

JOINT REGIONAL PLANNING PANEL (Sydney East Region)

JRPP No	2015/SYE066
DA Number	LDA 2015/0166
Local Government Area	City of Ryde
Proposed Development	Demolition, construction of 2 residential flat buildings extending to a maximum of 3 and 5 storeys containing 160 units and basement parking for 147 cars, construction of 4 dwellings fronting David Avenue, new internal road, civil works and landscaping.
Street Address	5 Whiteside Street and 14-16 David Avenue, North Ryde
Applicant/Owner	Skylake Group Pty Ltd c/- Urbis Pty Ltd
Number of Submissions	Four (4) submissions received
Regional Development Criteria (Schedule 4A of the Act)	General Development over \$20 Million
List of All Relevant s79C(1)(a) Matters	• Environmental Planning and Assessment Regulation 2000; • Environmental Planning and Assessment Act 1979; • State Environmental Planning Policy (Major Developments) 2005; • State Environmental Planning Policy (State and Regional Development) 2011; • State Environmental Planning Policy No. 55 – Remediation of Land; • State Environmental Planning Policy (Building Sustainability Index: BASIX); • State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development; • Draft State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development; • Sydney Regional Environmental Plan (Sydney

	Harbour Catchment) 2005; • Ryde Local Environmental Plan 2014; • City of Ryde Development Control Plan 2014; and • Section 94 Development Contributions Plan 2007.
List all documents submitted with this report for the panel's consideration	Conditions of consent
Recommendation	Approval with Conditions
Report by	Andy Nixey, Senior Town Planner
Report date	18 September 2015

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

The following report is an assessment of a development application for the construction of two (2) residential flat buildings containing a total of 160 units and basement parking, and four (4) dwellings at 5 Whiteside Street & 14-16 David Avenue, North Ryde.

The proposal is a transitional major project under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The site has the benefit of Concept Approval **MP10_0165** dated 10 September 2013 with a Section 75W modification subsequently approved on 1 April 2015. The project described in this development application is generally consistent with the modified Concept Approval.

The modified Concept Plan gave approval for two (2) residential flat building envelopes, two (2) single level basement parking areas, four (4) dwellings, and road works to support the development together with landscaping and associated works. Notably, whilst the original Concept Approval included a maximum yield of 135 units for the development (condition B3), this condition was deleted as part of the Section 75W modification. As such, the density of the development is guided by the approved building envelopes rather than a specific numeric cap.

The development application proposes demolition of existing buildings and the construction 2 residential flat buildings containing a total of 160 residential units (70 x 1 bedroom, 84 x 2 bedroom and 6 x 3 bedroom) and 2 pairs of

attached dual occupancy dwellings (each of the 4 dwellings will contain 3 bedrooms). The proposed flat buildings will extend to a maximum of 5 and 3 storeys respectively whilst the dwellings will each be 2 storeys. Each flat building is provided with its own single level basement car parking area with a combined total of 147 spaces proposed whilst each dwelling will also be provided with 2 parking spaces. The application also includes an internal two-way access road (containing a further 10 parking spaces) linking Whiteside Street and David Avenue and associated landscaping, civil and public domain works.

During the notification period, Council received four (4) submissions. The submissions raise various concerns including there being no strategic land use studies to support high rise residential south of Epping Road, the increase in the quantity of residences from 135 to 164, traffic impacts, privacy, trees, appropriate form of development, and implementation of the recommendations of the Local Area Traffic Management Study (LATM Study). All of the issues raised have been addressed in the report.

Assessment of the application against the relevant planning framework, and consideration of various design matters by Council's technical departments has not identified any fundamental issues of concern. Consequently this report concludes this application is sound in terms of its design, function, and relationship with its neighbours.

This report recommends that consent be granted to this application, in accordance with conditions provided at Attachment 1.

2. APPLICATION DETAILS

Applicant: Skylake Group Pty Ltd c/- Urbis Pty Ltd

Owner: Skylake Group Pty Ltd (note: since lodgement of the DA, it is understood the site has been sold to Toga Group)

Estimated value of works: \$58,000,000

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

3. SITE DESCRIPTION & CONTEXT

The site is located approximately 12km north-west of the Sydney CBD. It is formed by 3 Lots with a consolidated size of 13,937m². The northern

boundary adjoins Epping Road, an arterial road and is approx. 124m in length. Although the north-eastern corner of the site abuts Epping Road, the boundary angles away from Epping Road along a Roads and Maritime Services (RMS) County Road Reservation. The road reserve was previously used as a works depot by RMS and is now vacant. It is understood RMS have no current plans to enact the county road which would link North Ryde and Dundas via Eastwood.

To the north of Epping Road is located Macquarie Park, a suburb containing a cluster of high technology businesses and large scale commercial buildings together with Macquarie University and Macquarie Shopping Centre. Macquarie University and Macquarie Park train stations are located within 800m of the site (1.2km walking distance). Bus services are provided along Epping Road with a bus stop on each side located in close proximity to the site.

The north-western, south-western and south-eastern boundaries adjoin low density residential properties on Whiteside Street, Parklands Road and David Avenue respectively.

Although Whiteside Street connects with Epping Road, vehicles are able to turn left from Epping Road into Whiteside Street only. Exit from Whiteside Street onto Epping Road is not permitted. Although the original Concept Application did include a proposal to allow two way access from Epping Road along Whiteside Street, this was eventually deleted from the proposal. The current DA proposes no alterations to Whiteside Street or its intersection with Epping Road.

Figure 1 below provides an aerial view of the site (outlined in red) and its context whilst photographs of the site and surrounding buildings are provided as **Figures 2, 3 and 4**.



Figure 1: Aerial photograph of the site and surrounding area (Source: D.G's Assessment Report MP10_0165)



Figure 2: Location of proposed intersection between internal access road and Whiteside Street



Figure 3: Existing dwellings to be demolished/location of proposed intersection between internal access road and David Avenue



Figure 4: View of site from Epping Road looking south-west (RMS reservation on the right side of photo)

Vehicular access at the western end of the site is proposed from Whiteside Street between the dwellings at nos 4 and 6 Whiteside (see **Figure 2** above). An internal

access road will link this access with a new vehicular access at the eastern end of the site onto David Avenue (see **Figure 3** above).

The subject site falls from east to west and is largely vacant with the exception of a dwelling at 5 Whiteside Street and a single storey dwelling is located at both 14 & 16 David Avenue. A horse riding school also operates at 5 Whiteside Street. 34 trees are located on the site and all are proposed to be removed.

4. SITE DETAILS

This DA relates to 5 Whiteside Street and 14-16 David Avenue, North Ryde. The total area of the site is 13,937m² and is legally described as follows:

Site Address	Legal Description	Area	Current Use
5 Whiteside Street	Lot 6 DP 260000	12,500m ²	Residential dwelling & horse riding school
14 David Avenue	Lot 4 DP 25688	735m ²	Residential dwelling
16 David Avenue	Lot 3 DP 25688	702m ²	Residential dwelling

Table 1: Site Details

5. PROPOSAL

The scope of works for which consent is sought comprises:

- Demolition of all existing structures across the site;
- Construction of 2 residential flat buildings as follows:

	Max. Storeys	Max. RL	No. of units	No. of basement parking spaces
Building A	5 (with 3 and 4 storey elements)	78.6 (80.6 for plant)	109	91
Building B	3 (with 2 storey elements)	71.6 (73.6 for plant)	51	56
Total	-	-	160	147

Table 2: Proposed RFB Details

The proposed unit mix is 70 x 1 bedroom, 84 x 2 bedroom, and 6 x 3 bedroom.

