pm during weekends.</p> <p>(o) All heavy vehicles shall depart the site via a Left –Turn Only into Monash Road and proceed directly to Victoria Road.</p> <p>(p) HRV shall not be permitted to perform a right hand turn out and into the site from Monash Road.</p> | <p>exceed 103 106 spaces.</p> <p>(d) The number of HRV and/or 15.2m long semi-trailer deliveries to the ALDI retail tenancy is limited to a maximum of 6 per day.</p> <p>(e) The largest truck to service the site must not exceed 12.5m 15.2m in length (heavy rigid vehicle).</p> <p>(h) Delivery of goods to and from the site must not occur outside the hours between 6.00am – 10.00pm 7 days. 7:00am – 9:00pm Monday to Friday and 8:00am – 5:00pm during weekends.</p> <p>(o) All heavy vehicles shall depart the site via a Left –Turn Only into Monash Road and proceed directly to Victoria Road.</p> <p>(p) HRV and 15.2m long semi-trailers shall not be permitted to perform a right hand turn out and into the site from Monash Road.</p> |
| <p>134 Traffic and Parking Management Plan.</p> | <p>It is proposed to include an additional point at the end of this condition to give ALDI Stores preference in the use of the loading dock during the peak morning and evening periods.</p> <p>The suggested wording is as follows:</p> <p>(f) <i>Preference being given to the ALDI Store for use of the loading dock during the peak morning and evening periods.</i></p> |
| <p>146 Restriction to delivery truck movements. Delivery truck movements must be restricted to between the times of 7.00am and 10.00pm.</p> | <p>The condition is proposed to be reworded as follows:</p> <p><i>Delivery truck movements must be restricted to between the times of 6.00am 7.00am and 10.00pm 7 days.</i></p> |
| <p>153 Hours of operation. The use of the retail part of the development is restricted to the following hours of operation: 7.00am and 9pm Monday to Saturday and 8.00am to 8pm on Sunday.</p> | <p>Rewording is proposed to support the proposed ALDI Store trading hours as follows:</p> <p>Hours of operation. The use of the retail part of the development is restricted to the following hours of operation: 7.00am and 9pm Monday to Saturday and 8.00am to 8pm on Sunday. 7.00am and 10pm Monday to Sunday.</p> |

5. APPLICABLE PLANNING CONTROLS

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

- Section 96(2) of the Environmental Planning and Assessment Act, 1979;

- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Buildings (SEPP 65);
- State Environmental Planning Policy No 55 - Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (BASIX SEPP);
- Deemed SEPP – Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP);
- Ryde Local Environmental Plan (Gladesville Town Centre and Victoria Road Corridor) 2010 (Gladesville LEP 2010);
- Ryde Development Control Plan 2010 (Ryde DCP 2010); and
- Residential Flat Design Code.

6. **PLANNING ASSESSMENT**

Section 96(2) of the Environmental Planning and Assessment Act 1979

The provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979 allow a consent authority to modify the consent where the application meets the following criteria:

- (a) The development to which the consent as modified relates is substantially the same development.
- (b) Any concurrence authority has been consulted and has not objected.
- (c) The application has been notified in accordance with the regulations.
- (d) Submissions made during the prescribed notification period have been considered.

These issues are discussed below.

- (a) The development to which the consent as modified relates is substantially the same development.

Under Section 96(2) (a) Council must be satisfied that the development as modified is substantially the same as was approved in the original consent. There have been a number of decisions in the Land and Environment Court that have addressed the issue of whether a development is substantially the same development as previously approved. In Vacik Pty Limited v Penrith City Council (1992 NSWLEC 8 (24 February 1992) Stein J said:

“In my opinion ‘substantially’ when used in this section means essentially or materially or having the same essence.”

In Moto Projects (no 2) Pty Limited v North Sydney Council (1999) 106 LGERA 298, Bignold J made the following observations:

“The relevant satisfaction required by s96 (2) (a) to be found to exist in order that the modification power be available involves an ultimate finding of fact based upon the primary facts found. I must be satisfied that the modified development is substantially the same as the originally approved development.

The requisite factual finding obviously requires a comparison between the development, as currently approved, and the development as proposed to be modified. The result of

the comparison must be a finding that the modified development is 'essentially or materially' the same as the approved development.

The comparative task does not merely involve a comparison of the physical features or components of the development as currently approved and modified where the comparative exercise is undertaken in some type of sterile vacuum. Rather the comparison involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted).....because the requirements of s96 (2) (a) calls for an ultimate factual finding on the primary facts of the case, only illustrative assistance is to be gained from consideration of other cases involving their own factual findings on relevant satisfaction required by s96 (2)(a). References to those cases indicate that environmental impacts of proposed modifications to approved developments are relevant to the ultimate factual finding."

In determining if a development application is substantially the same as that approved, the question is whether the changes will result in the modified development being 'essentially' or 'materially' the same as that approved. The NSW Land and Environment Court has also found that the more substantial or complex the original development, the more likely it is that a larger degree of change will be permitted.

For the reasons listed below, it is considered that the proposed development is substantially the same as that which was originally approved.

- A comparison of the resulting elevations (with reference to the approved and proposed plans) indicates a substantial degree of similarity. This is based on the overall design, scale and form of the development not being significantly altered by the proposed amendments.
- The critical elements of the proposed development (such as the overall massing, bulk, scale, footprints, pedestrian and vehicle ingress and egress points, open space and mix of residential and retail) will remain 'essentially' or 'materially' the same as the original development.
- The definition of the amended development will remain as per that approved. There will be no change to the type of approved uses.
- The increase in number of units will represent a 5.7% increase, which is a minimal amount, and (as illustrated by the assessment of this report), will have no significant changes to the approved bulk/scale/character of the approved building and impacts on the amenity of surrounding properties and public domain.
- The ground level will remain as a retail level but split to provide a number of different tenancies, with a minor increase in floor area representing less than 1% of that approved.
- The increase to the number of car parking facilities will be minimal and represent 3.4% of that approved. The basement levels will cater for the increase essentially by being rearranged rather than being extended or the spaces being relocated at grade.
- The change to the unit composition will maintain a good mix in unit types.
- The change to the roof height will be minimal and not result in any distinct changes to the built form and finished appearance. The change to the height resulting from the exhausts is one that was anticipated by the approval but not specifically detailed. Nevertheless, it will only occur in three locations along the building roof, setback from the building elevations, and represent smaller scaled elements. The exhausts will also be recessive in colour.
- The form of strata subdivision and outcomes in terms of allocation of facilities for exclusive use and common use will enable consistency with that approved and the applicable planning provisions.
- Other amendments relate to more detailed planning. They will have minimal bearing on whether or not the development is 'materially or essentially' the same. They do not

extend beyond the expectations of a development of this scale and the specific operational needs of different retail tenancies.

- The gross floor area will be reduced by 2m² but redistributed to result in an increase to the approved gross floor area at the 5th floor. However, the increase in the floor space and resultant changes to the bulk/scale will not be distinct at street level, as it will occur within the approved building shell by making use of some void areas or setback from front building lines, as in the case of the side extension to Unit 16B.

(b) Concurrence Authority

Refer to the section below 'State Environmental Planning Policy (Infrastructure) 2007' with respect to the matters raised by the Roads and Maritime Services (RMS).

(c) Advertising and Submissions

The Section 96(2) application has been notified from 18 January until 6 February 2013 and advertised in the local newspapers from 23 January 2013. During this time, Council received fourteen (14) submissions, including one letter of support for the ALDI Store. This was followed by the submission of an objection to the JRPP by Council as a result of a resolution adopted at the Council Meeting held on 26 March, 2013. On the 23 April, 2013 the applicant submitted a formal response to Council's objection. A copy is attached to this report. All of the submissions have been addressed in 'Section 8 – The Public Interest'.

In conclusion, the development satisfies all of the requirements of Section 96(2) of the Environmental Planning and Assessment Act, 1979.

Section 96(3) of the Environmental Planning and Assessment Act 1979

In addition to the above considerations, Section 96(3) requires the consent authority to take into consideration matters referred to in Section 79C of the *Environmental Planning and Assessment Act, 1979* that are of relevance to the amended development. These matters are discussed below:

State Environmental Planning Policy (Building Sustainability Index: BASIX)

The amended development retains its classification as a 'BASIX Affected Development' under the *Environmental Planning and Assessment Regulation 2000*. The applicant has provided an amended BASIX Certificate which indicates that the development will achieve the required target scores for water efficiency, thermal comfort and energy efficiency. No concerns are raised to amending conditions 1 and 42 to refer to the amended BASIX certificate.

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

Deemed SEPP Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 applies to the subject site and has been considered with respect to the proposed amendments. The amended development raises no other issues in comparison to the approved scheme and otherwise satisfies the aims and objectives of the planning instrument.

State Environmental Planning Policy No 55 - Remediation of Land

The amended development does not raise any additional issues with respect to the suitability of the site in comparison to the approved development.

State Environmental Planning Policy (Infrastructure) 2007

Clause 101 – Development with frontage to a classified road

The site has a frontage to Victoria Road. Victoria Road is a classified road. Clause 101 of this SEPP requires that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied all of the following:

1. *Where practicable, vehicular access is to be provided by a road other than the classified road.*

The development has been approved to have all vehicular access and egress from Eltham Street with the exception of truck and service vehicles. They will be permitted to access the site via Eltham Street but only exit via Monash Road. This access arrangement is not proposed to be altered. The Roads and Maritime Services previously advised it does not support any vehicular access from Victoria Road. The amended development will not enable any vehicular access from this road.

2. *The safety, efficiency and ongoing operation of the classified road is not to be adversely affected by the development as a result of the design of the vehicular access to the land, the emission of smoke or dust from the development or the nature, volume or frequency of vehicles using the classified road to gain access to the land.*

The amended development will have minimal impact on the classified road in comparison to that approved. As discussed below and in the traffic assessment undertaken by Council's Traffic Consultants, the increase to the retail or residential density and expected additional traffic generation would be minimal.

The location of the approved vehicular access provides the only feasible outcome in terms of avoiding unmanageable traffic implications on Victoria Road, particularly with respect to safety and network efficiency. The RMS does not allow access from Victoria Road due to safety concerns and any access into the site from Monash Road would have increased the risk of rear end collisions and vehicle queuing.

The vehicular access and on-site driveway has been amended to ensure larger trucks can efficiently manoeuvre and stand on the site, avoiding any need to utilise the public roadway and additional implications filtering onto Victoria Road.

The information submitted as part of the subject application has been reviewed by Council's Traffic Consultants. Attached is a report provided by the consultants. The report indicates that the traffic impact of the amended development would be acceptable.

3. *The consent authority must be satisfied that the development is of a type that is not sensitive to traffic noise or vehicle emissions, it is appropriately located and designed, or includes measures to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The applicant has submitted an amended acoustic report which provides an assessment against this provision of the SEPP. Council's Environmental Health Officer has reviewed the report and recommended changes to certain conditions relating to noise to ensure appropriate measures are provided for compliance with the internal noise criteria for dwellings. The changes are addressed in 'Section 9' below.

Clause 102 – Impact of road noise or vibration on non-road development

Clause 102 of the SEPP specifies various noise levels which are not to be exceeded within a residential development that is adjacent to a road with an annual average daily traffic volume of more than 40,000 vehicles. As discussed above, related conditions will be altered and acceptable noise insulation will be required to provide an acceptable level of internal residential amenity.

Clause 104 – Traffic Generating Development

The approved development was identified within Schedule 3 of this SEPP and in accordance with Clause 104 was referred to the Roads and Maritime Services (RMS) for comment. The RMS provided comments and recommended conditions of consent. The amended development will be satisfactory with respect to the comments and conditions as discussed below.

- Encroachments onto RMS land: The amendments will not encroach onto any RMS owned land. The 2m setback along the Victoria Road frontage (which sets the development clear of any RMS land) will be maintained.
- Swept Paths: RMS requested the submission of diagrams indicating turning swept paths for 19m long vehicles. As a result of the difficulty in accommodating such swept paths in the design, conditions that limit the access of vehicles to 12.5m in length were included in the consent.

Amended details have now been submitted indicating changes to the loading dock / manoeuvring area (including swept path diagrams starting from the middle of Eltham Street on the site entry and into Monash Road via a left-turn only) to enable a 15.2m long vehicles to access and egress the site. Council's Traffic Consultants have reviewed the details and advised that the changes achieve the relevant requirements of the Australian Standards. (Refer to attached report by the Traffic Consultants). In this regard the conditions which limit vehicle size can be amended as requested.

- Monash Road driveway width: Condition 46 was included in the development consent to address the issue of improving pedestrian safety via the minimisation of the Monash Road driveway width. No changes are proposed to the approved situation. Condition 46 will be maintained and amended to enable 15.2m long trucks.
- Servicing for residential units: Conditions were included in the development consent to address the request by RMS for the submission of details regarding the location of servicing for residential units. No changes are proposed to these conditions.
- Intercom at car park entry: The RMS requested that consideration be given to the provision of an intercom at the car park entry and median island. Condition 47 was included in the development consent to ensure appropriate access control, including the provision of an intercom. This condition will be maintained. In addition, security shutter are proposed in Basement Level 2 to separate the residential car parking facilities from the retail facilities.
- Pedestrian Paths: The RMS suggested a pedestrian path be added on the eastern side of the laneway. A pathway will be maintained and slightly realigned to accommodate the change to the turning circles. RMS also suggested an extension of the concrete pathway to improve pedestrian access to the cottage. The amended plans indicate appropriate access paths.

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

The SEPP includes 10 design quality principles that are applicable to residential flat buildings. Due to the nature of the amendments some of these design quality principles are not applicable. The relevant principles and outcomes are discussed in the following table.