- New internal private access road (not to be dedicated to Council), including 10 on-street parking spaces, linking Whiteside Street and David Avenue;

- Provision of a single level basement car park below each residential flat building with car parking for 147 vehicles and access and egress to the new internal access road;
- Construction of 4 dwellings in the form of 2 pairs of attached dual occupancies fronting David Avenue. The southern pair of dwellings is denoted in the DA as **Building C** whilst the northern pair of dwellings is denoted **Building D**. Each dwelling contains 3 bedrooms and extends to 2 storeys with basement car parking proposed comprising 2 spaces for each dwelling; and
- Associated landscaping and civil works.

In total, the development will provide 164 residences and 165 car parking spaces (147 basement, 10 located on the internal access road and 8 for the attached dual occupancies). A plan illustrating the location of the proposed buildings within the site is provided in **Figure 5** below:

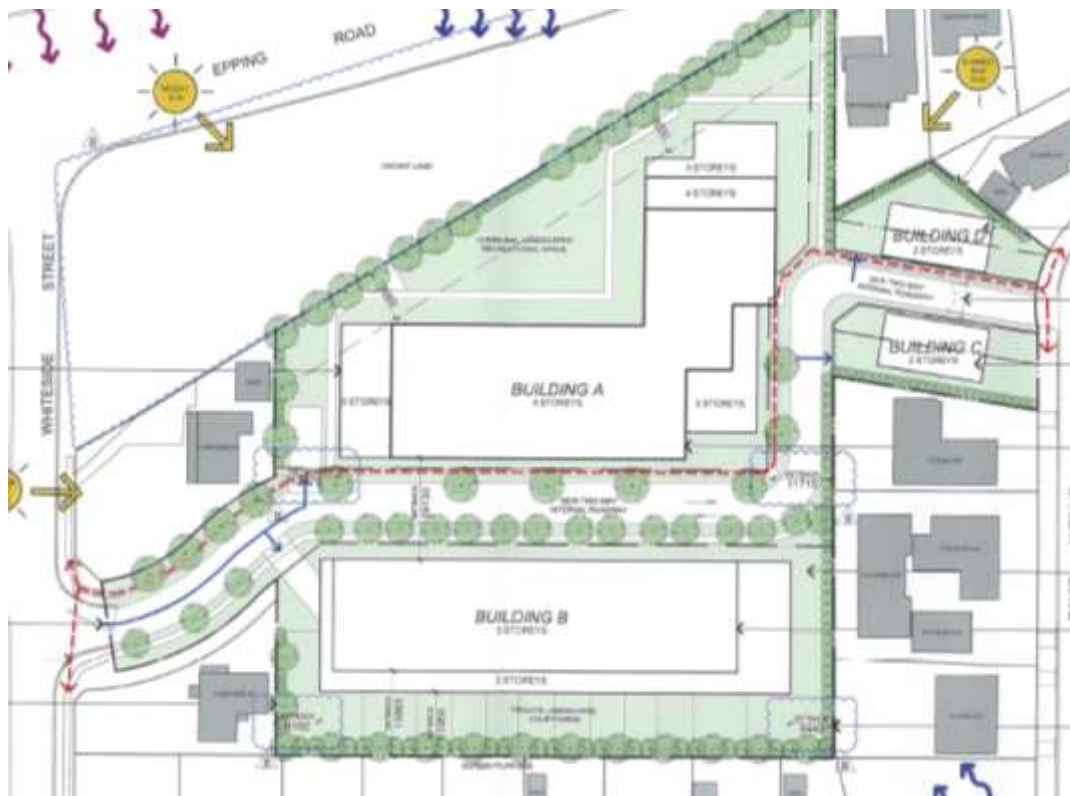


Figure 5: Site Plan (Source: DA drawing DA0-.02B)

Photomontages of the proposed development are provided in **Figures 6** and **7** below whilst **Figure 8** provides a 3D isometric perspective of the proposal.



Figure 6: Proposed development (Building A) viewed from Epping Road looking south-east (Source: SEE)



Figure 7: Proposed development (Buildings C & D with Building A behind) viewed from David Avenue (Source: SEE)



Figure 8: 3D Perspective view (Source: DA drawing DA-8.01)

6. BACKGROUND

6.1 Concept Approval

On 10 September 2013, the Planning Assessment Commission (PAC), on behalf of the Minister for Planning, approved the following under Concept Plan **MP10_0165**:

Residential flat development concept, including:

- *Use of the site for residential flat buildings;*
- *Indicative building envelopes for 4 buildings to a maximum height of RL 78.6;*
- *Limiting the maximum yield to 135 units;*
- *Two split basement levels of car parking;*
- *Road works and site access arrangements to support the development; and*
- *Landscaping and associated works.*

The indicative yield for the proposal considered by the PAC was 157 dwellings with a gross floor area (GFA) of 13,912m². In approving the Concept Plan application, the PAC imposed the following key modifications:

- Modification B1 which reduced the overall height of the building envelope of Building A from 6 storeys to part 3 and part 5 storeys;
- Modification B3 which limits the maximum number of dwellings to 135; and

- Modification B4 which requires the driveway between the dwellings fronting David Avenue to be designed to accommodate two-way traffic.

6.2 Section 75W Applications

A Section 75W Modification Application (s75W) was lodged on 31 October 2014 seeking to amend the building typology of Building B, increase the yield to 164 dwellings, amend the approved building envelopes whilst maintaining the maximum RL height and GFA approved under the original scheme and to amend the vehicular access arrangements. The modification was approved by the Acting Executive Director of Infrastructure and Industry Assessments of the Department of Planning and Environment on 1 April 2015. **MP10_0165 MOD 1** included the following modifications: -

- *amendments of building envelopes A, B, D and basement car parking envelope;*
- *amend vehicular access arrangements and inclusion of car parking rates; and*
- *amendment of balcony requirements of Building B.*

Given the s75W addressed all of the matters concerned, all conditions contained in Part B of the Concept Approval were deleted as part of the Modification including the original dwelling cap of 134. In regard to the deletion of the dwelling cap, the Department stated the following in their assessment:

'...the final overall number and mix of dwellings is best resolved at the future development application stage. In order to not pre-determine this process, the Department recommends that the dwelling cap is deleted.'

6.3 Pre-Lodgement

A formal pre-lodgement and Urban Design Review Panel (UDRP) meeting took place on 13 October 2014 to discuss the proposed s75W amendments. A second pre-lodgement meeting was held on 9 March 2015. A number of issues were raised predominantly in regard to internal design, privacy, traffic generation, vehicle access and parking, size of the loading dock, and waste management. The submitted DA has addressed all of the matters raised.

6.4 Current Development Application

The development application was submitted to Council on 10 April 2015. A letter was sent to the applicant on 5 June 2015 requesting additional information in respect of the following issues:

- Setbacks;
- Traffic;
- Public Domain
- Waste;
- Drainage
- Landscaping; and
- Internal layout.

Amended architectural plans and additional information were subsequently received by Council on 7 July 2015. The amended plans involved the following key changes:

- Clarification of building setbacks;
- Alterations to basement to add bulky waste storage room and revise size of waste storage rooms;
- 2m high brick wall added to eastern boundary with 166 Epping Road (as requested by owner of 166); and
- Revised landscape plan.

Additional information was also received with regard to traffic. Revised shadow diagrams were also received.

On the basis of the minor nature of the amendments, it was considered that the revised plans did not require renotification. However, given the shadow diagrams originally submitted with the DA were incorrect with regard to the overshadowing of neighbouring properties at 9am in midwinter, affected properties in Parklands Road and David Avenue were notified of the revised shadow diagrams on 14 July 2015. No submissions were received in response to notification of the revised shadow diagrams.

Further amended plans were received in August and September 2015 following further comments from Council. The changes related only to minor alterations, landscaping and deletion of works shown within RMS land and did not require renotification.

6.5 Consistency with the Concept Approval Plans

The subject application is based on Approved Concept Plan **MP10_0165 MOD 1**. Under Clause 3B of Schedule 6A of the EP&A Act, a consent authority must not grant consent for development under Part 4 of the Act unless it is satisfied that the development is generally consistent with the terms of the relevant Approved Concept Plan. A list of the applicable Conditions of Consent and Statement of

Commitments from the Approved Concept Plan (as modified) has been discussed below.

Schedule 2 of the Concept Approval set out various matters to be satisfied by any future development application to implement that consent whilst Schedule 3 sets out the future environmental assessment requirements. These matters are addressed in **Table 3** below:

Schedule 2	
Conditions	Comment
A1. Development Description	The DA is considered consistent with the development description and Concept Plan drawings as revised by the most recent section 75W Application.
A2. Development in Accordance with Plans and Documentation	The DA is generally consistent with the drawings, Environmental Assessment, and the Statement of Commitments approved with the most recent section 75W Application.
A3. Building Envelopes and Separation	Complies. The proposed building footprints and setbacks are consistent with the approved Envelope Plan DA-0.03.
A4. Private Open Space	Generally complies. 5 (12%) of the 41 ground floor units do not meet the specified minimum private open space requirement of 25m ² with areas for these units ranging between 19m ² for 1 unit and 23m ² for the other 4. The unit provided with 19m ² is a 1 bedroom unit and the courtyard is north facing and adjoins an area of communal open space. Notably each of these courtyards exceeds the minimum requirement of 15m ² for ground level units as stipulated in the current SEPP65 Apartment Design Guide. Overall the non-compliance is considered minor and the subject 5 units will achieve an acceptable, useable area of private open space and amenity.
A5. Maximum Height	Complies. The maximum height of the development is consistent with the approved Envelope Plan DA-0.03 including the maximum RLs for plant and lift overruns.
A6. Adaptable Units	Complies. 17 adaptable units (10.7%) are proposed.
A7. Bus Bay – Epping Road (no approval)	Complies. A bus bay has not been included in the application.

Schedule 2	
Conditions	Comment
A8. Access to County Road Reservation	Condition 2(a) is recommended to delete pedestrian gates indicated on the northern boundary shown on the landscape and architectural plans. Subject to this condition, no vehicular or pedestrian access is proposed to the County Road reservation.
A8A. Works Within Epping Road Road Reserve	Complies. No works are proposed within the Epping Road Road Reserve.
A9. Lapsing of Approval	Noted.
A10. Inconsistency Between Documentation	Noted.
Schedule 3	
Future Environmental Assessment Requirements	Comment
1. Building Design	The development is generally consistent with the provisions of SEPP 65 and the Residential Flat Design Code (RFDC). Any departures from the RFDC guidelines (see Section 8.8 of this report) are minor and the desired outcomes nevertheless achieved. The proposal achieves appropriate design excellence and is supported by Council's UDRP. The proposed building forms incorporate sufficient articulation and modulation to provide visual interest, quality and definition to street walls and are consistent with the approved concept plans. The proposal incorporates appropriate durable materials to mitigate road traffic noise. An appropriate acoustic assessment has been submitted with the application.
2. Privacy	The DA demonstrates that adequate privacy and screening have been provided to minimise potential privacy impacts between buildings on the site and to adjoining properties.
3. Landscaping	An appropriate landscape plan has been submitted and includes suitable deep soil planting zones and mature screen planting along all boundaries. Suitable local endemic species are proposed. The proposal has been reviewed by Council's Consultant Landscape Architect and is supported subject to a condition pertaining to arborist supervision (see condition 88).

Schedule 2	
Conditions	Comment
4. Contamination	A suitable Contamination Assessment Report has been submitted. The site is considered appropriate for residential use and the proposed form of development.
5. Construction and Operational Impacts	An acceptable Construction Management Plan, Stormwater Management Plan, Acoustic Report and Geotechnical Report have been submitted with the application. The required Dilapidation surveys are subject to conditions 42, 81 and 124.
6. ESD	An acceptable ESD report has been submitted with the application.
7. BASIX Certificate – Details to be Lodged with a Development Application	The applicant has submitted BASIX Certificates for the RFBs and dwellings which provide the development with a satisfactory target rating. Appropriate conditions will be imposed requiring compliance with the BASIX commitments as detailed within the Certificate (see conditions 4, 73 and 100).
8. Public Domain	The proposal includes the required footpath upgrading works and removal of redundant driveways and replacement with kerb and gutter to match existing. Condition 54 is recommended in this regard.
9. Car Parking	Condition 9 specifies the following <i>maximum</i> parking rates for the development: • 0.6 spaces for one bedroom dwellings; • 0.9 spaces for two bedroom dwellings; • 1.4 spaces for three bedroom dwellings; and • 1 visitor parking spaces per 5 dwellings. On the basis of the above rates, the maximum parking rate in relation to the proposed dwelling mix is as follows: • 0.6 x 70 one bedroom = 42 • 0.9 x 84 two bedroom = 75.6 (76) • 1.4 x 10 three bedroom = 14 • Visitor parking: 164 / 5 = 32.8 (33) Total: 165 The proposed development incorporates the following parking arrangements:

Schedule 2	
Conditions	Comment
	- Basement car park = 147 spaces - Internal access road = 10 spaces - Dual occupancies = 8 spaces Total: 165 As such, the total number of car parking spaces, including visitor parking, does not exceed the maximum specified rate of 165 for the proposed number and mix of units and is acceptable. In terms of the allocation of spaces between resident and visitor, the following is proposed: 124 resident (in RFB car parks); 8 resident (for dual occupancies); 32 visitor (23 in RFB car parks and 9 on internal access road); and 1 car share (on internal access road). Total: 165 The proposed car share space is as per the recommendation of the required Sustainable Travel Plan (see consideration of condition 10 below). However, as also detailed below, the provision of 2 car share spaces is considered more appropriate with regard to the sustainable travel aims of the development. As such, condition 17 of the recommended approval incorporates the following parking allocations: 124 resident (in RFB car parks); 8 resident (for dual occupancies); 31 visitor (23 in RFB car parks and 8 on internal access road); and 2 car share (on internal access road). Total: 165
10. Sustainable Travel Plan	An acceptable Sustainable Travel Plan has been submitted with the application. As detailed in the consideration of condition 9 above, it is however recommended that the number of car share spaces be increased from 1 to 2 (see condition 17). This is considered appropriate given the parking rates contained in Part 4.5 of DCP 2014 (Macquarie Park Corridor) are the rates on which the Concept Approval relies and these rates require 1 car share space per 50 parking spaces. 2 car share spaces have been recommended in