Table 5: SEPP 65 Design Principles

| Planning Principle | Comment | Complies |
|--|---|--------------|
| Context | As verified by the assessment of this report, the amended development will not substantially alter the impact of the approved development on the desired future character of the locality and contextual contribution. | Satisfactory |
| Scale, Built Form, Density & Aesthetics | <p>The changes to the external building walls and overall building envelope will be minor in comparison to the development scale. The resultant streetscape presentation and building character will not vary greatly to that approved.</p> <p>The extensions to the southern corner via the addition of blade elements will add visual interest and relief to improve the presentation of an otherwise large blank side wall.</p> <p>The changes to the window portions on elevations will not have a significant impact to the façade compositions and overall character. The windows will adopt a less vertical emphasis but maintain consistency in spacing and grouping as not to reduce the amount of relief on elevations. The changes to the window portions will have a negligible impact on natural ventilation and solar access opportunities.</p> <p>The increase to the roof height of the approved development will be minimal (400mm) and result from the pitched roof portions and increase to the floor- to-ceiling heights of the residential levels and ground floor level. An attempt has been made to reduce the overall increase by reducing the floor-to-ceiling heights of the basement levels B2 and B1. The proposed pitched roof forms will result in an additional 200mm in height. The changes to the floor-to ceiling heights will add a total of 200mm in height. The increase in height resulting from the exhaust structures (3) was one anticipated by the approved development but details of the structures are now indicated on the amended plans. They will add an additional height of 1.4m. This is accepted on the basis that: the elements will be setback from the building elevations, be narrow/small scaled and spread across the building roof, consist of recessive materials and colours; and are structures that are necessitated for this scale of development.</p> <p>There will be no significant change to the height, bulk, scale and character of the approved development as a result of the change to the fire stair at the northeast corner, building void extension on the west elevation, and building footprint extension on the south elevation (including the internal extension). Given the overall scale of the development and size of the respective elevations, the changes will be minor in scale with no significant impacts on surrounding properties. The changes to the fifth floor void areas will not extend the approved building footprint.</p> | Satisfactory |

| Planning Principle | Comment | Complies |
|--------------------|--|--------------|
| | Roof Form: The changes to the roof will maintain consistency with the building character and ample articulation. The pitching will add minimal height, improve drainage and not be distinct from street level. | |
| Density | Density: The proposed amendments will not result in an increase in on-site residential population density, despite the increase to the number of units. This is due to the fact that 4 x 3 bedroom units will be altered to reduce the total number of approved bedrooms from a total of 12 bedrooms to 8 bedrooms, i.e. by altering each 3 bedroom unit to a 1 bedroom unit plus a studio. Other changes to the gross floor area will not impact on the residential population or dwelling density of the development. The changes to the retail gross floor area will be minimal and not constitute areas that are likely to influence the customer and employee capacity. | Satisfactory |
| Landscape | <p><u>Common Open Space:</u> The total landscaped area at this level will be similar to that approved given the following changes:</p> <ul style="list-style-type: none"> - Reduction to the external landscaped area/terrace adjacent to Unit B-7 and B-6 mainly as a result of a southern wall extension to cater for changes to the garbage room. - Extension to the paving near Unit B-7. - Extension to the paving adjacent to Unit C-4 due to a setback of part of the western wall. - Reduction to the first floor void and provision of turf over. - Reduction to the external paving in between Units A-4B and Unit A-3 and in between Unit B3 and B4 by internalising it. <p>Regardless the amenity outcome will be similar, if not better. The paving proposed to be internalised does not constitute a significant portion of useable area. The amended landscape design will maintain an appropriate integration with the overall development, provide adequate communal open space and improve the residential amenity. Plants, turf, paving, and a BBQ area, as well as other community facilities will be provided.</p> <p><u>Planter Box on Monash Road Frontage:</u> The removal of the planter box along Monash Road is satisfactory given street planting and paving will be established. Removal of the planter box will eliminate any potential maintenance and vandalism issues.</p> <p><u>Landscaped Area of 9 Monash Road:</u> The landscaped area / deep soil zone at the rear of the heritage cottage at 9 Monash Road will be reduced as a result of substation requirements. This area needs to be allocated for the</p> | Satisfactory |

| Planning Principle | Comment | Complies |
|--------------------|---|----------------------|
| | erection of the substation, plus easement surrounds to meet the requirements of the service provider. It will also be reduced as a result of it being realigned to cater for turning circles that meet the Australian Standards. This reduction will be marginal. The reduction in both cases will be appropriate given that a useable portion will be maintained at the rear of the cottage to meet recreational and service needs of occupants. | |
| Amenity | <p>The amendments will ensure that residential units will maintain sufficient levels of amenity for the comfort and living needs of future occupants. In comparison to the approved situation, the residential units will not be adversely impacted with respect to solar access, natural ventilation, private open space, noise impacts or overlooking, except for Unit B7, C-22 and C-23 as discussed in the table below. However the applicant has agreed to some changes to overcome potential impacts and conditions are recommended.</p> <p><u>Stores:</u> It is recommended to amend Condition 128 to ensure that the final plan of subdivision indicates an allocation that respects the RFDC requirements.</p> <p><u>Disabled Access:</u> The lifts will enable access for all to different levels of the building, including from the basement to the retail portion despite the conversion of the travelator to a ramp. Condition 37 will ensure appropriate access is provided, subject to it being amended to reference the amended access report that accompanies the subject application.</p> <p><u>View Loss, Privacy and Overshadowing:</u> The amended development will result in a minor additional impact in comparison to that approved in terms of overshadowing, view loss, and privacy (except in relation to Units B-7, C-22 and C23 as discussed below). Changes to the building envelope (i.e. the height and setbacks) will not be extensive and directly adjacent to any sensitive land uses. The submitted shadow diagrams indicate some additional overshadowing to the rear of 78 Eltham Street. However it occurs at around 12 noon and will not impact on a significant amount of rear garden area. During the morning and until the afternoon there will be a reasonable portion of rear garden area that will have access to sunlight, (not that indifferent to the approved situation) that would reasonably support any service and/or recreational needs of the residents.</p> <p><u>Unit Sizes:</u> The changes to the internal and external unit areas and / or layouts will be minor. Other than those discussed in the table below with respect to Units B-7, C-22 and C-23, they will not significantly impact on the residential amenity of the units and development as a</p> | Subject to condition |

| Planning Principle | Comment | Complies |
|--|---|----------------------|
| | <p>whole. In some instances, the amenity will be improved by the extension/ reorganisation of internal and external areas.</p> <p>Building Separation: Minor changes will result to building wall separations. There will be of no significant consequence to the on-site amenity and that of the surrounding properties.</p> | |
| Safety and Security | Safety and Security: The amendments will not compromise the safety and security outcomes of the approved development. Restricted access will be provided to the residential car parking spaces at Basement Level 2 via the inclusion of security shutters. | Satisfactory |
| Resource, energy and water efficiency | The amended proposal will meet the minimum BASIX targets for thermal comfort, energy and water efficiency. | Subject to Condition |
| Social Dimensions and Housing Affordability | The Section 96(2) will improve the housing mix. The mix will still provide for a range of housing which would attract singles, couples and possibly family occupants, as well as contribute towards housing affordability. The number of adaptable units (7) will be maintained by the amended development. | Satisfactory |

Residential Flat Design Code

The SEPP also requires the Council to take into consideration the requirements of the Residential Flat Design Code (RFDC). The following matters are considered relevant to the Section 96 application.

Table 6: Residential Flat Design Code

| Primary Development Control and Guidelines | Comments | Comply |
|---|--|--------------|
| Building Height | This matter is addressed in the section below ' <i>Clause 4.3 – Height of Buildings</i> '. | Satisfactory |
| Building Depth In general, 10-18m is appropriate. Developments that propose wider than 18m must demonstrate how satisfactory day lighting and ventilation are to be achieved. | <p>The Section 96 proposes minimal changes to the approved building footprint as a result of the building extension close to the southern side boundary and change to the common bin area adjacent to Unit B7, B13, B19, and B28. The building depth (measured along the shortest access) will remain compliant, being 18m in relation to the southern extension and 10.8m (first floor only) -12m (2nd to 4th floors) in the location of the common bin area.</p> <p>The amended development will not increase the approved variance of approximately 20m across Units C4, C3 and respective units above it. The proposed indent to the western walls of Unit C-4 (at the first floor) will improve the depth from about 20m to 18.6m. Regardless each of these units will have appropriate access to daylight,</p> | Satisfactory |

| Primary Development Control and Guidelines | Comments | Comply |
|--|--|----------------------|
| | ventilation and outlook created through terraces, balconies and window openings. | |
| <p>Building Separation Building up to 4 storeys: That adequate daylight access, urban form and visual and acoustic privacy has been achieved.</p> | <p><u>External Separations:</u> The residential levels will generally maintain the approved setbacks from adjacent properties. The minimum setback of the residential levels from the closest residential property, (being 78 Eltham Street) will be maintained.</p> <p><u>Internal Separations:</u> The extension to the garbage room opposite Unit B-7 will result in the removal of the kitchen window of Unit B-7, however the kitchen will maintain at least an 8m setback from a Living/Dining room opening for natural ventilation opportunities. However, it will also remove direct access from the living/dining room to the north/inward facing terrace. This does not represent an improved situation with respect to the useability of the terrace area and maximising the amenity opportunities of the unit. It is acknowledged that there will be an outer facing terrace that will have direct access from the living/dining room, however this terrace will be subject to excessive traffic noise (as discussed in the submitted acoustic report) and be undersized in size with respect to the standard terrace sizes for 3 bedroom units listed in the RFDC. The internally facing terrace will be better shaped, ample in size and provide a more comfortable and useable area. It will be subject to less traffic noise emanating from Victoria Road particularly if the living room/doors are provided with acoustic glazing (as required).</p> <p>To facilitate the improved waste arrangements as proposed, it is recommended that: the unit layout remains as approved; the kitchen is relocated in the northern corner; and direct access is maintained from the Living/Dining room to the terrace (i.e. via a relocated opening). Condition No. 1 is recommended to be amended to address this matter. The relocation of the kitchen will maintain an 8m separation from an opening for ventilation.</p> <p>On the levels above, a narrower kitchen window will be maintained which will cater for natural ventilation opportunities.</p> <p>The changes to the side of Unit C-4 and respective units above will maintain privacy measures to control the privacy impact from adjacent, closer units to the northwest. The changes will have a negligible impact on the</p> | Subject to condition |

| Primary Development Control and Guidelines | Comments | Comply |
|--|---|---|
| | <p>distances between the units.</p> <p>The wall setbacks provided at the northwest corner of the fifth floor (internally facing) will not impact on the amenity of any units. The terrace extension of Unit C-22 will bring it closer to the terrace of Unit C-23. The applicant has amended the plans to indicate a privacy screen along the terrace extension to minimise overlooking.</p> | |
| Street Setbacks | <p>The removal of the bicycle parking facilities along the Victoria Road and addition of an exit and fire booster store will maintain the approved minimum setback of 2m from the Victoria Road boundary. The 2m setback will ensure no encroachments onto RTA land and allow for street tree planting and a wider footpath.</p> <p>It is proposed to remove the approved ground floor setback of 600mm along Monash Road. No concerns are raised to this. Ryde DCP 2010 allows a '0' setback on ground level.</p> <p>The terraces of Units B-22 and B-23 (at the 4th floor) are proposed to be extended by 910mm to have a 1m setback from the Monash Road frontage. Even though the DCP requires Level 4 and above to have a 2m setback, the extension will only apply to a limited length along the Monash Road elevation and match the minimum setback approved along this elevation. The impact on the bulk/scale and streetscape will be negligible. The same applies to the 140mm extension to three terraces on the second and third levels. No concerns are raised in this regard. It is noted that whilst the floor plans for the second and third levels indicate a minimum 1m setback, the floor plans for the fourth and fifth floors indicate an element which extends within this setback. This appears to be an error on the plans. Condition No. 1 is recommended to be amended to require the fourth and fifth floor plans to indicate the 1m setback.</p> <p>The only other changes to the Monash Road setbacks are a result of the revised fire stairs at the 4th and fifth floor levels. The fire stairs will maintain that approved of the fire stairs on the levels below, (approximately 2m). As discussed above, the additional bulk and scale will be acceptable.</p> | <p>Satisfactory.</p> <p>Subject to Condition.</p> |
| Side and Rear Setbacks | The DCP permits that buildings fronting Victoria Road to be built to the side boundary for a depth | Satisfactory |

| Primary Development Control and Guidelines | Comments | Comply |
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| | <p>of 20m from the frontage. A further setback is then required to achieve a 12m separation between residential land uses.</p> <p>The approved plans indicate the ground floor (retail) built to the side boundary for a depth of approximately 21m, then a 6m setback over the basement entry point, followed by a 9 – 13m setback. The amended building will minimise the ground level depth to approximately 17m to result in a compliant situation. It will also increase the setback behind from 6m to approximately 7m. This setback will be adjacent to a neighbouring warehouse use. Further behind, at the rear of the ALDI Store, the amended loading dock will extend closer to Eltham Street. In this regard the rear southeast corner of the building will come closer to the nearest residential dwelling of 78 Eltham Street. Given that a consistent side setback will be retained, it is the use and operating times that would contribute to the noise impacts rather than the setback and an acoustic fence is required under the consent to be erected along the side boundary, no concerns are raised in this regard. It should be noted that the approved screening on the eastern side of the balcony to Unit C21 (and all units beneath it) will be maintained as to limit downward views into 78 Eltham Street.</p> <p>Council's heritage officer has not raised any concerns with the amended setback. The amended building will maintain an appropriate offset from the heritage cottage of 9 Monash Road.</p> | |
| Building Entry Ensure equal access to all. Developments are required to provide safe and secure access. | The amended development will alter the levels of Lobby A to match that of the footpath along Victoria Road. This will facilitate equal access. The other access arrangements have been reviewed and found to be consistent with regard to the applicable criteria. | Satisfactory |
| Parking Determine the appropriate car space no's. Where possible underground parking should be provided. | This matter is addressed in the section below ' <i>Ryde Development Control Plan 2010</i> '. Generally the total number of car parking spaces for the retail and residential components comply with the requirements of Part 9.3 of the DCP. | Satisfactory |
| Floor Space Ratio | This matter is addressed below in the Section ' <i>Ryde Local Environmental Plan (Gladesville Town Centre and Victoria Road Corridor) 2010</i> '. | Satisfactory |
| Deep Soil Zones Minimum of 25% of the open space area | This matter has been addressed in the table above. Adequate deep soil zones will be maintained, as well as appropriate stormwater management measures. Council's Engineer has | Satisfactory |

| Primary Development Control and Guidelines | Comments | Comply |
|---|---|-----------------------|
| | An amended access report has been submitted that addresses the amended scheme. It is recommended that Condition 37(b) be amended to reference the amended report. | |
| Site access: vehicle access Limit the width of driveways to 6m. Locate vehicle entries away from main pedestrian entries and on secondary frontages. | Council's Traffic Consultants have reviewed the amendments and have not raised any concerns with the amended access widths to accommodate 15.2m long vehicles. | Satisfactory |
| Apartment Layout Single-aspect = 8 m max. in depth from a window The back of a kitchen = 8m max. from a window. Minimum apartment sizes, which can contribute to housing affordability: - 1 bedroom - 50m ² - 2 bedroom - 70m ² - 3 bedroom - 95m ² | <p>The new one bedroom units will achieve the 8m depth requirement. The new studio units will have a maximum depth of about 11.6m. No concerns are raised to the depth since the kitchen, main living/dining room and most of the bedroom area will be within 8m of an opening (as to enable adequate ventilation and light access), plus the approved three bedroom units consisted of the same issue in length. Only a minor portion of the bedroom, the bathroom and entry hall of each studio will be beyond the 8m requirement.</p> <p>The changes to other single aspect units will result in minor changes to the unit depths and in most cases improve the approved depths (as in the case of Units A-3, C1, C7, C13, C19, A6, A10, A14 and C19).</p> <p>The new units will achieve compliance with the 8m maximum distance requirement for the back of a kitchen to a window. The changes to the kitchen orientations and/or unit layouts of other units will either maintain the same approved setback or achieve compliance with the 8m maximum.</p> <p>The proposed wall indents will marginally decrease the unit sizes in most cases. The units that will increase in area will generally be those on the upper level, however the development will still provide opportunities for affordable housing.</p> | Satisfactory |
| Apartment Mix | The amended mix will provide a greater variety in apartment types. Studio units will be introduced into the development. | Satisfactory |
| Balconies -Provide at least one primary balcony. -Primary balconies should have a minimum depth of 2m | <p>The new units will each be provided with one primary balcony with a minimum depth of 2m and directly accessible from the main living/dining area.</p> <p>None of the other amendments will decrease the</p> | Subject to conditions |

| Primary Development Control and Guidelines | Comments | Comply |
|---|---|----------------------|
| <p>-Primary balconies should be located adjacent to the main living areas, such as living room, dining room or kitchen to extend the dwelling living space</p> | <p>approved balcony depths to result in a non-compliant situation or change the approved locations (i.e. where directly adjacent to main living/dining rooms), except in the case of Unit B-7. (This outcome been discussed above). The depth of the terraces of Units B-22 and B-23 at the 4th floor will be increased by 910mm to result in a depth of around 2.91m. The depth of the terraces of Units B-12, C-11 and C-12 on the 2nd floor and Unit B-18, C-17 and C-18 on the 3rd floor level will be increased by 140mm to result in a depth of about 2.8m. The depths are acceptable.</p> | |
| <p>Ceiling Heights Mixed use buildings: <ul style="list-style-type: none"> - 3.3m for ground fl retail and 1st fl. Residential floors: <ul style="list-style-type: none"> - 2.7m habitable rooms, - -2.4m non-habitable rooms. 2.25m is permitted. - 2-storey units with a two storey void space: 2.4m </p> | <p>All residential levels will be increased by 100mm in height. The ground level retail will be increased by 300mm. Given the floor-to-ceiling height requirements are minimums, no concerns are raised to the increased heights.</p> | Satisfactory |
| <p>Internal Circulation No. of units accessible from a single core should be limited to 8.</p> | <p>Lift 'A' will accommodate an extra unit on the 1st to the 4th floors, i.e. a total of 5 units per floor.</p> | Satisfactory |
| <p>Storage In addition to kitchen cupboards and bedroom wardrobes, provide storage at the following rates: <ul style="list-style-type: none"> - studios: 6m³ - 1 bed. units: 6m³ - 2 bed. units: 8m³ - 3 plus bed. units:10m³ </p> | <p>This matter has been discussed in the table above</p> | Subject to condition |
| <p>Daylight Access Living rooms & POS for at least 70% of units should receive a min. of 3 hrs direct sunlight between 9am & 3pm in mid-winter.</p> | <p>76% will receive a minimum of 3 hours solar access.</p> | Satisfactory |
| <p>Limit the number of single-aspect units with a southerly aspect (SW-SE) to a max. of 10% of total units.</p> | <p>The amended development will not exceed 10% of apartments with a southerly aspect.</p> | Satisfactory |
| <p>Ensure direct daylight access to communal open space between March and September and provide shading in summer.</p> | <p>Ample daylight access will be maintained to communal open space, similar to that approved.</p> | Satisfactory |

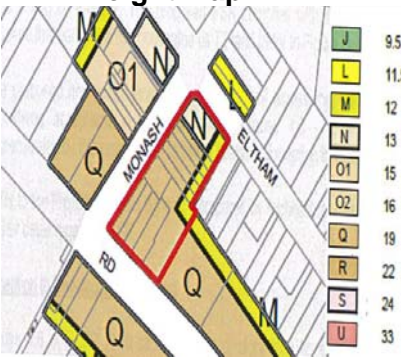
| Primary Development Control and Guidelines | Comments | Comply |
|--|---|--------------|
| Natural Ventilation 60% of residential units should be naturally cross ventilated. 25% of kitchens should have access to natural ventilation. | The amended development will reduce the number of units that would be capable of being cross ventilated but maintain compliance with the minimum requirement of 60%. The percentage of apartments capable of being naturally cross ventilated will be 62%. The amended development will increase the number of kitchens with access to natural ventilation to 30%. | Satisfactory |
| Roof Form | The amended roof form has been discussed in the table above. | Satisfactory |
| Waste | The changes to the waste facilities are a result of more detailed planning. Council's waste officer has advised the changes are acceptable subject to conditions as discussed in 'Section 10' of this report. | Satisfactory |

Ryde Local Environmental Plan (Gladesville Town Centre and Victoria Road Corridor) 2010 (Gladesville LEP 2010)

The following provides an assessment of the amendments against the relevant provisions of LEP.

Table 7: Ryde LEP (Gladesville Town Centre & Victoria Road Corridor) 2010

| Gladesville LEP 2010 | Comments | Comply |
|--|---|--------------|
| Zone B4 – Mixed Use Land Use Table The objectives of this zone: <ul style="list-style-type: none"> - To provide a mixture of compatible land uses. - To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling. - To create vibrant, active and safe communities and economically sound employment centres. - To create a safe and attractive environments for pedestrians. - To recognise and reinforce topography, landscape setting and unique location in design and land-use. | The amended development will satisfy the zone objectives. It will retain a mix of land uses. The provision of more than one retail tenancy at ground level will provide opportunities to add to the activation of the area and contribute to providing a vibrant and safe community. The amended development will maintain a safe and attractive environment for pedestrians. It will improve disabled access from Victoria Road by adjusting the building entrance levels to match the footpath levels. The proposed removal of the planter box along Monash Road is satisfactory given street planting will be provided. As discussed above, no significant changes will result to the bulk, scale and massing of the approved building and topography of the site. Adequate facilities to encourage cycling and walking will be provided. There is a strip of land along the Victoria Road frontage of the site zoned SP2. The amendments will not encroach this land. | Satisfactory |

| Gladesville LEP 2010 | Comments | Comply |
|---|--|--|
| Clause 2.3 Permissibility Building identification signs, business premises, office premises, retail premises and shop top housing are permitted within this zone. | The amended development does not raise any issues with respect to permissibility. | Yes |
| Clause 2.6 Subdivision Consent is required for the subdivision of land. | The approved strata subdivision is proposed to be altered to a stratum and strata subdivision scheme. Generally no concerns are raised to this other than ensuring an appropriate allocation of stores to residential units to reflect the requirements of the RFDC, as well as an appropriate allocation of car parking spaces that respect the requirements of the RDCP (i.e. based on the retail area, and number of bedrooms of units). The applicant has agreed to the rewording of Condition 128 to cater for the car parking allocation, as discussed in more detail in the section below ' <i>Part 9.3 of DCP 2010 – Car Parking</i> '. A condition is recommended to address the issue of the stores. | Subject to condition. |
| Clause 4.3 Height of buildings The height map provides for two maximum heights of the site. The majority of the site has a maximum height of 19 metres (facing Victoria Road & Monash Road). The rear of the site which contains the heritage building has a maximum height of 13 metres. LEP - Height Map  | As indicated by the adjacent LEP map extract, two heights controls apply to the site. One is a 13m height control that applies along a minor strip of land to the southern side of the site. The other is 19m height control that applies over the majority of the site. The approved development exceeded the maximum height of 19m by approximately 500mm. This was a result of the loft level. The amended development proposes to extend the approved building height to provide a further variance of 400mm for the main roof and 1.4m for three (3) exhaust structures. The total variance will be 900mm for the main roof form and 1.9 for the 3 exhausts. The variance in height is supported and has been discussed in detail in Note 1 below. | No (but variation acceptable. Refer to Note 1 below) |
| Clause 4.4 Floor Space Ratio The site is affected by 3 different FSRs as follows: <ul style="list-style-type: none"> - No FSR control for the heritage site. - 2.7:1 on the 3 lots closest to the | The approved development has a total floor space of 9,486m ² . The amended development proposes to decrease the floor space by 2m ² to 9,484m ² and thus will generally | No (but variation acceptable. Refer to Note 2 below) |

| Gladesville LEP 2010 | Comments | Comply |
|---|--|-------------------------------------|
| <p>intersection of Victoria Rd & Monash Rd.</p> <p>- 2.3:1 FSR for the rest of the site.</p> <p>The allowable FSR for the entire site (excluding the heritage site) equates to 2.38:1 or 9,038.76m²</p> | <p>maintain the approved FSR of 2.5:1.</p> <p>The variation is considered acceptable as discussed in Note 2 under this table.</p> | |
| Clause 4.6 - Exceptions to development standards | As the proposed development exceeds the maximum height and FSR permitted on the subject site, the provisions of <i>Clause 4.6</i> are required to be taken into consideration. The provisions are addressed below this table. | (Refer to Notes 1 & 2). |
| <p>Clause 5.10 (4-6) Heritage Impact Assessment</p> <p>A heritage impact assessment is required for the subject site, which is in close proximity to a heritage listed cottage located on 9 Monash Road.</p> <p>Consent Authority must consider effect of proposed development on heritage significance of the item.</p> <p>The Consent Authority may require a Heritage Conservation Management Plan.</p> | <p>The dwelling at 9 Monash Road (which is included as part of the subject site and is located to the northern corner) is identified as a heritage item under the RLEP. It is a Late Victorian gothic style cottage. Council's Heritage Officer has reviewed the proposed amendments and has advised that the proposed amendments will result in a minimal impact on the heritage significance of the item.</p> <p>It should be noted that the amended development generally maintains the approved setbacks of the residential floors (particularly floors 4 and 5 as required by the Urban Design review Panel) from the heritage item. The only exception is the extension of the fire stairs at the northern building corner. This extension will represent a minor visual element in comparison to the overall bulk/scale and height of the development. The impact on the heritage significance of the item will be minimal.</p> | Satisfactory |

Proposed Variations (pursuant to Clause 4.6 of the Gladesville LEP2010)

Clause 4.6 of RLEP 2010 stipulates that:

(3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify contravention of the standard by demonstrating:

- The compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
- That there are sufficient environmental planning grounds to justify contravening the development standard.*

(4) Consent must not be granted for development that contravenes a development standard unless:

- The consent authority is satisfied that: The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3); The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and the concurrence of the Director-General has been obtained.*

The proposed contraventions to the development standards for maximum Building Height and Floor Space Ratio are discussed below.

Note 1:

As discussed above, the LEP height map indicates two maximum height limits that are applicable to the subject site. One is a 13m height limit that applies to a minor strip of land along the southern side. The other is a 19m limit that applies to the majority of the site. The amended development will not breach the 13m height limit but result in a further breach to the 19m height limit.

The approved development exceeded the 19m height control by approximately 500mm as a result of the loft level. The amended development will add a further 400mm height to the main roof to result in a 900mm breach. Three (3) exhausts indicated on the plans will extend the breach 500mm breach to 1.9m.

The extension to the main roof form will be facilitated by the proposed pitched roof portions, the increase to the floor- to-ceiling heights of the residential levels (i.e. by 100mm per level, except the loft level, resulting in a total of 400mm) and ground floor level (by 300mm). NB: The overall increase (that would otherwise result) has been minimised via the proposed reduction of the floor-to-ceiling heights at basement levels B1 and B2 by 400mm and 100mm respectively.

In the case of the approved development, the justification for allowing the variation to the height control was based on the following matters:

- The loft level will result in the variance but will provide modulation to the roof form, and a design solution supported by the Urban Design Review Panel.
- The areas of non -compliance will not result in any substantial adverse impact on the visual amenity or daylight access of adjacent residential areas.
- Strict compliance with the standards would reduce the sizes and level of amenity for most residential units located on Level 5, thus being contrary to one of the objectives of SEPP 65 which is to expand housing choice in the locality.
- The non-compliance in height is insignificant relative to the size of the development and cannot be easily discernible from any public place.

The applicant has provided justification for the non-compliance of the amended in accordance with the requirements of Clause 4.6. The justification is as follows:

- *The minor increase in height is considered acceptable given that the overall increase of the building by an additional 400mm is due to very small increases (100mm) on each of the residential floors;*
- *The increases on the residential floors of 100mm are not discernible from any public space;*
- *The increased height of 400mm will not result in an unacceptable bulk or scale of the development;*

- *The additional 100mm in the floor to ceiling height enhances the residential amenity of the units;*
- *Strict compliance would reduce the amenity of units, and*
- *The overall appearance of the proposed modified development remains as approved with a high level of articulation.*

In this instance it is satisfied that strict compliance with the 19m development standard prescribed by Clause 4.3 - Heights of Buildings is in the '*public interest*', '*unnecessary or unreasonable*' and justified given '*that there are sufficient environmental planning grounds to justify contravening the standard*'. The proposed increase in height is considered acceptable given the following:

- The areas of non-compliance will not result in any substantial adverse impact on the approved visual amenity, and sunlight access to both the on-site and surrounding residential areas, (as discussed previously).
- The additional increase to the main roof and building walls will be minimal (400mm) and result from the upper pitched roof sections and change to the floor- to-ceiling heights, being 200mm in each case.
- The change to the roof form and floor-to-ceiling heights will have a negligible impact of the approved character, bulk/scale and proportions at street level.
- The increase to the floor-to-ceiling heights will enhance the internal amenity of the main residential levels and retail tenancies.
- The change to the roof pitches will improve roof drainage.
- The change to the roof pitches will be minor and setback from building elevations as not to result in a dominant visual impact or any material view loss or solar access implications.
- The exhaust elements will be setback from the building elevations, be narrow/small in scale, be spread across the building roof, and consist of recessive materials/finishes and colours, as to avoid a dominant visual impact, undue overshadowing and unacceptable bulk and scale.
- The exhausts were an expectation of the approved development and of any development of this scale.
- The change to the height will not impact on the articulation of the loft level.
- The additional height will have a negligible impact on the significance and setting of the adjacent heritage item at No 9 Monash Road. The approved setbacks will generally be maintained, in particular that of the loft level, as well as the reduced height along the eastern elevation, with the exception of the proposed ALDI exhaust. However the exhaust will represent a minor sized structure, setback from the building edges, (particularly eastern and Monash Road elevations).
- The resultant built form will have little bearing on the creation of appropriate spatial systems, reinforcement of road frontages and creation of a focal point in comparison to the approved situation.
- The public interest will be maintained as the variance will be consistent with the objectives of the height standard and the objectives for development within the zone.

Note 2:

The amended development will consist of extensions to the approved form in certain locations (particularly the southern side of the 1st to 4th floors and northern side of the ground level) but will result in an overall reduction of the approved gross floor area by 2m². This is due to the fact that it redistributes the gross floor area (GFA) as indicated below.

Ground Level: The gross floor area will be redistributed via the reduction to the building's eastern and southern sides and extension to the Monash Road setback by 600mm. The approved GFA is 2520m² and proposed GFA is 2538m².

First Floor: Despite the extension to the southern side boundary, the gross floor area will be marginally reduced due to the addition of service ducts/rises, larger lift cores and reduction to the area of Unit C-4. The approved GFA is 1665m² and proposed GFA is 1651m².

2nd to 4th Floor: Despite the extension to the southern side boundary, the gross floor area will be marginally reduced due to the addition of service ducts/rises and larger lift cores. The approved GFA is 5041m² and proposed GFA is 5017m².

5th Floor: The mezzanine levels will be increased on the loft level. The approved GFA is 260m² and proposed GFA is 278m².

The reasons given by the applicant to the variance to the maximum permissible GFA of the approved development are listed below.

- *The proposed minor increase in floor area does not result in unacceptable bulk and scale;*
- *The proposed development demonstrates appropriate modulation and depth in external walls;*
- *The proposed development has been designed to maximise daylight and natural ventilation to provide a high level of amenity for residents;*
- *The proposed development does not cause unacceptable levels of overshadowing, and improves solar access to communal open space areas;*
- *Building facades have been articulated to create visual interest and improve the public domain;*
- *The proposed development does not unreasonably impact upon adjoining properties;*
- *The proposed development has been thoughtfully designed to ensure building bulk is concentrated towards Victoria Road and Monash Road; and*
- *The minor additional FSR is off-set by the community/public benefit gained through the ongoing conservation and management of the existing heritage cottage, new public laneway and footpath and improved public domain and streetscape works.*

No concerns are raised to the amended development given:

- The extra GFA on the 5th level will be maintained within the approved envelope by utilising void areas or (as in the case of the side extension to Unit 16B), be setback from front building lines.
- The changes to the gross floor area will not result in any significant amenity impacts on surrounding residential properties, (particularly in terms of overshadowing as discussed above).
- The changes to the GFA will not significantly alter the streetscape impact of the approved development. It will not result in unacceptable bulk and scale. It will maintain the concentration of bulk towards Victoria Road and Monash Road.
- The amendments will have no significant implications on the level of modulation of the approved facades.
- The changes to the GFA will maintain adequate on-site amenity particularly in terms of access to light, natural ventilation, private open spaces, and useable communal areas.
- The overall envelope of the amended development has been assessed to be satisfactory with respect to the relevant 'Key Site Diagram' of the RDCP 2010, as discussed further below.
- Council's Heritage Officer has not raised any concerns with respect to the redistribution of GFA with respect to the impact on the heritage item at 9 Monash Road. The setback approved from the heritage item will be maintained.
- As discussed above, the development will have little bearing on the approved dwelling and population densities.
- The public interest will be maintained as the variance will be consistent with the objectives of the FSR standard and the objectives for development within the zone.