Schedule 2	
Conditions	Comment
	this instance by Council's Senior Sustainability Coordinator and is considered reasonable in this instance given the sites proximity to Macquarie Park and the desired sustainability travel outcomes of the development. Conditions 129 and 133 are also recommended in relation to satisfying the recommendations of the Plan and with regard to monitoring and reporting.
11. Site Access	The proposal is consistent with the site access requirements.
12. Vehicular Access	The requirements of this condition relate to the originally proposed access arrangements on Whiteside Street which included the widening of the northern section to facilitate two-way operation. However, due to concerns raised in relation to 'rat running' through the area, the modified application proposed no changes to the existing access arrangements onto Whiteside Street. Accordingly, the subject DA proposal incorporates no changes to the Epping Road/Whiteside Street intersection and the requirements of condition 12 are not applicable to the proposal.
13. Access Driveway on David Avenue	A compliant two-way access driveway is proposed to David Avenue.
14. Local Area Traffic Management Study (LATM Study)	A suitable LATM Study has been submitted with the application. The Study concludes that the proposed development will not generate traffic impacts that will require mitigation works. As required, recommendations are nevertheless made in relation to potential works to mitigate existing traffic issues within the local road network. Council's Traffic Engineer accepts the findings of the Study.
15. Improvements to Pedestrian and Bicycle Network and Facilities	A suitable report reviewing the existing pedestrian and bicycle network and facilities and including practical recommendations for Council's information has been submitted with the application. As required, an appropriate Crime Prevention Through Environmental Design Assessment has also been submitted with the application.
16. Stormwater & Drainage	The subject DA is accompanied by a detailed Stormwater Management, Flood Assessment and Infrastructure Servicing Report which have been

Schedule 2	
Conditions	Comment
	reviewed by Council's Drainage Engineer and Senior Development Engineer and no objection is raised. Conditions 48 and 51 are recommended in this regard.
17. Sydney Water Requirements	Sydney Water has raised no concerns with the application and the proposal is understood to be consistent with Sydney Water requirements.
18. Service Provisions	Appropriate service provision information has been submitted with the application.
19. Groundwater	Appropriate information has been submitted with the application to ascertain that the proposal will not impact on groundwater dependant ecosystems.
20. Waste Servicing	A suitable on-site waste storage area is proposed.
21. Staging of Development	Only one stage is proposed.
22. Development Contributions	Condition 32 is recommended in regard to the Section 94 contributions payable for the development.
Proponent's Statement of Commitments	
• Contributions	Condition 32 is recommended in regard to the Section 94 contributions payable for the development.
• Car share	1 on-street parking space has been allocated as a car share space. Condition 17 requires this to be increased to 2 spaces in accordance with comments received from Council's Senior Sustainability Coordinator.
• Bicycle facilities	Appropriate bicycle facilities are included in the proposed development including basement storage for residents and 18 at-grade visitor parking spaces.
• RTA reserve	RMS does not consent to any works on its land. As such, it is not possible for the applicant to undertake the commitment to provide upgrade works to the adjoining county road reservation.
• Community Garden	A community garden has been included within the submitted landscaping scheme to the east of Building B.
• WSUD	The proposal includes appropriate WSUD measures.
• Transport Management	The applicant will accept a condition of consent in relation to the requirement for a one-off yearly rail

Schedule 2	
Conditions	Comment
	pass from Macquarie Park to the City to be provided to purchasers of each unit. This is one of the strategies contained in the submitted Sustainable Action Plan. Condition 129 requires compliance with the recommended strategies.
• ESD	The proposal includes appropriate ESD measures.
• Construction Management Plan	An appropriate Construction Management Plan is to be submitted to Council for approval prior to issue of a Construction Certificate (see condition 37).
• Compliance with BCA	All buildings have been designed to comply with the BCA. Condition 3 also requires compliance.
• Augmentation of services	The applicant states that the developer will be responsible for the augmentation of any services required to be updated to accommodate the proposed development.
• Noise mitigation	An appropriate Noise Impact Assessment has been submitted with the application. Conditions 64 and 110 are recommended in relation to compliance with the recommendations of the assessment.
• Remediation of Land	An appropriate contamination report has been submitted with the application. Condition 56 is recommended in relation to remediation.
• Façade Design	The proposed façade design complies with the commitments and is acceptable to the UDRP.

Table 3: Consistency with Concept Approval

7. APPLICABLE PLANNING CONTROLS

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- State Environmental Planning Policy (Major Developments) 2005;
- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX);
- State Environmental Planning Policy (Infrastructure) 2007);
- State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;

- Draft State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;
- Ryde Local Environmental Plan 2014;
- City of Ryde Development Control Plan 2014; and
- Section 94 Development Contributions Plan 2007.

8. PLANNING ASSESSMENT

8.1 Environmental Planning and Assessment Act 1979

Section - 5A Threatened species, populations or ecological communities, or habitats

This section of this Act requires a range of matters to be taken into account in deciding whether there is likely to be a significant effect on threatened species, populations or ecological communities, or their habitats.

Noting the review undertaken for this development application, it is apparent the site does not have any ecological attributes which, if lost, would impact upon any threatened species, population, ecological community or habitat.

Section 79C Evaluation

All relevant matters for consideration under Section 79C have been addressed in the assessment of this application.

8.2 Environmental Planning and Assessment Regulation 2000

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

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

8.3 State Environmental Planning Policy (Major Developments) 2005

Part 3A of the Act, as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A to the Act, continues to apply to 'transitional Part 3A projects'. As the Director-General's environmental assessment requirements for

this project were issued prior to 8 April 2011, the project is a transitional Part 3A project.

No additional matters arise under this Policy for the purposes of the assessment of this application.

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

This proposal has a Capital Investment Value of more than \$20 million, and consequently the Joint Regional Planning Panel is the consent authority for this application.

8.5 State Environmental Planning Policy No 55 – Remediation of Land

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

A 'Preliminary Contamination Investigation' was submitted with the Concept Plan Application and a further 'Detailed Site (Contamination) Investigation' has been submitted with the DA. Both reports conclude that 'widespread contamination at the site is unlikely' and that the site is considered suitable for the proposed development subject to recommendations.

Accordingly, subject to condition 56 being imposed in relation to remediation, there would appear to be minimal risk of contamination and the site is considered suitable for the proposed development.

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

The Policy seeks to ensure that new dwellings are designed to use less water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets, which are based on the NSW average benchmark. The Policy also sets minimum performance levels for the thermal comfort of a dwelling.

This application was accompanied by BASIX Certificate Nos 614900M, 614910M, 614912M and 614919M which confirms that required targets will be met.

Appropriate conditions are to be imposed requiring compliance with the BASIX commitments detailed within the Certificates (see conditions 4, 73 and 100).

8.7 State Environmental Planning Policy (Infrastructure) 2007

The Infrastructure SEPP applies to the subject site given the northern boundary of the site abuts Epping Road, a classified Road. In addition, the development is classified as a 'Traffic Generating Development' as it includes more than 75 units where access is required within 90m of Epping Road. **Table 4** below contains the provisions of the Infrastructure SEPP applicable to this DA:

Infrastructure SEPP	Comments	Complies?
Clause 101 Development with frontage to a classified road (1) The objectives of this clause are: - To ensure that new development does not compromise the effective and ongoing operation and function of classified roads; and - To prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.	The DA was referred to RMS for comment. RMS has raised no objection to the proposal and comments provided have been addressed in the assessment of the application. The acoustic report submitted by the applicant provides a number of recommendations to ensure the impact of noise from Epping Road is minimised. These recommendations may be imposed as conditions of consent.	Yes
(2) The consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied that: - Where practicable, vehicular access to the land is provided by a road, other than a classified road; and - The safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of: - The design of vehicular access to the land, or - 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 development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed or includes measures, to ameliorate potential traffic noise or	Vehicular access to the site is provided from Whiteside Street and from David Avenue. No changes are proposed to existing intersections with Epping Road and there would appear to be no basis to suggest the development will impact on the safety, efficiency and ongoing safety of Epping Road as a result of the proposed development. The acoustic report submitted with the application provides a number of recommendations to minimise adverse impacts of Epping Road	Yes Yes Yes - may be appropriately conditioned.