Draft Ryde Local Environmental Plan 2011

Draft Ryde Local Environmental Plan 2011 (DLEP 2011) has been exhibited under the requirements of Section 65 of the EP&A Act, 1979 (as amended). It needs to be considered in the assessment of the subject Section 96(2) Application.

The draft instrument does not raise any additional issues in comparison to those discussed with respect to the relevant provisions of Gladesville LEP 2010. The proposed development remains permissible with consent. It retains the current B4 zone of the site, currently applicable maximum FSRs (2) and maximum building heights (2), as well as the heritage significance of 9 Monash Road.

Objective (c) of Clause 4.3 for the '*Height of Buildings*' is proposed to be reworded from '*(c) to enable the built form in denser areas to create spatial systems that relate to human scale and topography*' to '*(c) to encourage a built form that relates to human scale and topography*'. The change to the approved building height will be minimal and therefore have little impact on how it relates to the human scale and topography.

Some additional objectives are introduced in the DLEP for floor space ratios on land identified within a 'Centre'. The subject site is identified to be within the 'Gladesville Town Centre'. The additional objectives are applicable in this case and as follows:

- (a) *To achieve a consolidation of development around railway stations, with the highest floor space ratios at the station nodes, transport nodes and large vehicular intersections.*
- (b) *To allow feasible development of the sites around railway stations and facilitate focal points at the station areas,*
- (c) *to implement strategic objectives of integrating land use and transport, reducing car dependency and creating opportunities for employment in areas supported by public transport,*

The amended development will be satisfactory with respect to the objectives.

A smaller portion of land along the Victoria Road frontage (in comparison to the current LEP) is indicated as SP2 – Classified Road. The amended building will maintain a 2m setback from the road frontage and be satisfactory with respect to *Clause 5.1A – Development on land intended to be acquired for public purpose*. This clause does not permit the granting of consent to development on the SP2 zoned land, other than for the purpose of a road.

Clause 6.7 - Environmental Sustainability requires '*all buildings a minimum of 1 500m² in gross floor area constructed on land zoned business or industrial are required to have issued at least a 4 Star Green Star certified rating from the Green Building Council of Australia where the Green Building Council rating tool can be applied*'. The BASIX provisions override this control. The subject application is accompanied by BASIX Certificate that indicates the development will achieve the minimum targets.

Clause 6.7 consists of provisions that aim to minimise the impacts of urban stormwater on the subject site, adjoining properties, native bushland and receiving waters. Council's Stormwater Drainage Engineer has reviewed the amended plans and has not raised any additional issues.

The site is not subject to flooding, acid sulfate soils or foreshore building line constraints as identified under the draft instrument.

Ryde Development Control Plan 2010

The relevant provisions of the Ryde DCP 2010 are addressed at the table below.

Part 4.6 - Gladesville Town Centre and Victoria Road Corridor

The site is located within the Monash Road Precinct. Section 2.2.1 provides the following vision statement for the precinct:

The northern precinct at Monash Road is to maintain its local retail role, whilst gaining additional retail, commercial and residential development. The precinct's heritage items and main street retail character are to be protected and enhanced with narrow frontage shopfronts and built forms that relate to the scale and character of existing buildings. The precinct will provide local shopping within a more cohesive built form and an improved public domain.

The amended development will result in negligible change to the approved development's consistency with the vision and will be satisfactory with respect to the objectives and controls of the precinct.

The streetscape character and relationship of the built form to the existing buildings will generally be as approved. The deletion of setbacks along the Monash Road frontage at ground level and division of the approved retail into smaller tenancies will assist in introducing more retail and commercial facilities than originally anticipated and achieving the following objectives:

- *Create a thriving retail block containing specialty retail, commercial and residential uses.*
- *Create a cohesive small centre with a continuous retail or commercial ground level component abutting the street frontage of Monash and Victoria Roads.*

The controls for the precinct allow for a continuous active frontage at ground level along Monash Road. They require a setback from Victoria Road on the southern side to enable tree planting. The amended development will maintain the approved 2m setback along Victoria Road. There will be a minor realignment beyond the 2m as a result of the deletion of the approved bike store, nevertheless tree planting along this frontage will be as approved.

The changes to the building heights and separations will be satisfactory, as discussed in the above sections of this report. They will not result in any inconsistencies with the above stated objectives and objective below with respect to the impact on the heritage value of the dwelling at 9 Monash Road.

- *Ensure the built heritage value of the existing buildings is taken into consideration.*

The upper level (5th floor) setbacks from the road boundaries will be generally as approved with the exception of the lift tower extension on the Victoria Road elevation and fire stair extension on the Monash Road elevation. However the changes will be satisfactory as they represent a minimal variance to the approved setback and will add little bulk or scale in relation to the overall size and height of the elevations.

The 4th floor setbacks from Victoria Road will be generally as approved. There will be some minor changes to the Monash Road setbacks of the terraces of Units B-22 and B-23 by 910mm to result in a 1m setback from the northern boundary. This will have a negligible impact on the level of articulation of this elevation, amenity of surrounding properties and heritage significance of 9 Monash Road.

The 3rd floor setbacks from Victoria Road will be generally as approved. There will be some minor changes to the Monash Road setbacks of the terraces of Units B-18, C-17 and C-18 to result in a 2.56m setback from the northern boundary. This represents a minor reduction by 140mm in comparison to the approved 2.7m setback. The change will have a negligible impact on the level of articulation of this elevation, amenity of surrounding properties and heritage significance of 9 Monash Road.

NB: Whilst the floor plans for the second and third levels and elevation plans indicate a minimum 1m setback, the floor plans for the fourth and fifth floors indicate an element which extends within this setback. This appears to be an error on the plans. Condition No. 1 is recommended to be amended to require the fourth and fifth floor plans to indicate the 1m setback.

At least 10% of the site area is required to be provided as public domain or community space in the form of vehicular access 6m wide and a footpath 1.5m wide to connect to the local street. There will be a reduction to the area of the approved public domain given the deletion of the ground level setback along Monash Road and realignment along Victoria Road due to the deletion of the bike store. No concerns are raised to this given that the DCP controls allow a zero building line along Monash Road, the realignments along Victoria Road will result in minimal reduction to the public domain area and the on-site vehicular access way and footpath surrounds will be realigned to add more area.

Figure 11: Key Site Diagram as contained in the DCP

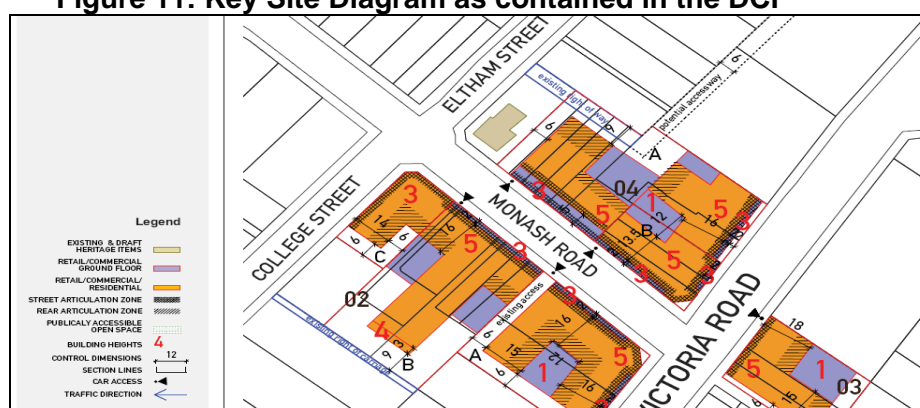


Figure 11 above demonstrates the KSD as contained in the DCP. Clause 4.1(b) of Council's DCP allows the KSD to be varied as long as it can be demonstrated that the changes will produce a better built form outcome, improve the amenity of the site and address other certain issues to Council's satisfaction. The issues are addressed further below under the section 'Amendments to Approved Comprehensive Plan'.

The applicant provided an amended KSD for the original proposal which was accepted. This diagram is provided below (Figure 12). The applicant's justification for the amended KSD is that the DCP solution was tested and found to produce an undesirable built form having particular regard to the matters of residential amenity and solar access. The following principles were applied in determining to adopt the amended KSD:

- Provision of a continuous 2m setback along the Victoria Road instead of half of the façade built to the boundary as this will provide continuity to the wider footpath and awning. It will also allow planting of trees on the nature strip.
- Readjustment of the building height for improved built form, greater wall articulation and adequate articulation of the top floor pop-ups. (NB: The number of approved levels equates to 6 whereas the KSD specifies a maximum of 5. This variation was

recommended by the Urban Design Review Panel as to produce a better architectural feature.

- Reconfiguration of the residential floors to provide a simplified building footprint.
- Provision of active retail use throughout the ground floor level.
- Provision of continuity of communal open space and consolidated common open space area.
- Facilitate increased solar access to communal open space area & balconies.
- Provision of a public laneway with additional footpath incorporated along the proposed laneway.
- Modification of the setbacks of upper levels for improved building articulation as shown in the table below.

The amended development will be satisfactory with respect to the principles, as discussed in the above assessment with respect to the matters of setbacks, height, articulation, active retail uses, and solar access. The additional height will not alter the approved number of storeys. As indicated in the table below, there will be minor changes to the approved setbacks.

Table 8: RDCP 2010 – KSD Setbacks

| Upper levels | Setback Required | Setback Approved | Setback Proposed | Merit |
|---------------------|---------------------|-------------------------------|---|--|
| Monash Rd | 2m, level 4 & above | 1m – 6.55m | Minor change to a portion but will retain the minimum 1m and have little impact on the level of articulation (except for the error on 4 th and 5 th level plans discussed above). | Improved articulation |
| Victoria Rd | 4m, level 4 & above | 2m – 4m. | No change, except for the lift tower on Level 5 which is satisfactory as discussed above. | Improved articulation |
| Ground level | | | | |
| Victoria Rd | 0 & 2m | 2m throughout on ground level | 2m throughout on ground level will be maintained. | Maintenance of continuous wider footpath for public benefit and tree planting. |
| Monash Road | 0m | 600mm along part of frontage | 0m | Achieves compliance with the requirement. |

Amendments to Approved Comprehensive Plan

As discussed above, the KSD has been varied by the Comprehensive Plan adopted for the approved development. The amended development will be generally consistent with the comprehensive plan with the exception of the 600mm setback from Monash Road at Ground Level. It is proposed to delete the 600mm setback. No concerns are raised to this given that the DCP opts for a zero setback in this location and the following matters are adequately addressed by the amended development:

- b. *Community benefit in the form of facilities such as child care, community meeting space, library space, commuter parking or other. The Comprehensive Plan must demonstrate the demand for such facilities to Council satisfaction.*

The key community benefits of the approved development will be maintained. They are as follows:

- A new 9m wide public laneway is to be constructed and dedicated to Council. This laneway will provide access to the subject site and future access to a number of other lots backing onto the laneway. A public footpath is also proposed as part of the laneway design and will be publicly accessible.
- A 2m setback has been provided along the Victoria Road frontage which enables a wider footpath for pedestrians and additional area for street planting.
- Conservation and management of the heritage cottage which will provide retention of an important heritage listed building.
- Public domain improvements works will be undertaken such as provision of footpath paving, provision of an awning along both street frontages, establishment of street tree planting to beautify the street, provision of street lighting and installation of underground power lines.

c. *Environmental impacts (such as overshadowing and overlooking) are managed.*

The amended development will not result in any unreasonable additional overshadowing, overlooking, view impacts or the traffic implications. As demonstrated in this report, the impacts will be acceptable.

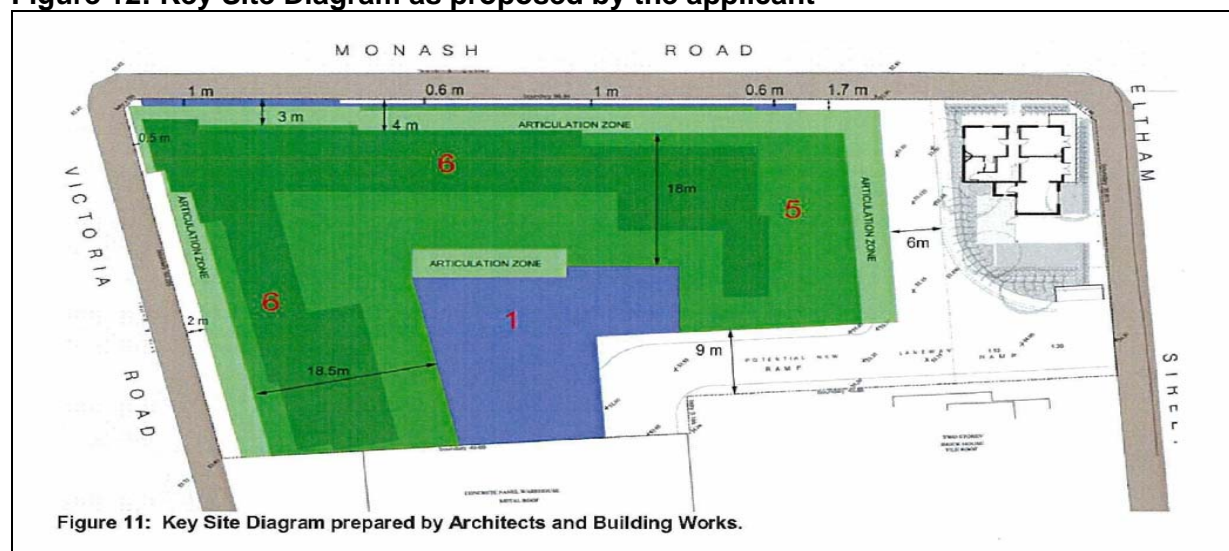
d. *Environmentally sustainable design is implemented. Water and energy consumption are minimised.*

The amended development will maintain compliance with the BASIX requirements, and retain an acceptable level of sunlight and ventilation to the apartments, as well as the communal open space areas.

e. *Transport Management is to Council and, where applicable, RMS satisfaction including pedestrian access, public transport access, parking quantum and layout, and intersection level of service.*

As indicated by the assessment above, no additional issues will result with respect to the matters raised by RMS. Council's Traffic Consultants have not raised any objections to the additional traffic impact. The site is located adjacent to a bus stop on Victoria Road, which is a major public transport route. The parking quantum will be compliant, as indicated in the DCP assessment further below.

Figure 12: Key Site Diagram as proposed by the applicant



Many of the requirements of the RDCP 2010 are not applicable to the proposed amendments. The following table demonstrates compliances with the relevant ones.