Infrastructure SEPP	Comments	Complies?
vehicle emissions within the site of the development arising from the adjacent classified road.	on future occupants.	
Clause 102 Impact of road noise or vibration on non-road development • Before determining a development application for development to which this clause applies, the consent authority must take into consideration any guidelines that are issued by the Director-General for the purposes of this clause and published in the Gazette. • If the development is for the purposes of a building for residential use, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq measures are not exceeded: – In any bedroom in the building – 35 dB(A) at any time between 10pm and 7am – Anywhere else in the building (other than a garage, kitchen, bathroom or hallway) – 40dB(A) at any time.	Epping Road is a State classified Road. As noted above, an acoustic report has been submitted and this includes a number of recommendations to ensure compliance with the appropriate noise levels for residential development. These recommendations may be imposed as conditions of consent.	Yes - may be appropriately conditioned.
Clause 104 Traffic generating development • The proposed development, being a residential flat building development containing more than 75 dwellings (and with parking for more than 50 vehicles), and with access to a road that connects to a classified road (within 90 metres) is considered traffic generating development. • Before determining a DA for which this clause applies the consent authority must: – Take into consideration any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless before the 21 days have passed, the RTA advises that it will not be making a submission), – The accessibility of the site concerned, and – Take into consideration any potential	The proposed development is considered 'traffic generating development'. RMS has raised no objection to the proposal. Satisfactory. Satisfactory.	Noted Yes Yes Yes

Infrastructure SEPP	Comments	Complies?
traffic safety, road congestion or parking implications of the development.		

Table 4: Consistency with Infrastructure SEPP

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

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

- Urban Design Review Panel (prior to lodgement);
- The 10 SEPP 65 Design Quality Principles; and
- The NSW Residential Flat Design Code guidelines.

Urban Design Review Panel

As detailed in Section 6.3, a pre-lodgement UDRP meeting took place on 13 October 2014. A number of issues were raised predominantly in regard to internal design, privacy, traffic generation, vehicle access and parking, size of the loading dock, and waste management.

The application is considered to have satisfactorily addressed the comments and suggestions raised by the UDRP and accordingly it was not considered necessary to refer the current DA back to the Panel for further comment.

Design Quality Principles

Part 2 of the Policy introduces 10 design quality principles. These principles do not generate design solutions, but provide a guide to achieving good design and the means of evaluating the merits of proposed solutions.

As required by the Environmental Planning and Assessment Regulation, this application is accompanied by a response to the design principles, as prepared by the project architect.

Table 5 below provides an assessment of the proposal against the 10 design principles of the SEPP:

Design Quality Principle	Comment
Context Good design responds and	Assessed as appropriate by the Department of

Design Quality Principle	Comment
contributes to its context. Context can be defined as the key natural and built features of an area.	Planning and Infrastructure via the Concept Plan Approval for MP10_0165 MOD 1. The DA is consistent with that Concept Plan approval as modified.
Scale Good design provides an appropriate scale in terms of the bulk and height that suits the scale of the street and the surrounding buildings.	As above.
Built Form Good design achieves an appropriate built form for a site and the building's purpose, in terms of building alignments, proportions, building type and the manipulation of building elements.	As above.
Density Good design has a density appropriate for a site and its context, in terms of floor space yields (or number of units or residents).	As above.
Resource, energy and water efficiency Good design makes efficient use of natural resources, energy and water throughout its full life cycle, including construction.	Energy and water efficiency targets under SEPP (BASIX) 2004 are achieved. A Site Waste Minimisation and Management Plan has been submitted and assessed as acceptable by Council's Public Works Section. The design is generally consistent with best practice 'rules of thumb' for cross ventilation and solar access under the Residential Flat Design Code.
Landscape Landscape design enhances the development's natural environmental performance by co-ordinating water and soil management, solar access, micro-climate, tree canopy and habitat values. It contributes to the positive image and contextual fit of development through respect for streetscape and neighbourhood character, or desired future character.	The proposed landscape works within the site have been assessed as consistent with the Concept Plan approval and satisfactory for SEPP 65/RFDC purposes by Council's Consultant Landscape Architect.

Design Quality Principle	Comment
Amenity Good design provides amenity through the physical, spatial and environmental quality of a development.	Amenity for the apartments is satisfactory in terms of unit size, access to sunlight, natural ventilation, visual and acoustic privacy, storage, indoor and outdoor space, and ease of access.
Safety and Security Good design optimises safety and security, both internal to the development and for the public domain.	Appropriate Crime Prevention through Environmental Design (CPTED) outcomes can be achieved through conditions (see conditions 115 to 123).
Social dimensions and housing affordability Good design responds to the social context and needs of the local community in terms of lifestyles, affordability, and access to social facilities. New developments should optimise the provision of housing to suit the social mix and needs in the neighbourhood or, in the case of precincts undergoing transition, provide for the desired future community.	The proposal comprises 160 residential units as follows: • 70 x 1 bedroom units; • 84 x 2 bedroom units; and • 6 x 3 bedroom units. Of those, 17 units (10.6%) will be adaptable. This is considered to be a suitable mix of housing and is consistent with the Concept Approval (as modified).
Aesthetics Quality aesthetics require the appropriate composition of building elements, textures, materials and colours and reflect the use, internal design and structure of the development. Aesthetics should respond to the environment and context, particularly to desirable elements of the existing streetscape or, in precincts undergoing transition, contribute to the desired future character of the area.	The composition of building elements and materials is satisfactory and is considered reflective of the required design excellence outcome for this development.

Table 5: Design Principles

Residential Flat Design Code

The SEPP requires consideration of the "Residential Flat Design Code" (RFDC) which supports the 10 design quality principles by giving greater detail as to how

those principles might be achieved. **Table 6** below provides an assessment of the proposal against the matters in the RFDC:

Part 01 – Local Context		
	Comments	Consistent
Building Height Where there is an existing floor space ratio (FSR), test height controls against it to ensure a good fit.	The proposed building height and GFA is consistent with the approved Concept Plan (as modified). The LEP 2014 FSR control is not applicable to the proposal.	N/A
Building Depth In general, an apartment building depth of 10-18 metres is appropriate. Developments that propose wider than 18m must demonstrate how satisfactory day lighting and natural ventilation are to be achieved.	Building depths generally range between 16m and 20m with some minor elements extending to a depth of 21m. The proposed depths are consistent with building envelopes approved with the Concept Plan (as modified). Notwithstanding the depths proposed, the design provides for 60% of units achieving cross ventilation and 70% of units receiving at least 3 hours of solar access in midwinter. Accordingly, the proposed building depths are considered acceptable.	No – Consistent with Concept Approval
Building Separation Building separation for buildings up to 4 storeys or up to 12 metres should be: -12m between habitable rooms/balconies -9m between habitable/balconies and non-habitable rooms -6m between non-habitable rooms. Building separation for buildings up to 8 storeys or up to 25 metres should be: -18m between habitable rooms/balconies -13m between habitable/balconies and non-habitable rooms -9m between non-habitable rooms.	The proposed building separation distances are consistent with the approved Concept Plan (as modified). A separation distance of 19.3m is proposed between Building A and Building B. Compliant building separation is proposed between the proposed flat buildings and to adjoining sites.	Yes Yes