Table 9: RDCP 2010 – General Controls

| Control | Comment | Compliance |
|--|--|---|
| Built Form | | |
| Built Form Heights <ol style="list-style-type: none"> Buildings must comply with the maximum heights described in the Gladesville Town Centre and Victoria Road Corridor LEP and the Built Form Heights Plan in this DCP. Floor to ceiling height for residential uses must be a minimum of 2.7 metres. Ground floor levels are to have a floor to floor height of a minimum of 3.6 metres. | <p>The matter of 'building height' has been discussed above.</p> <p>The number of approved storeys (being 6) will be maintained. The floor-to-floor heights of the main residential levels will be more than 2.7m. No change is proposed to the floor-to-ceiling height of the loft level. The floor-to-floor height of the ground level will exceed 3.6m.</p> | <p>Variation is supported as discussed earlier in this report.</p> <p>Yes</p> |
| Active Street frontages <ol style="list-style-type: none"> Provide ground level active uses where indicated on the map. Active uses consist of community and civic facilities, recreation and leisure facilities, shops, commercial premises, & residential uses that do not occupy 20% of the street frontage. Where required, active uses must comprise the street frontage for a depth of 10 metres. Vehicle access points may be permitted where active street frontage is required if there are no practicable alternatives. | <p>The matters have been addressed above.</p> <p>No changes are proposed to the vehicle access points.</p> <p>Security grills are not proposed.</p> | <p>Yes</p> <p>Yes</p> <p>N/A</p> <p>Yes</p> |

| Control | Comment | Compliance |
|--|--|--|
| 5. Security grills can be incorporated to ground floor shops. Blank roller shutter doors are not permitted. | | |
| Buildings Abutting the Street Alignment 1. Provide buildings built to the street boundary in the Gladesville Town Centre Precinct and in Monash Road Precinct where shown on the Key Site Diagram. 2. Ground level architectural features such as recessed doors and windows are permitted to a maximum of 400mm from the street boundary to design out concealment opportunities and promote personal safety and security. | <p>The Key Site diagram has been addressed above.</p> <p>Ground level architectural features will minimise opportunities for concealment, especially given the deletion of the recessed bike store along the Victoria Street frontage.</p> | <p>Variation supported as discussed above.</p> <p>Yes</p> |
| Setbacks 1. Along Victoria Road ground floor setback to be part 2m & part built to boundary and 4m setback above level 4. 2. Along Monash Road the setback is to be 0m. & for level 4 and above the setback to be 2m 3. From Heritage Site – 6m. | <p>The proposed setbacks have been addressed above.</p> | <p>Variations to 1 and 2 supported as discussed earlier in this report.</p> <p>Yes</p> |
| Rear Setbacks and Residential Amenity 1. Provide 9m ground level setback at the rear of sites fronting Victoria Road or as shown in Key Site Diagram (KSD). 2. Provide 12m separation minimum above the ground floor between residential buildings. 3. Buildings fronting Victoria Road may build to the side boundary for a depth of 20m measured from the street frontage. A side setback is then required to achieve 12m separation between proposed and potential land uses. | <p>> 9m setback for rear lane & 6m from heritage site has been provided.</p> <p>The matter of building separation has been addressed above.</p> | <p>Yes</p> <p>Variation supported as discussed earlier in this report.</p> |
| Awnings 1. Provide awnings over footpaths for ground level building frontages as shown on relevant map. 2. Awning height is to be generally a minimum of 3m from the pavement and setback 600mm | <p>A continuous awning and street trees will be will be provided as per Conditions 1, 6(d) and 6(i).</p> <p>Over 3m in height from the pavement.</p> | <p>Yes</p> <p>Yes</p> |

| Control | Comment | Compliance |
|--|--|-----------------------|
| <p>from the kerb edge. The heights of adjoining awnings should be considered.</p> <p>3. Awnings are to protect people from sun and rain. Glazed awnings are generally not permitted.</p> <p>4. Provide lighting preferable recessed to the underside of awnings.</p> | <p>No change is proposed to the awning type.</p> <p>The existing condition of consent will be maintained. (Refer to Condition 6).</p> | <p>Yes</p> <p>Yes</p> |
| Access | | |
| <p>Vehicular Access</p> <p>1. Provide vehicular access from the local roads network in preference to Victoria Road. This will require development of public laneways within the rear setbacks of most sites.</p> <p>2. Where laneway proposed, must include 2-way carriageway of 6m width, 1.5m footpath & 0.5m setbacks from other built elements.</p> | <p>No changes are proposed to the vehicular access arrangement in terms of ingress and egress.</p> <p>The on-site lane will consist of an adequate width to cater for vehicles which are likely to access the site, including 15.2m long trucks. Council's Traffic Consultants have advised the amended turning circles / maneuvering areas will be appropriate. It is recommended to reword the relevant conditions to reflect the amended turning circles and access by 15.2m long trucks.</p> | <p>Yes</p> <p>Yes</p> |
| <p>Public Parking</p> <p>1. Provide publicly accessible parking to support retail, entertainment and commercial land uses, church and educational institutions as shown Parking Control Drawing.</p> <p>2. Provide secure bicycle parking in every building equal in area to 1 car space for every 100 car spaces or part thereof.</p> | <p>The matters of car and bicycle parking have been addressed in the section below 'Part 9.3 of DCP2010 – Car Parking'.</p> | <p>Yes</p> |
| Public Domain | | |
| <p>Pedestrian Connections</p> <p>1. Provide street furniture, lighting and generous paved areas along the main pedestrian routes.</p> | <p>Condition 6 of the consent ensures compliance with the requirement. None of the amendments will necessitate a change to this condition.</p> | <p>Yes</p> |
| <p>Landscape Character</p> <p>1. Create a consistent planting theme with a number of species to ensure that the planting gives a visual coherence.</p> | <p>Condition 6 requires planting along the street to be consistent with the Public Domain Technical Manual. None of the amendments will necessitate a change to this condition.</p> | <p>Yes</p> |
| <p>Urban Elements</p> <p>1. Provide paving, seats, benches and bins as selected by Council in accordance with the Ryde Public Domain Technical</p> | <p>Conditions have been included in a consent which requires the development to comply with the requirements of the 'Ryde Public</p> | <p>Yes</p> |

| Control | Comment | Compliance |
|--|---|------------|
| Manual. 2. Provide seating and shelter (awnings or bus shelter) at all bus stops, and provide seating at community facilities and drop off points. Seating shall be in accordance with the Ryde Public Domain Technical Manual. 3. Provide new street lighting to primary and secondary streets as selected by Council and underground power cables. 4. Provide pole lighting, lighting from building awnings and structures, in new public spaces, to ensure night time pedestrian safety. | Domain Technical Manual' (See Condition 6). No changes are necessary to these conditions. | |

Part 9.2 of DCP 2010 – Access for People with Disabilities

The development is required to provide an accessible path of travel from the street to and through the front door of all units on each level. In addition, 10% of units are to be adaptable units.

The applicant has submitted an amended access report which demonstrates that the development will comply with relevant access requirements subject to compliance with certain recommendations. The recommendations are associated with detailed design aspects that can be addressed prior to the issue of a Construction Certificate. As such it is recommended to amend Condition 37(b) to refer to the amended access report.

Part 9.3 of DCP 2010 – Car Parking

It is proposed to increase the total number of approved spaces from 204 to 211. The total number of spaces allocated to the residential component will be increased to 106 and retail component will be to 105, respectively. The total number of disabled spaces will be increased from 12 to 18.

The car parking requirement of the amended development is indicated below.

- Retail

The DCP requires car parking for retail uses at a rate of 1 space per 25m² of gross floor area. The total retail gross floor area will generate a requirement for 102 car spaces. It is proposed to provide a total of 105 retail car parking spaces. This complies with the retail car parking requirement.

- Residential

0.6 -1 space/ 1 bedroom dwelling
0.9 – 1.2 spaces/ 2 bedroom dwelling
1.4 – 1.6 spaces/ 3 bedroom dwelling
Visitor – 1 space per 5 dwellings.

The development proposes 74 units (4x studios, 18 x 1bed, 48 x 2bed, 4 x 3bed). Parking is required as follows:

Table 11: Car Parking

| | Allowable Parking | Parking Proposed | Compliance |
|--|-------------------|------------------|------------|
|--|-------------------|------------------|------------|

| | | | |
|-------------------|--------------------|--|-----|
| | Range | | |
| 4 x studios | 2.4 – 4 spaces | | |
| 18x 1 bed | 10.8 – 18 spaces | - | |
| 48 x 2 bed | 43.2 – 57.6 spaces | - | |
| 4x 3 bed | 5.6 – 6.4 spaces | - | |
| Parking for Units | 62 – 86spaces | | |
| Visitor | 15 | 19 stated on plans but 17 marked as 'visitor'. | Yes |
| TOTAL Residential | 77-101 | 106 | Yes |

A total of 179 – 203 parking spaces will be required for the amended development. It is proposed to provide a total of 211 spaces which achieves compliance. However the spaces need to be appropriately allocated to each unit based on its number of bedrooms and related DCP requirement.

To ensure that the allocation of car parking spaces indicated on a final subdivision plan accords with the requirements of RDCP, it is recommended to amend Condition 128 to read as indicated in bold lettering below:

128. Final plan of subdivision – details. *The final plan of subdivision shall contain details of all existing and/or proposed easements, positive covenants and restrictions of the use of land.*

Allocation of Residential Car Parking Spaces: The final plan of subdivision shall indicate the allocation of resident car spaces per unit in accordance with the requirement of Ryde Development Control Plan 2010, such that at least one car parking space shall be allocated to each unit. A second car parking space shall be allocated to each three bedroom unit. Any remaining spaces shall be distributed evenly between the 2 bedroom units, i.e. at a rate of one additional space per unit. At least 15 visitor spaces shall be provided and appropriately marked.

The applicant has advised that no concerns are raised to the intent of the condition, however any excess car spaces should be able to be distributed within the development in response to buyer requirements.

The applicant has suggested the deletion of wording '**Any remaining spaces shall be distributed between the 2 bedroom units at a rate of one space per unit**'. No concerns are raised to this as each unit will be provided with an appropriate amount of spaces and a second car space will be allocated to all 3 bedroom units. This maintains consistency with the DCP requirements. The allocation will represent both the maximum and minimum DCP requirement for studios, 1 bedroom units and 2 bedroom units, and maximum DCP requirement in the case of 3 bedroom units. Three bedroom units are most likely to result in a greater demand for parking. The outcome is considered acceptable in this case.

- **Accessible spaces**

A total of 18 *accessible* parking spaces are proposed which are more than adequate. In accordance with Part 9.2 a total of 15 spaces (4 for the retail component, 4 for the residential component, plus 7 for the adaptable units) are required. (This includes the provision 1 space per adaptable unit as required by Condition 44).

Accessible parking spaces are proposed on all 3 basement levels. The distribution of the spaces over the levels is acceptable in this case as it will enable a fair allocation between the residential and retail components that reflects the related DCP requirements, i.e. at least four (4) spaces will be conveniently located and easily accessible for retail users and at least

eleven (11) spaces will be located within the residential car park zone. The locations of the spaces are generally consistent with the DCP objectives to place disabled parking as near as possible to entries/exits for convenience. In this regard it is considered acceptable to amend Condition 44 – Disabled parking of the development consent to delete reference to “evenly distributed over three basements” as follows.

Council’s Traffic Consultants have advised that ‘*accessible bays should include pavement marking to indicate which unit it belongs to. It should be noted that where the shared area adjacent to a parking space for people with disabilities that is also used as a parking aisle, does not need to be highlighted with pavement marking*’. It is proposed to amend Condition 37 (via adding point (c)) to specify these aspects.

- **Stratum and Strata Subdivision Car Space Allocation**

The stratum and related strata plans of subdivision should reflect the car parking allocation based on the Council’s DCP requirements, i.e. an appropriate allocation should be provided between the residential and non-residential components, different unit types (based on number of bedrooms) and car space types (e.g. number of required visitor spaces and disabled spaces). The recommended amendment to Condition No. 128 (discussed above), 1(a), 44 and annotations on the approved plans will ensure an appropriate outcome.

- **Bicycle Parking**

The approved bicycle parking is proposed to be altered to provide:

- Basement Level 3 - 7 spaces near Lifts A and D.
- Basement Level 2 - 5 spaces near Lift D
- Basement Level 1 – 12 spaces near Lifts B and D

This meets the requirement for a total of 18-20 bicycle parking spaces (i.e. at a rate of 10% of the required car spaces or part thereof).

- **Loading and Unloading Facilities / Design of Parking Area**

Refer to section entitled ‘Traffic Comments’.

Section 94 Development Contributions Plan 2007 (Amendment 2010)

The Section 94 is required to be amended to reflect the following statistics of the amended development, being:

- The change in the gross floor area of the retail component from 2520m² to 2538m².
- The change to the composition to provide 19 x 1 bedroom, 42 x 2 bedrooms and 12 x 3 bedrooms and 1 x 4 bedrooms. (Note: The bedroom mix includes the loft rooms on Level 6 as a bedroom. This results in the unit mix being different to that indicated in the description of the amended development).

The amended development requires the following Section 94 contributions:

Table 13: Section 94 of Amended Development

| Contribution Type | Contribution Amount |
|---|----------------------------|
| Community and Cultural Facilities | \$216,149.89 |
| Open Space and Recreation Facilities | \$466,238.00 |
| Civic and Urban Improvements | \$201,142.20 |
| Roads and Traffic Management Facilities | \$33,622.98 |
| Cycleways | \$17,140.54 |
| Stormwater Management Facilities | \$59,521.00 |
| Plan Administration | \$4,613.30 |
| Grand Total | \$998,427.89 |

It is proposed to amend Condition 33 to reflect the above amounts. The applicant has not raised any concerns to this.

7. LIKELY IMPACTS OF THE DEVELOPMENT

The relevant impacts are addressed in the assessment above and below.

8. SUBMISSIONS

The Development Application (DA) was notified from 18 January until 6 February 2013 and advertised in local newspapers from 23 January 2013. To date a total of fifteen (15) submissions have been received, including one letter of support and the submission of an objection by Council as a result of a resolution adopted at the Council Meeting held on 26 March, 2013. The submissions have been addressed in 'Section 8 – The Public Interest'.

On the 14 March 2013 the applicant submitted a written response to issues raised in the submissions. This was followed by an addendum to the traffic report, as well as the submission of additional information and amended plans.

On the 23 April 2013 the applicant submitted a written response to the issues raised in Council's objection.

The issues raised in the submissions are addressed below:

ISSUE: The DA Traffic Report and S96 Traffic Report are unsatisfactory. The S96 Traffic Report is severely inadequate and does not address certain aspects such as the effects of supermarket trading hours. The already existing traffic problems have also been downplayed.

COMMENT: A review of the submitted information (including the addendum to the traffic report and further amended plans) as well as an independent assessment of the amendments has been undertaken by Council's Traffic Consultants. (Refer to attached report by the Consultants). It has not been found that the submitted information is inadequate or flawed as to not allow appropriate consideration of the matter.

ISSUE: Increase from HRV rigid trucks of 12.5m to articulated semis of 15.2m, which is currently prohibited under existing approval. No exhibition of the turning circles on Eltham Street and Monash Road to confirm if vehicles can be accommodated in the street layout.

COMMENT: The prohibition to trucks accessing the site was due to the inadequate turning circles. In March 2013 the applicant submitted an addendum to the submitted traffic report to include swept path diagrams starting from Eltham Street (adjacent to the site entry), through the site and into Monash Road (via a left-turn only). The addendum includes changes to the shape of rear landscaped footprint of 9 Monash Road and footpath surrounds. Following the addendum, amended architectural plans were submitted adopting the changes. Council's Traffic Consultants have reviewed the amended plans and have advised the changes will adequately cater for larger 15.2m long trucks. (Refer to attached report by the Consultants).