Part 01 – Local Context		
	Comments	Consistent
Developments that propose less distance must demonstrate that adequate daylight access, urban form and visual and acoustic privacy has been achieved.		
Street Setbacks Identify the desired streetscape character. In general, no part of the building should encroach into a setback area.	The siting of the proposed flat buildings is consistent with the approved Concept Plan (as modified). The buildings do not front surrounding streets whilst a 10m setback is proposed to the RMS County Road reserve (and Epping Road beyond) to the north. Extensive landscaping, including significant trees, is proposed around the site boundaries.	Yes
Side and Rear Setbacks Relate side setbacks to existing streetscape patterns. These controls should be developed in conjunction with building separation, open space and deep soil zone controls. In general, no part of the building should encroach into a setback area.	The proposed setbacks to the adjoining boundaries with neighbouring properties are fully consistent with the approved Concept Plan (as modified) as modified. This includes a north-western setback of 12m between Building A and the rear of 4 Whiteside Street and a south-eastern setback of 11.7m to the side of 166 Epping Road. In addition, a setback of 14m is proposed between Building A and the rear of 12 David Avenue to the south-east. Building A is 3 Storeys high at all of these locations. With regard to Building B and the south-western boundary (rear of properties on Parklands Road), a setback of 12m is proposed for the lower 2 storeys and 15.8 for the 3rd storey. To the north-western boundary with the rear of 5 Whiteside Street, the respective setbacks for the 2 and 3 storey elements are 8.1m and 10.7m. To the south-eastern boundary with the rear of properties in David Avenue, the respective setbacks are 8.4m	Yes

Part 01 – Local Context		
	Comments	Consistent
	and 18.5m. Overall, the proposed setbacks comply with the approved Concept Plan (as modified) and suitable deep soil planting and landscaping is proposed within these setback areas.	
Floor Space Ratio Test the desired built form outcome against the proposed floor space ratio to ensure consistency with building height, building footprint, the three dimensional building envelope and open space requirements.	As per the approved Concept Plan (as modified), no floor space ratio control applies to the site. However, building setbacks, heights and envelopes are consistent with the modified Concept Approval.	N/A

Part 02 – Site Design		
	Comments	Consistent
Deep Soil Zones A minimum of 25% of the open space area of a site should be deep soil zone. Exceptions may be made in urban areas where sites are built out and there is no capacity for water infiltration.	Approximately 83.7% (4,696m ²) of the proposed open space area for the development is available as deep soil zone.	Yes
Fences and Walls Fences and walls are to respond to the identified architectural character for the street and area. They are also to delineate the private and public domain without compromising safety and security.	The submitted plans include details of proposed fencing including new retaining walls and paling fencing. At the request of the owner of 166 Epping Road, the proposal has been amended to include a 2m high wall along the south-eastern boundary of the site adjoining 166. Condition 65 is recommended in relation to fencing.	Yes
Landscape Design Landscaping is to improve the amenity of open spaces as well as contribute to the streetscape character.	Council's Consultant Landscape Architect has confirmed the proposed landscape plans are acceptable.	Yes
Open Space The area of communal open space required should generally be at	The distribution of communal open space is consistent the approved	No – Consistent

Part 02 – Site Design		
	Comments	Consistent
least between 25% and 30% of the site area. Where developments are unable to achieve the recommended communal open space, they must demonstrate that residential amenity is provided in the form of increased private open space and/or in a contribution to public open space. The minimum recommended area of private open space for each apartment at ground level is 25m² with a minimum preferred dimension in one direction of 4m.	Concept Plan (as modified). This equates to approximately 8.8% (1,232m²) of the site. Private open spaces are provided for each unit in the form of a balcony or terrace for above ground units and courtyard and garden areas for ground floor units. All terrace areas and balconies are of a useable size and all balconies have a minimum depth of approximately 2m. 5 ground level units are provided with courtyard areas between 19m² and 23m². Given each of these units contain only 1 bedroom and the courtyard configuration is consistent with the approved Concept Plan (as modified), this minor non-compliance are considered acceptable.	with Concept Approval
Orientation Optimise solar access to living areas and associated private open spaces by orientating them to the north and contribute positively to the streetscape character.	The building envelopes and orientation are consistent with the approved Concept Plan (as modified). 70% of the units will achieve a minimum of 3 hours solar access.	Yes
Stormwater Management Reduce the volume impact of stormwater on infrastructure by retaining it on site.	Council's Senior Development Engineer is satisfied with arrangements for the collection and disposal of stormwater, subject to conditions (see conditions 46, 47, 48, 51, 97, 99, 101 and 102).	Yes
Safety Optimise the visibility, functionality and safety of building entrances. Improve the opportunities for casual surveillance and minimise opportunities for concealment.	The design properly responds to the principles which underpin CEPTED considerations. Conditions of consent have been included to reflect appropriate safety and security measures (see conditions 115 to 123).	Yes
Visual Privacy		

Part 02 – Site Design		
	Comments	Consistent
The building separation requirements should be adopted.	Separation distances are satisfactory, noting the building envelopes are consistent with the approved Concept Plan (as modified). As detailed in Section 8.14 of this report, suitable privacy mitigation measures have been incorporated into the proposed development and significant boundary landscape planting is proposed. Overall it is considered that there will be no unreasonable privacy impacts to neighbouring properties arising from the proposed development.	Yes
Building Entry Ensure equal access to all. Developments are required to provide safe and secure access. The development should achieve clear lines of transition between the public street and shared private, circulation space and the apartment.	Equitable and secure access is available onto the site and within the development. The Access Assessment Report accompanying the application includes a number of recommendations necessary to ensure that relevant standards are met in terms of equitable access. These issues can be addressed at construction certificate stage and condition 66 is recommended in this regard.	Yes
Parking Determine the appropriate car parking numbers. Where possible underground car parking should be provided.	As proposed, the development provides 147 basement parking spaces being: • 124 resident spaces (including 18 adaptable); and • 23 visitor spaces A further 8 visitor parking spaces and 2 car share spaces are to be located on the northern side of the internal access road. Council's Senior Development Engineer is satisfied with the recommended parking supply and allocation and conditions 17 and 132 are recommended in this regard. Appropriate bicycle facilities are	Yes

Part 02 – Site Design		
	Comments	Consistent
	also included in the proposed development including basement storage for residents and 18 at-grade visitor parking spaces.	
Pedestrian Access Provide high quality accessible routes to public and semi-public areas of the building and the site. Maximise the number of accessible, visitable and adaptable apartments in the building.	The development provides accessible paths of travel within the building and to public areas. 17 (10.6%) adaptable apartments are provided. Condition 67 is recommended in this regard.	Yes
Vehicle Access To ensure that the potential for pedestrian / vehicle conflicts is minimised. The width of driveways should be limited to 6 metres. Vehicular entries should be located away from main pedestrian entries and on secondary streets.	All residential vehicle access to the respective basement car parks of the 2 flat buildings will be from the new internal access road. This is consistent with the approved Concept Plan (as modified) and is considered acceptable with regard to minimising vehicle/pedestrian conflicts. Although the width of the driveways extend to 6.1m, this non-compliance is highly negligible and Council's Senior Development Engineer is satisfied with the proposed access arrangements.	Yes

Part 03 – Building Design		
	Comments	Consistent
Apartment Layout Single aspect apartments should be limited in depth to 8m from a window.	Approx. 50% of single aspect units comply with 50% having a depth of 8.8m. The extent of the non-compliance is considered minor and the overall proposed unit layout is reasonable and responds satisfactorily to the orientation and location of the approved building envelopes.	No - Acceptable
The back of kitchen should be no more than 8m from a window	The back of the kitchen is no more than 8m from a window for approx. 50% of units with a distance of 8.8m for the remaining 50%. Given non-compliant kitchens are no more	No - Acceptable

Part 03 – Building Design		
	Comments	Consistent
The minimum sizes of the apartments should achieve the following; 1 bedroom – 50m² 2 bedroom – 70m² 3 bedroom – 95m²	than 8.5m from a window. Again, the non-compliance is not considered significant and the proposed unit layouts are considered reasonable and acceptable. All apartments exceed the minimum size requirements with the exception of 4 x 2 bedroom units which have a proposed size of 68m². This is consistent with the floor areas of the units approved as part of the Concept Plan (as modified). It is further noted that the non-compliance is numerically small, relates to only 2.5% of units, and the subject units are all dual aspect and north-facing. Accordingly, the application is considered acceptable in this regard.	No – Consistent with Concept Approval
Apartment Mix The development should provide a variety of types.	The proposal comprises 160 residential units as follows: • 70 x 1 bedroom units; • 84 x 2 bedroom units; and • 6 x 3 bedroom units. Of those, 17 units (10.6%) will be adaptable. Overall, the proposed mix is considered reasonable and is consistent with the Concept Approval (as modified).	Yes
Balconies Where private open space is not provided, primary balconies with a minimum depth of 2m should be provided.	Each unit is provided with a primary balcony that is accessed from the main living areas. All balconies have a minimum depth of 2 metres.	Yes
Ceiling Heights The following recommended dimensions are measured from finished floor level (FFL) to finished ceiling level FCL).	A minimum 2.7m floor to ceiling height is proposed.	Yes

Part 03 – Building Design		
	Comments	Consistent
in general, 2.7m minimum for all habitable rooms on all floors, 2.4m is the preferred minimum for all non-habitable rooms, however 2.25m is permitted.		
Flexibility Provide apartment layouts which accommodate the changing use of rooms.	Floor plates are considered satisfactory.	Yes
Ground Floor Apartments Optimise the number of ground floor apartments with separate entries and consider requiring an appropriate percentage of accessible units. This relates to the desired streetscape and topography of the site. Provide ground floor apartments with access to private open space, preferably as a terrace or garden.	Ground floor units have been provided with separate street entries or access from the communal open space where possible.	Yes
Internal Circulation In general, where units are arranged off a double-loaded corridor, the number of units accessible from a single core/corridor should be limited to eight. Increase amenity and safety of circulation spaces by providing generous corridor widths and ceiling heights, appropriate levels of lighting including the use of natural daylight.	A maximum of 9 units are proposed from a single core/corridor. This is compliant with the approved Concept Plan (as amended) and accordingly the minor non-compliance is not considered material. Achieved.	No – Consistent with Concept Approval Yes
Storage In addition to kitchen cupboards and bedroom wardrobes, provide accessible storage facilities at the following rates: - studio apartments - 6.0m³ - one-bedroom apartments - 6.0m³ - two-bedroom apartments - 8.0m³ - three-bedroom apartments - 10.0m³ Locate storage conveniently for apartments. Options include	A review of the submitted plans indicates the development is capable of complying with storage requirements. Notably all units will be provided with a storage cage within the basement car park. Subject to a condition being imposed requiring minimum storage rates for each unit to be complied with including dedicated storage areas being provided at ground	Yes

Part 03 – Building Design		
	Comments	Consistent
providing at least 50% within each respective apartment, dedicated storage rooms on each floor or dedicated storage in the basement.	level where necessary, the application is considered acceptable in this regard (see condition 71).	
Acoustic Privacy Apartments to be arranged to minimise noise transitions.	The development has been designed to minimise potential noise transitions between apartments. Conditions 64 and 110 will ensure compliance with relevant acoustic requirements in this regard.	Yes
Daylight Access Living rooms and private open spaces for at least 70% of apartments in a development should receive a minimum of three hours direct sunlight between 9.00am and 3.00pm in mid-winter. In dense urban areas a minimum of two hours may be acceptable. Limit the number of single aspect apartments with a southerly aspect to a maximum of 10%	70% of units will achieve 3hrs solar access in midwinter to living rooms and open space. 20.7% (34) units are single aspect south facing. The location, size and orientation of the flat buildings as well as the overall unit sizes and layout within the buildings is as per the approved Concept Plan (as modified). Based on the approved plans, it is evident that the proposed development would not comply with the 10% requirement. Notwithstanding their southerly orientation, it is considered the units will achieve satisfactory levels of residential amenity and energy efficiency.	Yes No – Consistent with Concept Approval
Natural Ventilation Building depths which support natural ventilation typically range from 10 to 18 metres. 60% of residential units should be naturally cross ventilated.	The proposed building depths and apartment layouts support natural ventilation. 60% (96 units) – Achieved.	Yes Yes
Awnings		

Part 03 – Building Design		
	Comments	Consistent
Contribute to the legibility of the residential flat development and amenity of the public domain by locating awnings over building entries.	Awnings are provided over each buildings main entry point.	Yes
Facades Facades are to be of appropriate scale, rhythm and proportion which respond to the building's use and the desired contextual character.	The facade composition and mix of materials is satisfactory.	Yes
Roof Design Roof design is to relate to the desired built form as well as the size and scale of the building.	Satisfactory.	Yes
Energy Efficiency Incorporate passive solar design techniques to optimize heat storage in winter and heat transfer in summer. Improve the control of mechanical space heating and cooling.	The energy efficiency of the buildings is consistent with the requirements under BASIX.	Yes
Maintenance The design of the development is to ensure long life and ease of maintenance.	Satisfactory.	Yes
Waste Management A waste management plan is to be submitted with the development application.	A waste management plan has been submitted with the application. Conditions 131 and 136 to 139 are recommended with regard to waste management.	Yes
Water Conservation Reduce mains consumption of potable water. Reduce quantity of urban stormwater runoff.	The water conservation methods of the buildings are consistent with the requirements under BASIX.	Yes

Table 6: RFDC Compliance

8.9 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

This Plan, now a deemed State Environmental Planning Policy, applies to the whole of the Ryde local government area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the

foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the distance of the site from the nearest point of Sydney Harbour, the built environment between the waterways and the site, and the alignment of roads between the waterways and the site, it is not considered the proposed development will have a significant visual impact on Sydney Harbour and there are no specific controls that directly apply to this proposal.

8.10 Draft State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development

Draft SEPP 65 was placed on public exhibition on 23 September 2014 and incorporated changes to the SEPP itself and the RFDC. The revised SEPP was published on the NSW legislation website on 19 June 2015 (over 2 months after lodgement of the subject DA). Transitional arrangements for the amended SEPP state that for DAs lodged before 19 June 2015 and not determined before the amendment commenced on 17 July 2015, the application must be determined under the version of the SEPP in force prior to 19 June 2015.

As such, this DA has been assessed under the provisions of the previous version of SEPP 65 (Design Quality of Residential Flat Development) and the associated Residential Flat Design Code (see previous consideration in Section 8.8 of this report).