ISSUE: Delivery trucks will be of further detriment to traffic congestion as there will be an increase in heavy truck movements from 2 per day to 6 per day and increase in size.

COMMENT: The assessment undertaken by Council's Traffic Consultants has verified that there will be no detrimental traffic implications in terms of queuing and level of service at intersections.

ISSUE: The developer's traffic engineer has asserted that this development will generate approximately an additional 200 vehicles per hour in addition to the existing 170 vehicles per hour that already use Eltham Street. This is more than double and combined will see Eltham Street exceed the environmental capacity guidelines set by the RMS/RTA of max 300 veh/hr for a local street.

COMMENT: The assessment undertaken by Council's Traffic Consultants (as attached) indicates that there will be minimal changes to the traffic generation rate of the approved situation and therefore the impacts to the surrounding road capacity would be negligible. The 'level of service' of the surrounding road system will be maintained.

In addition, condition 133 will be maintained as to require a sign to be erected at the exit driveway in Eltham Street indicating 'To Victoria Road' with an arrow pointing towards the left as to discourage traffic departing the site from using the eastern side of Eltham Street.

ISSUE: Delivery and trading hours will have a detrimental impact on the quality of life of residents through increase in traffic volumes and noise for longer periods of time and earlier in the morning and later at night (with closing time after 10pm with customers and staff leaving the site).

COMMENT: It is not recommended to adopt the proposed extended trading and delivery hours. The acoustic report submitted by the applicant has modelled noise impacts during the extended trading and deliveries hours based on a 4.7 m high wall located between 78 Eltham Street and the subject site. This wall is higher than that allowed under the current consent and has not formed part of the proposed amendments sought under this application, (in particular to amend Condition 48 (c) to cater for the higher wall). Condition 48 currently limits an acoustic screen at the property boundary to 1.8m in height measured from the pre-development level. In the absence of the higher wall, the impacts on the nearest residential receivers would exceed the relevant noise criteria.

In addition to this, the site adjoins a low density residential area and there are clear concerns by the residents that any extension of hours would affect the amenity of the area. At this stage the applicant does not have a proven track record that the premises can operate without impacting on the amenity of the area. Any extension of the hours would not be in the public interest.

In this regard no approval is granted under this application to the extended hours and any changes to the related conditions of consent.

ISSUE: Loss of on-street parking/parking difficulties for residents as a result of increased congestion and accessibility to the site and hours and days of operation.

COMMENT: The amended development is likely to reduce the pressure on on-street parking as it will provide more than the required amount of off-street parking and maintain easily accessible parking spaces, in particular visitor/customer parking spaces. Any on-street parking in Eltham Street will not provide a convenient option in terms of access to the retail facilities (particularly the ALDI Store) and therefore is unlikely to be taken advantage of.

ISSUE: Accessibility for garbage trucks and emergency vehicles is of concern.

COMMENT: Given that the on-site access will cater for the load and size of semi-trailer trucks, it is therefore expected to cater for any garbage and emergency vehicles.

ISSUE: Loading dock reconfiguration should ensure truck access to the site is from Monash Road only. No entry/exit for trucks should be available from Eltham Street due to the 3 tonne weight limitation.

COMMENT: The truck ingress and egress arrangements of the approved development are not proposed to be altered. Council's Traffic Consultants have not raised any concerns with this arrangement given the proposed increase in truck size. It should be noted that trucks would not be able to manoeuvre on the site to leave in a forward direction to Monash Road if they used this road to access the site. In addition Clause 57(4) in Division 2 of the *Road Transport Mass Loading and Access Regulation 2005* enables access for trucks that exceed a weight limit if there is no alternative route by which to reach that destination. The routes to the site are limited given:

- RMS does not allow access from Victoria Road due to safety concerns. Any access on Victoria Road would be too close to a signalised intersection, and would therefore increase the risk of rear end collisions.
- State Environmental Planning Policy (Infrastructure) 2007, and an RMS Policy aim to reduce access from main roads to maintain network efficiency.
- The existing consent limits access to Eltham Street and egress to Monash Road for trucks. This arrangement is consistent with the RMS Policy and provides the only feasible outcome in terms of avoiding unmanageable traffic implications.
- The approved arrangement will have minimal impact on the traffic flows of both Victoria Road and Monash Road.
- Vehicular entry into the site from Monash Road would not be suitable because of its proximity to the Victoria Road intersection. Any such access may cause adverse impact on the main road through vehicle queuing.

Regardless of the above Condition 133J restricts truck movements as to prohibit trucks using that section of Eltham Street, east of the site access.

ISSUE: An increase in building height would adversely affect the bulk/ scale of the development and is not within Ryde LEP standards. It would change shading and privacy to neighbouring properties (particularly 78 Eltham Street). The bulk / scale is not appropriate in the context of the heritage item at 9 Monash Rd and surrounding residential development.

COMMENT: The matters of building height, bulk/scale, context, overshadowing, privacy and heritage impact have been addressed in the report sections above.

ISSUE: The increase from single tenants to multiple tenants will increase traffic flow. Increase in unit numbers is unacceptable and also increases traffic flow.

COMMENT: Residential Component: Based on RDCP 2010 car parking requirement, the change to the unit configuration would generate a requirement for two (2) additional spaces for the residential component. This would not have any significant implications on the traffic flows and safety. The impact on traffic flows is verified by the attached assessment undertaken by Council's Traffic Consultants. Retail Component: The change to the gross floor area of the retail component will increase the car parking requirement by 1 space. This is not a significant increase and will not result from any areas that are likely to influence the customer and employee capacity. Council's Traffic Consultants have reviewed the application and have not raised concerns with the increase in traffic generation.

ISSUE: Child safety will be at risk due to increased traffic numbers travelling past the school in Westminster Road to avoid Monash Road junction.

COMMENT: The traffic impact has been assessed by Council's Traffic Consultants and found to be similar to that approved. Given this there will be no evident, additional risk to that of the approved development.

ISSUE: Infrastructure capacity cannot support the development. Queuing on Monash Rd from Victoria Rd intersection regularly queues beyond intersection of Eltham and College Streets, rendering this intersection incapacitated and unable to accept proposed volumes.

COMMENT: The amended plans have been reviewed by Council's Engineer, who has not raised any concerns with respect to stormwater. Conditions will be maintained in the consent to ensure that the applicant liaises with the necessary service providers (i.e. for gas, water, electricity and telecommunications) and services are installed in accordance with the requirements of the providers.

Council's Traffic Consultants have not raised any concerns with respect to the existing road infrastructure. They have advised that the change in 'level of service' of surrounding intersections will be acceptable and the resultant queuing would be adequately catered for. Also with respect to queuing across the footpath, the Consultants have advised that they are 'satisfied with the current swept path drawings in that service vehicles will not queue or reverse across footpaths and will not veer into the opposite side of the road'. The related condition (46) will be maintained in the consent. A review has also been undertaken (in section 'State Environmental Planning Policy (Infrastructure) 2007' above) with respect to the RMS comments provided for the original scheme. The review does not raise any further issues.

Council has recently undertaken further traffic modeling based on more recent traffic surveys. The modeling has indicated that the current 95th percentile queue length from Victoria Road along Monash Road is 91m. This queue length is anticipated to increase to 100m when the anticipated trip generation from the proposed development is added. There is currently a 105m storage space along Monash Road from the stop line in Victoria Road to Eltham Street. The remaining 5% of the time, traffic will queue back across the intersection. The modeling suggests that this is already occurring now and will continue to occur post development in much the same way. The analysis indicated that the performance of the Eltham Street / Monash Road / College Street intersection in terms of traffic efficiency or road safety will be relatively unaffected by the proposed development.

ISSUE: The development will not corroborate with Eltham Street as being zoned R2-Low Density Residential.

COMMENT: The subject site is zoned B4. The amended development will not alter the definition and permissibility of the approved development under this zone, as well as the development's consistency with the objectives of the zone. The amended development will maintain the opportunity to provide a prominent and high quality development at the intersection of Victoria Road and Monash Road, as required by the objective.

ISSUE: The ALDI Store will not enable consistency with Clause 4.3 of the RDCP 2010 (first objective for the site) 'to create a thriving retail block containing specialty retail, commercial and residential uses'. An 'ALDI Store does not fit the description of 'specialty retail'.

COMMENT: A 'commercial premise' is defined to include a retail premise and a 'retail premise' is defined to include a 'shop'. The proposed use is a 'shop' which is not a prohibited use under the B4 – Mixed Use Zone of the land. The term 'specialty store' is not specifically defined under the DCP or LEP. Accordingly exclusion of an 'ALDI Store' from the classification 'specialty store' is not well-based. It can be argued to be a 'specialty store' with respect to the limited products, product brands and specific clientele it aims to attract.

ISSUE: The amended development contravenes Clause 4.1 of Part 4.6 of the DCP.

COMMENT: Development controls in Section 4 of Part 4.6 provide detailed guidance to create cohesive built form and public domain outcomes for 'Key Sites'. The amended development has been assessed as being satisfactory with respect to the controls in Section 4. The amended development will result in minimal change to the overall form, height, bulk and scale of that anticipated by the approved development, as to adversely impact on its context.

ISSUE: *The acoustic monitoring undertaken for the site had the microphone hidden behind an 8 foot high solid site hording covering the Monash Road Eltham Street corner.*

COMMENT: This was acknowledged and accounted for in the amended acoustic report.

ISSUE: *I am very glad to see you are adding an ALDI Store in the area.*

COMMENT: Noted.

ISSUE: *It is unclear from documentation sent to us, but we assume that the development entry will be on Monash Road. If this is the case, major traffic delays will occur every morning and afternoon peak.*

COMMENT: The development entry will be maintained as approved, i.e. from Eltham Street.

ISSUE: *Local residents fear further deterioration of traffic conditions with this development and Bunning's proposal on residential streets.*

COMMENT: The traffic assessment completed for this development application has not included any reference to a future possible Bunning's development in the area. At this stage the impacts cannot be considered as there is no development consent for this use. If a development application is submitted for a Bunning's detailed traffic reports will be required to be submitted.

ISSUE: *The report continues to assumes only about 20% (34/40vph) of total traffic flows from the site will access Eltham east of the site out of the additional 168vph/198 vphsat. This amount is understated as the intersection of Eltham and Monash is regularly at capacity. Traffic will naturally flow to the path of least resistance and travel east down Eltham Street. Traffic flows are more likely to be 80/20 with Eltham Street experiencing traffic flows of 312vph pm/310vph sat well in excess of RMS environmental capacity tolerances (max 300vph).*

COMMENT: The applicant has advised that it is 'consistent with the previously approved development, the maximum environmental capacity of 300vph will not be exceeded in Eltham Street as a consequence of the proposed amendments'. Council's Traffic Consultants have reviewed the submitted traffic report and undertaken an independent assessment. (Their assessment is attached). No concerns have been raised to the traffic flows and impacts on the surrounding road network.

ISSUE: *The traffic report should be updated to reflect ALDI's demographic study of the area and desired traffic flow numbers which will be well in excess of those projected in the report.*

COMMENT: No fundamental concerns have been raised by Council's Traffic Consultants. They have advised 'the methodology and assumptions that the applicant has employed when assigning development traffic onto the background traffic' are acceptable.

ISSUE: *The proposed use is for convenience based supermarket, the RMS retail traffic generation rates adopted in the report are not applicable for this type of use (as rates are for shopping centres which see much longer customer stay times and less frequent traffic movements) traffic movements would be much more frequent with a short stay time.*

COMMENT: The applicant has advised that the traffic report is in accordance with the requirements of the former RTA (now RMS) publication 'Guide to Traffic Generating Development Section 3 (October 2002)' using updated traffic generation rates nominated in the *Trip Generation and Parking Demand Surveys of Shopping Centre Analysis Report* (September 2011) prepared by 'Halcrow' on behalf of the then RTA. Application of these rates indicates that there will be no significant change in traffic generation as a consequence of the s.96 (2) Application. Council's Traffic Consultants have reviewed the submitted traffic report and undertaken an independent assessment. (Their assessment is attached). No concerns have been raised with respect to this matter.

ISSUE: *SDIRA analysis continues to be based on flawed data inputs and assumptions and needs to be addressed by Council.*

COMMENT: The applicant has advised that 'the parameters used in the SIDRA analysis undertaken for the subject application are identical to those used in the original DA and yielded identical results as detailed on page 23 of the Traffic Report'. No concerns have been raised to the analysis by Council's Traffic Consultants. The consultants have thoroughly reviewed the submitted traffic analyses and undertaken an independent assessment. They have advised 'the applicants SIDRA model assessment is deemed acceptable', 'the applicant's traffic distribution methodology is satisfactory' and 'the techniques and assumptions are consistent with those of the original DA Traffic Impact Assessment'.

ISSUE: *Condition 153-The proposed modification to the hours of operation are inconsistent with the operating hours of other ALDI stores in NSW and are inconsistent with the good order and amenity of the residential street in which it will operate.*

COMMENT: The extended delivery and trading hours have been addressed above.

ISSUE: *Increase in traffic flow for Monash Road, Eltham Street, Farm Street and College Street creating more congestion and further safety issues for an already dangerous intersection.*

COMMENT: Condition 134(e) requires a review of pedestrian movements at the intersection of College St, Monash Rd and Eltham St to determine the need for any upgrades to improve pedestrian safety at the intersection. This part of the condition will be maintained in the consent. In addition to this, the following was resolved at the Council Meeting held on 26 March 2013:

(a) *The Acting General Manager prepare a report detailing appropriate traffic solutions to reduce the flow of vehicular traffic and speeds of vehicles along Eltham Street, Gladesville between Monash Road and Westminster Road and to further improve the flow of traffic at the intersection of Eltham Street, College Street and Monash Road and that this report be brought back to Council by 7 May 2013.*

(b) *That traffic monitoring and investigation be extended by two weeks until 19 April 2013.*

Council is looking at this matter as a separate issue and the matter is likely to be reported to Council at its meeting held on 14 May 2013.

ISSUE: *Closure or part closure of Eltham Street is a high priority matter of public safety and resident amenity. We're asking for Councillors to ensure that council's staff adequately address this matter in the current application before them (MOD2012/0207), and not leave it to be dealt with by the RTC alone.*

COMMENT: This situation has not been found to be pertinent to the determination of this application, however it can be pursued as a separate matter by Council.

ISSUE: *Condition 133 and 146 – The proposed extension of delivery hours will unduly disturb the residential street in which the development is located. **Condition 133** – The proposed increase in deliveries from 2 per day to 6 per day triples the heavy vehicle load on the residential street. This is considered unacceptable to the quiet amenity of the street.*

COMMENT: Council's Traffic Consultant has advised:

- *The s96 application does not generate any additional traffic than the original DA and therefore no concerns in terms of traffic efficiency are raised.*
- *In terms of safety conditions, it should be noted that a condition (134) requires pedestrian movements at the intersection of Monash Rd and Eltham St to be reviewed.*
- *It is anticipated that delivery vehicles will approach and leave the site via Monash Road, thereby driving on Eltham Street for a short distance on the entrance only. Given the swept path analysis, I do not anticipate any safety concerns.*
- *In addition, 6 delivery vehicles will not impact on traffic efficiency or road safety.*

The impact on the residential amenity in terms of noise is addressed in Note 3 below.

ISSUE: *Condition 20 – The increase in the size of delivery vehicles of over 20% presents an unacceptable safety hazard to pedestrian on Monash Road without a heavy safety gate across the road exit to the loading dock locked in position at all times except immediately prior to departure of a heavy vehicle.*

COMMENT: Condition 134 (b) requires a boom gate to be provided. Condition 134(e) requires pedestrian movements at the intersection of College St, Monash Rd and Eltham St to be reviewed. These parts of the condition will be maintained in the consent. Reference should be made to the analysis of the attached traffic assessment by Council's Traffic Consultants. They have advised 'the swept path analysis indicates that delivery vehicles do not need to queue or reverse across the footpath on Monash Road such that this concern (pedestrian hazard) will be avoided. However, it is suggested to conditioning the development to ensure compliance with Australian Standards AS/NZS 2890.1 Figure 3.3'. It is recommended to amend condition 134 to include this.

ISSUE: *Condition 68(g) – This condition is a safety condition as well as an amenity condition and must not be deleted. Condition 80 - This clause defines the parameters of noise attenuation and should not be deleted. Condition 117 – Is a post-construction report and cannot be deleted.*

COMMENT: The conditions have been addressed in Table 15 below.

9. PROPOSED AMENDMENTS TO OTHER CONDITIONS OF CONSENT

As part of the Section 96(2) application the applicant has requested variations to other conditions on the consent not addressed in the assessment above. These conditions are discussed below:

Condition 1(a) Approved Plans

It is proposed to amend this condition to reflect the current plans. This amendment is supported.

Table 15: Conditions of Consent

| Current Condition & Comment |
|--|
| 1 Approved Plans: It is proposed to amend this condition to reflect the current plans. This amendment is supported. |
| 1(a) Approved Plans: This condition is proposed to be reworded to indicate the change to the units nominated as adaptable units. This amendment is supported. |
| 37 (b) Disabled Access & Adaptable Units: It is proposed to amend this condition to reference the amended Access Report and the recommendations in that report. This amendment is supported. |
| 48 (d) Noise requirements: Condition 48(d) is proposed to be reworded to reflect the findings of the submitted acoustic report. Council's Environmental Health Officer has advised that the requirements of 48(d) have been addressed by Condition 57 and Condition 146 and therefore Condition 48(d) should be deleted. |
| <p>52 Separate Waste and recycling storage: This condition is proposed to be reworded to reflect the new locations of the garbage storage areas. Council's Environmental Health Officer has advised that the changes to the condition to address the locations of the waste facilities are satisfactory subject to other minor changes to address the details of the facilities. As such it is recommended to reword Condition 52 and 56 and add condition 56A as following:</p> <p>52. Storage Facilities for Commercial and Residential Wastes: <i>Separate waste storage and recycling rooms must be provided on Basement Level B1 for the storage of commercial waste and Basement Level B2 for the storage of residential wastes. These rooms must have separate keys and locking systems to prevent commercial tenants from using the residential waste facilities. Details demonstrating compliance must be submitted on the Construction Certificate Plans.</i></p> <p>56. Paving to and from Waste Facilities: <i>The paving to and from the waste storage and handling facilities (including waste collection areas) must be level or moderately graded to enable the waste containers to be safely and easily manoeuvred. Details demonstrating compliance must be submitted on the Construction Certificate plans.</i></p> <p>56A Access for Waste Collection Vehicles: <i>Safe easy access must be provided for waste collection vehicles to service the waste containers. Additional clearance must be provided for overhead and side loading where appropriate. Details demonstrating compliance must be submitted on the Construction Certificate plans.</i></p> |
| <p>53 Goods Lift: This condition is proposed to be reworded to reflect the new locations of the garbage storage rooms. This rewording is supported, subject to a variation to address minor details, as advised by the assessing Environmental Health Officer. It is recommended to reword Condition 53 as following:</p> <p><i>A dedicated goods lift must be provided to convey wastes from the First Floor and Ground Floor to the garbage rooms on Basement Level B1 and Basement Level B2 and to convey waste containers from the garbage rooms to the Ground Floor for servicing. Details demonstrating compliance must be submitted on the Construction Certificate plans</i></p> |
| <p>68g Proposed Laneway to be dedicated: This condition is proposed to either be deleted or reworded to reflect the access of a 15.2m long semi-trailer into the site. It is recommended that the condition be amended as following:</p> <p><i>g. Provision of signage prohibiting left turn from Monash Road into the site, including limiting the largest vehicle accessing the site and loading dock area to 15.2m semi-trailers as per AS 2890.</i></p> |

80 Noise and Vibration:

This condition is proposed to be deleted as a restriction to noise and vibration is already covered in Condition 79. Council's Environmental Health Officer has advised that deletion of Condition 80 is appropriate as the control is based on a guideline in the redundant Environmental Noise Control Manual which has been superseded by the Interim Construction Noise Guidelines. The new guidelines do not impose any noise limit on construction work, but require all feasible and reasonable work practices to be implemented to minimise construction noise impacts. Council's Environmental Health Officer has advised to reword Condition 79 as following to reflect the new guidelines:

Construction Noise: All feasible and reasonable measures must be implemented to minimise construction noise impacts.

116 Connection to Sewer:

This condition is proposed to be deleted for the following reasons:

- The applicant has advised that '*the Sydney Water Coordinator does not require such a condition to be imposed*'.
- Not all facilities within the development maybe capable of being connected by gravity, such as the waste storage facilities in the basement'.

No concerns are raised to the rewording of the condition, as gravity flow may not be possible in some instances. In particular Council's Environmental Health Officer has advised it may not be possible to connect floor wastes in the garbage rooms on Basement Levels B1 and B2 to the sewerage system by gravity flow. Council's Environmental Health Officer has also advised that wastewater from the garbage rooms will need to be drained to a sewerage ejector unit and pumped to the sewerage system and therefore the condition should be modified as following:

Connection to Sewer: All sanitary fixtures, other than the floor wastes in the garbage rooms on Basement Levels B1 and B2, must be connected to the sewerage system by gravity flow. Where it is not possible to drain the wastewater from the garbage rooms on Basement Levels B1 and B2 to the sewerage system by gravity flow, the wastewater must be drained to a sewage ejector unit and pumped to the sewage system in accordance with Sydney Water requirements. Documentary evidence of compliance must be submitted to the Principal Certifying Authority before the issue of any Occupation Certificate.

117 Acoustic report required

This condition is proposed to be deleted as an acoustic report has been prepared and forms part of the original application and modified application. Council's Environmental Health Assessment Officer has advised the following:

1. The amended Acoustic Report does not clearly demonstrate that compliance with recommended measures (as outlined in the report) will ensure compliance with the relevant noise criteria.
2. Noise measurements should still be carried out in accordance with AS/NZS 2107.
3. Condition 117 should be modified to clarify its purpose.

To appropriately address the above listed matters the following is recommended,(as advised by the Environmental Health Assessment Officer):

- Condition 117 be reworded to state: *A report from a suitably qualified acoustical consultant demonstrating compliance with the road traffic noise criteria specified in Condition No. 57 must be submitted prior to the issue of the Occupation Certificate.*
- Condition 57 be reworded in the light of the revised acoustic report as discussed in the section below this table.

134 Traffic and Parking Management Plan: It is proposed to include an additional point at the end of this condition for the Traffic and Parking Management Plan to indicate that preference be given to the ALDI Store in the use of the loading dock during the peak

morning and evening periods. No concerns are raised to this.

Condition 101 & Additional Condition for Exhaust

Council's Environmental Health Officer has advised that food shops need to comply with *Food Safety Standard 3.2.3* and *Australian Standard AS4674*. Additional conditions 49A and 57A (stated below) and a rewording to Condition 57 are recommended to address the installation of appropriate kitchen exhaust ventilation systems and provision of details on Construction Certificate plans.

- 49A. *Food Premises: All proposed food premises must comply with Food Safety Standard 3.2.3 Food Premises and Equipment and Australian Standard AS4674-2004 Design, construction and fit-out of food premises. Details demonstrating compliance must be submitted with the Construction Certificate plans.*
- 57A. *Provision for Kitchen Exhaust Hoods: Adequate provision must be made for the installation of kitchen exhaust hoods in any food premises where commercial cooking is proposed.*
57. *Road Traffic Noise: The residential flat building must be designed and constructed so that road traffic noise levels inside the building comply with the satisfactory design sound levels recommended in 'Australian/New Zealand Standard AS/NZS 2107: 2000 Acoustics-Recommended design sound levels and reverberation times for building interiors' when the windows and doors are closed. If the noise level with windows and doors open exceeds the recommended level by more than 10dB(A), an approved system of mechanical ventilation must be provided so that the building occupants can leave the windows and doors closed. Plans and specifications detailing the measures required to comply with these requirements and certified by a suitably qualified acoustical consultant must be submitted with the Construction Certificate plans.*

It is recommended to delete Condition 101 as the proposed condition 49A (above) will ensure compliance with Food Safety Standard 3.2.3 and Australian Standard AS4674 (as required by condition 101), as well as require the submission of compliance details with an application for a Construction Certificate. Council's Environmental Health Officer has advised that this is important as insufficient information has been provided on the DA Plans to verify compliance.

10. INTERNAL REFERRALS

Heritage Officer Comment:

I have no issues with the S.96 works in relation to the heritage item.

However the landscape plan as submitted contains the following incorrect information:

- a. *the carport and driveway that appears on this plan is no longer operational. (The Change of Use DA and BC / CC plans show a pedestrian ramp in this location). Note the disabled pedestrian ramp is constructed.*
- b. *there is no setback (900 mm) proposed along the southern elevation of the heritage cottage (this is a requirement for the subdivision DA);*
- c. *fencing details may be required for the subdivision DA, which ideally should be reflected in any revised landscape plan;*
- d. *the sunroom enclosure on the verandah was removed as part of the illegal works and subsequently approved under the BC and CC and should not be on the plans as submitted.*

Please ensure the landscape plan is corrected to align with the existing approvals and works completed / proposed on the heritage listed cottage.

As discussed above, Condition 1 is recommended to be amended to require amendments to the landscape plan to ensure they are consistent with the architectural plans.

Environmental Health Officer Comment:

Additional and amended conditions are recommended as discussed above.

Traffic Consultant:

As part of the review of the Section 96 Application, Council engaged the services of Bitzios Consulting to undertake a technical review of the traffic and parking issues associated with the amended development. The complete report has been attached to this report. The conclusions of the report were as follows:

- *The applicant satisfactorily addressed bicycle parking spaces requirements in accordance with Ryde DCP Part 9.3;*
- *The applicant satisfactorily addressed disabled parking spaces requirements in accordance with Ryde DCP Part 9.2;*
- *The applicant satisfactorily addressed the parking layout/access requirements in accordance with AS2890.0:2004;*
- *A sign, "TO VICTORIA ROAD" with an arrow pointing towards the west, should be erected at the exit driveway in Eltham Street to discourage traffic departing the site using Eltham Street east;*
- *The applicant satisfactorily addressed the traffic generation calculation in accordance with the RTA Guide to Traffic Generating Developments (2002) and the Halcrow Trip Generation and Parking Demand Surveys of shopping Centre Analysis Report (September 2011);*
- *The applicant's traffic distribution methodology is satisfactory; and*
- *The applicant's SIDRA model assessment is deemed acceptable.*

11. CONCLUSION

The majority of the proposed amendments have been assessed as being satisfactory. The main exception is the amendment sought to allow extended trading and delivery hours. In addition, some recommended rewording, additional conditions and deletion of conditions vary to that proposed by the applicant but are generally minor, consistent with the intents sought and/or are likely to be without prejudice. Most are related to standard environmental health compliance matters. Some relate to making corrections to anomalies in the plans/submitted details. A condition is recommended to amend the proposed layout of Unit B7 as to provide better amenity outcome, whilst still facilitating proposed changes to common areas around the unit, (in particular the provision of larger and improved common garbage room).

No approval is recommended to the extended trading and delivery hours and associated conditions in the existing consent. This cannot be supported due to the submitted acoustic report which has modelled noise impacts during the extended trading and deliveries hours based on a 4.7 metre wall located between 78 Eltham Street and the subject site. In the absence of this wall, the impacts of the nearest receivers would exceed the relevant noise criteria during the extended hours and therefore would result in an unacceptable impact on the residential amenity. The wall differs from that allowed under the current consent and does not form part of this application. Also, significant concerns have been raised by the community that any extension of trading and delivery hours would affect the amenity of the surrounding low density residential areas. At this stage the applicant does not have a proven

track record that the premises can operate without any amenity impact. Any extension to the hours of operation and delivery would not be in the public interest.

12. **RECOMMENDATIONS**

That the Sydney East Region Joint Regional Planning Panel, as the consent authority, modify the development consent of DA2011/0648 dated 2 May 2012 in respect of a mixed use development at 407-417 Victoria Road and 1-9 Monash Road, Gladesville under the provisions of Section 96(2) of the Environmental Planning and Assessment Act, 1979 in the following manner:

A. **The property description and development description of the consent be amended to:**

- Make reference to 407-417 Victoria Road in addition to 1-9 Monash Road, Gladesville.
- Make reference to all the 12 separate allotments which make up the whole of the Site, i.e. the addition of Lots A DP371644 and Lots 2-5 DP264285.
- State the change in approved retail component from a single tenancy with an area of 2520m² to an ALDI Store and other tenancies with a gross floor area of 2538m².
- State the increase to the total number of units from 70 to 74, as well as the change to the composition to provide 4 x studios, 18 x 1 bedroom, 48 x 2 bedrooms and 4 x 3 bedrooms.
- State the increase to the approved total number of car parking spaces from 204 to 211.
- Make reference to a stratum and strata subdivision scheme.

B. **Condition 48(d), 80 and 101 be DELETED**

C. **Conditions 49A, 56A and 57A be ADDED to read as following:**

- 49A. Food Premises:** *All proposed food premises must comply with Food Safety Standard 3.2.3 Food Premises and Equipment and Australian Standard AS4674-2004 Design, construction and fit-out of food premises. Details demonstrating compliance must be submitted with the Construction Certificate plans.*
- 56A. Access for Waste Collection Vehicles:** *Safe easy access must be provided for waste collection vehicles to service the waste containers. Additional clearance must be provided for overhead and side loading where appropriate. Details demonstrating compliance must be submitted on the Construction Certificate plans.*
- 57A. Provision for Kitchen Exhaust Hoods:** *Adequate provision must be made for the installation of kitchen exhaust hoods in any food premises where commercial cooking is proposed.*

D. **Conditions 1, 20, 33, 37, 42, 44, 46, 52, 53, 56, 57, 68, 79, 116, 117, 126, 128, 133, 134, 146 and 153 be AMENDED to read as follows:**

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

| Plan Numbers: | Document Description | Date | Issue |
|----------------------|------------------------------|-------------|--------------|
| Drawing No. : A-008 | Basement 3 Floor Plan-Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-009 | Basement 2 Floor Plan-Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-010 | Basement 1 Floor Plan-Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-011 | Ground Floor Plan-Sec 96 | 19/03/2013 | 2 |

| | | | |
|--------------------|--|---------------|---|
| Drawing No.: A-012 | First Floor Plan-Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-013 | Second Floor Plan-Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-014 | Third Floor Plan-Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-015 | Fourth Floor Plan-Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-016 | Fifth Floor Plan-Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-017 | Roof & Site Plan-Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-018 | Elevations (Monash & Victoria Rd) – Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-019 | Elevations (South & East)-Sec 96 | 19/03/2013 | 2 |
| Drawing No.: A-020 | Section AA-Sec 96 | 19/03/2013 | 2 |
| Drawing #: A-021 | Adaptable/ Access Plan | 13/12/2011 | - |
| Drawing #: A-022 | Adaptable/Access Plan | 13/12/2011 | - |
| Dwg: IS0104DA1 | Landscape Plan | March 2013 | E |
| Dwg: IS0104DA2 | Landscape Plan | March 2013 | E |
| Dwg: IS0104DA3 | Landscape Plan | March 2012 | E |
| | Colour Scheme/Montage | # | |
| 385805M_04 | BASIX Certificate | 17 March 2013 | - |

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

- (a) Unit numbers A2, A6, A10, C2, C8, C14 and C20 are to be designed as adaptable units. Each of these units is to be allocated an accessible parking bay.
- (b) The height of the street awning is to be a minimum of 3m measured from the finished pavement level of the footpath.
- (c) The street awning should continue the full length of the Victoria Road street frontage. The awning must not be glazed.
- (d) The planters along the Monash Road footpath (between the front boundary and building wall) are to be deleted. The glazed street front on Monash should not be impeded. The setback area can be paved/ concreted as suited.
- (e) The 4th and 5th floor plans are to be amended to indicate a 1m setback to the northwest (Monash Road) boundary as per the approved elevation plans.
- (f) The landscape plans are to be amended to reflect the approved architectural plans, in particular the following should be indicated on the plans:
 - The doorways and internalisation of the paving in between Unit A-4B and A-3 or Unit B4 and B3.
 - Deletion of the carport and driveway and addition of a pedestrian ramp in this location.
 - Deletion of the setback (900 mm) along the southern elevation of the heritage cottage;
 - Addition of fencing details.
 - Deletion of the sunroom enclosure on the verandah as no development consent has been or will be granted to this.
- (g) The internal layout of Unit B7 shall be as indicated on Drawing: A-012 Issue 65 (First Floor Plan) dated 3/4/12 subject to the kitchen being relocated in the corner (further north) and access from the northeast facing terrace to the main living/dining room being provided further south.

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

20. **Vehicle accessing the site:** To ensure that the proposed loading dock and the site access arrangements can be operate in a safe manner, the largest vehicle permitted to access the site, including the loading dock area is to be restricted to a 15.2m long semi-trailer.
33. **Section 94 Contribution.** A monetary contribution for the services in Column A and for the amount in Column B shall be made to Council prior to the issue of any Construction Certificate:

| A – Contribution Type | B – Contribution Amount |
|---------------------------------------|--------------------------------|
| Community & Cultural Facilities | \$216,149.89 |
| Open Space & Recreation Facilities | \$466,238.00 |
| Civic & Urban Improvements | \$201,142.20 |
| Roads & Traffic Management Facilities | \$33,622.98 |
| Cycleways | \$17,140.54 |
| Stormwater Management Facilities | \$59,521.00 |
| Plan Administration | \$4,613.30 |
| The total contribution is | \$998,427.89 |

These are contributions under the provisions of Section 94 of the Environmental Planning and Assessment Act, 1979 as specified in Section 94 Development Contributions Plan 2007 (2010 Amendment) adopted by City of Ryde on 11 December 2007.

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

A copy of the Section 94 Development Contributions Plan may be inspected at the Ryde Planning and Business Centre, 1 Pope Street Ryde (corner Pope and Devlin Streets, within Top Ryde City Shopping Centre) or on Council's website <http://www.ryde.nsw.gov.au>.

37. **Comply with Australian Standards.**
- (a) **Relevant Australian Standards:** The development is required to be carried out in accordance with all relevant Australian Standards. Details demonstrating compliance with the relevant Australian Standard are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
- (b) **Disabled Access & Adaptable Units:** Disabled access is to be provided within the development in accordance with the recommendations contained in the Access Report prepared by Architecture and Building Works Pty Ltd dated March 2013. Details indicating compliance with the AS1428 & AS4299, Building Code of Australia and the recommendations contained in the above Report are to be submitted to the Principal Certifying Authority (PCA) prior to the Construction Certificate being issued.
- (c) Accessible bays for adaptable units should include pavement marking to indicate which adaptable unit they belong to. (NB: Where the shared area adjacent to a parking space for people with disabilities, that is also used as a parking aisle, does not need to be highlighted with pavement marking

- 42. BASIX Commitments.** *The development must comply with all commitments listed in BASIX Certificate numbered 385805M_04, dated 17 March 2013. The fittings, fixtures and materials installed in association with the retail tenancy (including but not limited to hot water systems, ceiling/roof insulation, shower heads, toilet cisterns and the like) shall comply with the requirements of Council's DCP. Details are to be noted on the plans submitted with the **Construction Certificate**.*
- 44. Disabled parking.** *Disabled parking should be provided for both residential and commercial activities. At least twelve (12) parking spaces including an accessible parking space are to be provided. Details are to be submitted on the Construction Certificate plans.*
- 46. Driveway access in Monash Road.** *The driveway access located between the existing heritage listed building and the proposed building, including the apron crossing on Monash Road shall be designed to incorporate, but not be limited to the following:*
a. Limited in size, such that it can accommodate the turning manoeuvre of a HRV vehicle or a 15.2m long semi-trailer entering the site from Eltham Street and exiting via a left turn onto Monash Road only (HRV or 15.2m long semi-trailers shall not be permitted to perform a right turn out and into the site from Monash Road). The turning manoeuvre must also allow for the docking manoeuvre of the HRV vehicle or 15.2m long semi-trailer without encroaching onto Monash Road footpath. A schematic plan of this arrangement and computer plotted turning paths prepared by a traffic engineer is to be submitted to Council or the PCA prior to issue of a Construction Certificate.
- 52. Storage Facilities for Commercial and Residential Wastes:** *Separate waste storage and recycling rooms must be provided on Basement Level B1 for the storage of commercial waste and Basement Level B2 for the storage of residential wastes. These rooms must have separate keys and locking systems to prevent commercial tenants from using the residential waste facilities. Details demonstrating compliance must be submitted on the Construction Certificate Plans.*
- 53. Goods Lift:** *A dedicated goods lift must be provided to convey wastes from the First Floor and Ground Floor to the garbage rooms on Basement Level B1 and Basement Level B2 and to convey waste containers from the garbage rooms to the Ground Floor for servicing. Details demonstrating compliance must be submitted on the Construction Certificate plans.*
- 56. Paving to and from Waste Facilities:** *The paving to and from the waste storage and handling facilities (including waste collection areas) must be level or moderately graded to enable the waste containers to be safely and easily manoeuvred. Details demonstrating compliance must be submitted on the Construction Certificate plans.*
- 57. Road Traffic Noise:** *The residential flat building must be designed and constructed so that road traffic noise levels inside the building comply with the satisfactory design sound levels recommended in 'Australian/New Zealand Standard AS/NZS 2107: 2000 Acoustics-Recommended design sound levels and reverberation times for building interiors' when the windows and doors are closed. If the noise level with windows and doors open exceeds the recommended level by more than 10dB(A), an approved system of mechanical ventilation must be provided so that the building occupants can leave the windows and doors closed. Plans and specifications detailing the measures required to comply with these requirements and certified by a suitably qualified acoustical consultant must be submitted with the Construction Certificate plans.*

- 68. Proposed Laneway To be Dedicated.** *The proposed laneway to be dedicated to Council shall be designed to incorporate but not be limited to the following:*
- a. *The proposed road formation shall be 9m wide comprising of 6m wide carriageway and between face of kerbs and 1.5m full width concrete footpath on both sides.*
 - b. *The road pavement shall be a flexible pavement*
 - c. *Provision of underground piped drainage designed to collect and piped runoff from the site, laneway including any upstream catchments where applicable for a minimum 1:20 year ARI storm event to Council's existing drainage system in Monash Road.*
 - d. *The connection of the laneway piped drainage system to the existing Council's drainage system in Monash Road. Accordingly, the Council's drainage system in Monash Road shall be amplified where determined necessary under engineering design and assessment to ensure it has capacity to convey the 1 in 20 storm event.*
 - e. *An easement of at least 2.5m wide shall be created over the section of Council's pipeline where it traverse over private land located between the existing heritage building the basement carpark. The easement shall be located clear of any structures including eaves etc. Accordingly, the basement western wall will need to be relocated further west by at least approximately 0.5m to comply with this requirement. An unobstructed overland flow path shall be provided above the pipeline for conveyance of overland flows from the Laneway to Monash Road*
 - f. *Provision of a turning area at the end of the laneway near the entrance to the basement to enable a small rigid vehicle (SRV) to enter and leave in a forward direction.*
 - g. *Provision of signage prohibiting left turns from Monash Road into the site, including limiting the largest vehicle accessing the site and loading dock area to 15.2m semi-trailers as per AS 2890*
 - h. *The construction of any other necessary works where required to make the construction effective.*
 - i. *Provision of lighting of the laneway to relevant Australian Standards for street lighting.*
- 79. Construction Noise and Vibration:** *All feasible and reasonable measures must be implemented to minimise construction noise impacts.*
- 116. Connection to Sewer:** *All sanitary fixtures, other than the floor wastes in the garbage rooms on Basement Levels B1 and B2, must be connected to the sewerage system by gravity flow. Where it is not possible to drain the wastewater from the garbage rooms on Basement Levels B1 and B2 to the sewerage system by gravity floor, the wastewater must be drained to a sewage ejector unit and pumped to the sewage system in accordance with Sydney Water requirements. Documentary evidence of compliance must be submitted to the Principal Certifying Authority before the issue of any Occupation Certificate.*
- 117. Acoustic report required.** *A report from a suitably qualified acoustical consultant demonstrating compliance with the road traffic noise criteria specified in Condition No. 57 must be submitted prior to the issue of the Occupation Certificate.*
- 126. Positive Covenant, Vehicle Size Limitation.** *The creation of a Positive Covenant under Section 88 of the Conveyancing Act 1919, burdening the property with the requirement to ensure the largest vehicle utilising the loading dock and garbage facility be limited to a 15.2m long semi-trailer.*

- 128. Final plan of subdivision – details.** The final plan of subdivision shall contain details of all existing and/or proposed easements, positive covenants and restrictions of the use of land.

Allocation of Residential Car Parking Spaces: The final plan of subdivision shall indicate the allocation of resident car spaces per unit in accordance with the requirement of Ryde Development Control Plan 2010, such that at least one car parking space shall be allocated to each unit. A second car parking space shall be allocated to each three bedroom unit. At least 15 visitor spaces shall be provided and appropriately marked.

Allocation of Residential Stores: The final plan of subdivision shall indicate the allocation of residential stores per unit in accordance with the following requirements of the Residential Flat Design Code:

- studio apartments 6m³
- one-bedroom apartments 6m³
- two-bedroom apartments 8m³
- three plus bedroom apartments 10m³

- 133. Traffic, parking and loading dock requirements.** The following conditions apply to the development on the site in relation to traffic, parking & loading dock management on the site:
- (a) The number of car parking spaces to be provided in the basement car parking area for the retail component shall not exceed 105 spaces and for residential/visitor it must not exceed 106 spaces.
 - (b) Residential garbage is to be prepared for collection by the caretaker who will place bins in the loading area where they can be accessed by the garbage collectors. When the residential garbage has been collected the bins are to be returned to the bin room by the caretaker.
 - (c) All trucks & vehicles accessing the site must do so from Eltham Street entry
 - (d) The number of HRV and/or 15.2m long semi-trailer deliveries to the ALDI retail tenancy is limited to a maximum of 6 per day.
 - (e) The largest truck to service the site must not exceed 15.2m in length (heavy rigid vehicle).
 - (f) Delivery vehicles must be properly docked in the loading/ unloading area before loading or unloading goods.
 - (g) Delivery vehicles must not encroach onto the Monash Road reserve or the footpath at any time while loading or unloading goods.
 - (h) Delivery of goods to and from the site must not occur outside the hours between 7:00am – 9:00pm Monday to Friday and 8:00am – 5:00pm during weekends.
 - (i) Measures must be taken to ensure pedestrian safety and minimum disruption to the flow of pedestrian traffic along the footpath in front of the site and next to the kiosk/ heritage cottage, when delivery vehicle is leaving the site via Monash Road.
 - (j) Heavy vehicles wishing to enter the site must approach the site via Monash Road and then a right-turn into the site from Eltham Street. Appropriate permanent signage is to be displayed on the site at all times to ensure compliance with this requirement.
 - (k) Under no circumstances shall heavy vehicles approach the site via a left-turn entry from Eltham Street (east). Appropriate permanent signage and traffic management plan/policy is to be displayed on the site at all times to ensure compliance with this requirement.
 - (l) All heavy vehicles will enter the loading dock in a forward direction only.
 - (m) Trucks shall not encroach on the pedestrian footpath in Monash Road, except when departing the site.

- (n) All heavy vehicles shall exit the loading dock whilst travelling in a forward direction only.
- (o) All heavy vehicles shall depart the site via a Left-Turn Only into Monash Road and proceed directly to Victoria Road.
- (p) HRV and 15.2m long semi-trailers shall not be permitted to perform a right turn out and into the site from Monash Road.
- (q) A sign shall be erected at the exit driveway (in Eltham Street) indicating "TO VICTORIA ROAD" with an arrow pointing towards the left to discourage traffic departing the site from using Eltham Street (east).
- (r) A maximum speed limit of driveway is to be 10km/h within the site.
- (s) Prominent notices shall be placed on the site to remind people that minimum amount of noise is to be generated when entering or leaving the premises during night time period.

- 134. Traffic and Parking Management Plan.** Prior to the occupation of the retail tenancy, a comprehensive Traffic and Parking Management Plan (TPMP) incorporating (but not limited to) the requirements under condition 133) must be developed by a qualified Traffic Engineer for the owner/ occupier and submitted to Council for approval prior to the occupation of the site. The comprehensive TPMP must provide the following:
- a. Provision of signage, written instructions, monitoring and training in place to ensure compliance with the TPMP.
 - b. Provision of physical barrier such as a boom gate or the like to prevent vehicles other than heavy vehicles (delivery trucks) from entering the loading area or exiting the site via the driveway on Monash Road.
 - c. Incorporate a Loading Dock Management Plan to adequately manage the loading dock and deliveries of goods to and from the site so as to minimise traffic impact on the locality.
 - d. Provision of Signage to ensure vehicle entry/egress management. This may include (but not be limited to):
 - i. Signs to be erected on the site in accordance with Australian Standard AS1742: including NO ENTRY, EXIT ONLY, NO RIGHT TURN & LEFT TURN ONLY.
 - ii. Directional arrows at the entry and exit of the development site
 - iii. Traffic Management System put in place to avoid vehicles entering the site via Monash Road.
 - iv. Use of different coloured paving to delineate the laneway, loading dock, manoeuvring area adjacent to the loading dock and the pedestrian/ shared zone adjacent to the Monash Road exit driveway.
 - e. A review of pedestrian movements at the intersection of College, Monash and Eltham Streets to determine the need (if any) for an upgrade in facilities to improve pedestrian safety at that intersection.
 - f. Preference being given to the ALDI Store for use of the loading dock during the peak morning and evening periods.
 - g. To ensure delivery vehicles do not queue or reverse across the footpath on Monash Road, compliance shall be indicated with Australian Standards AS/NZS 2890.1 Figure 3.3.

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ATTACHMENTS

1. Council's Objection.
2. Applicant response to Council's Objection.
3. Traffic Assessment prepared by Council's Traffic Consultant.