In any event, the proposal is considered to be generally consistent with the provisions of the revised SEPP 65 and associated Apartment Design Guide.

8.11 Ryde Local Environmental Plan 2014

The following is an assessment of the proposed development against the applicable provisions from the Ryde Local Environmental Plan 2014, although compliance is not strictly necessary.

Clause 2.3 Zone Objectives and Land Use Table

The land is zoned "*R2 Low Density Residential*" within which a "*residential flat building*" is not a permissible form of development. The proposed "*dual occupancies (attached)*" are however permissible forms of development.

Given the proposal benefits from a Concept Plan Approval, where the provisions of LEP 2014 are inconsistent with the approved Concept Plan, the approved Concept Plan shall prevail. As such, the issue of permissibility of the flat buildings under LEP 2014 is set aside in the assessment of this DA.

The consent authority must nevertheless have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives for the R2 Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To provide a variety of housing types*

With regard to the first objective, whilst the proposal residential flat buildings do not constitute a low density form of development, the design, heights and setbacks limit the impact to neighbouring low density properties to an acceptable degree. Permissible dual occupancies are proposed fronting David Avenue will assist in retaining the low density character of the area as will relatively significant setbacks to the south and west.

The second objective is not applicable to the proposed development whilst the proposal is otherwise considered consistent with the third objective of the zone as the development will provide a variety of housing types and will increase the diversity of housing choice in the North Ryde locality.

Clause 4.3 Height of Buildings

Clause 4.3 states that the height of a building is not to exceed the maximum height shown on the Height of Buildings Map. The Map denotes a maximum height of 9.5m for this site. At a maximum height of 18.05m, the proposed development does not comply.

This development standard is however set aside by virtue of the Concept Plan Approval. As detailed in **Table 3** in Section 6.5 of this report, the proposed building heights are compliant with the specific maximum RLs contained in conditions A1 and A5 of the approved Concept Plan (as modified)

Clause 4.4 Floor Space Ratio

Clause 4.4 states the FSR of a building is not to exceed the maximum specified on the FSR Map. The Map denotes a maximum FSR for this site of 0.5:1. The proposed FSR in this instance is 0.99:1 (13,907m² GFA). Again, this development standard is set aside by virtue of the Concept Plan Approval.

As detailed in **Table 3** in Section 6.5 of this report, the proposed development is consistent with the approved building heights, envelopes and setbacks approved by the Concept Plan and as such, the proposed FSR is acceptable.

Other provisions

The table below (**Table 7**) considers other provisions relevant to the evaluation of this proposal:

Provision	Comment
Clause 4.1B Minimum lot sizes for dual occupancies and multi dwelling housing	Clause 4.1B only permits dual occupancy (attached) development on lots exceeding 580m ² and with a frontage of at least 20m. Although the lot sizes of both 14 & 16 David Avenue currently exceed 580m ² , both lots will be reduced to less than 580m ² due to the new access road and both lots currently have a frontage of less than 20m. However, the proposed attached dual occupancies and lot sizes are consistent with the Concept Approval (as modified) and the provisions of the LEP in this regard therefore do not apply.
Clause 5.9 Preservation of trees and vegetation	The application seeks the removal of trees as detailed in Section 8.14 of this report. The development is satisfactory in terms of the provisions of Clause 5.9.
Clause 6.2 Earthworks	The proposed development includes excavation for a basement car park. Council's Senior Development Engineer requires that a sediment and erosion control plan to be submitted prior to the issue of a Construction Certificate (see condition 52). Accordingly the development is considered satisfactory in respect of this clause.
Clause 6.4 Stormwater management	The proposed stormwater management system for the site is acceptable.

Table 7: Other LEP 2014 Relevant Provisions

8.12 City of Ryde DCP 2014

Whilst this Plan applies to all land within the Ryde local government area, in this instance its provisions are not strictly applicable due to the site benefitting from the Concept Plan Approval (MP10_0165). The DCP has therefore been considered only where there is no direct conflict with matters resolved via that Approval. In that context, the following sections of the DCP are of relevance, being:

- Part 3.3 - Dwelling Houses and Dual Occupancy
- Part 7.1 - Energy Smart, Water Wise
- Part 7.2 - Waste Minimisation and Management
- Part 8.1 - Construction Activities
- Part 8.2 - Stormwater Management
- Part 8.3 - Driveways

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

With regard to Parts 7.1 to 9.2, noting the advice received from the various technical departments within Council and the consideration of issues previously in this report, the proposal is satisfactory in relation to the above matters.

Part 3.3 (Dwelling Houses and Dual Occupancy): With regard to this Part of the DCP, it is important to note that the key matters of location, height, setbacks, overshadowing, solar access, floor area and number of bedrooms of the proposed attached dual occupancies were approved as part of the Concept Approval.

The 4 proposed dwellings are generally compliant with the provisions of the DCP and are consistent with the key objective in relation to attached dual occupancy developments appearing as a single dwelling when viewed from the street. It is also pertinent to note that no submissions were received in relation to the proposed dwellings. The following matters are however noted:

- Although the proposed dwellings are largely consistent with the approved Concept Plan (as modified), the approved plans are not consistent in relation to parking as the architectural plans indicate parking in the rear setback with access onto the new internal road whilst the landscape plans indicate driveway access to each dwelling direct from David Avenue. The approved landscape plan arrangement however would have resulted in double width driveways being located in close proximity to the proposed access road intersection with David Avenue and virtually the entire front setback of each dwelling being hard paved. Accordingly and given the topography of the site supports such a design, the proposed development proposes basement parking for each dwelling with access derived from the new internal road (albeit in a different form to the approved architectural plans). Whilst the DCP does not generally support basement parking for dwellings, the proposed design will result in an acceptable visual outcome and is appropriate for the site.
- Whilst the level of deep soil planting for proposed dwellings is relatively limited, it is comparable to the landscape masterplan approved as part of the Concept Approval (as modified) with much of the deep soil area essentially switched to the front setback from the rear setback. It is also noted that across the overall site, approximately 4,700m² (34%) of deep soil planting is proposed.
- The proposed wall height on the northern elevation of Building D exceeds the 7.5m DCP maximum by up to 500mm at its western end. This is partly due to the retention of existing ground levels on this site in order to minimise impacts to 166 & 164 Epping Road and 18 David Avenue. The

overall height is compliant with the DCP maximum of 9.5m and no adverse impacts will occur from the proposed wall height.

- Although retaining walls up to approx. 2.8m in height are proposed at the rear of the dwellings (thus exceeding the 900mm maximum height prescribed in the DCP), these front onto the internal access road and pedestrian pathway and is largely a consequence of the topography of the site and the desire to have a lower RL for the flat building development and access road at the rear. The closest units within Building A are located approx. 12m from the retaining walls and together with the proposed screening indicated on the landscape plans, it is considered that no adverse impacts will arise to the amenity or outlook of these units. With regard to the rear gardens of 166 & 164 Epping Road and 18 David Avenue and as noted above, the ground levels of the rear garden serving the northern dwelling within Building D will essentially match the ground levels of these neighbouring properties. This creates a retaining wall of approx. 1.4m in height in the rear setback between the two proposed dwellings forming Building D. Given the retaining wall is on the south side of the rear garden of the northern dwelling, no adverse impacts are considered to result and the proposal is considered reasonable and acceptable in this regard.

Part 9.3 (Car Parking): This section of the DCP is not applicable as condition 9 in Schedule 3 of the Concept Approval (as amended) specifies the maximum on-site parking rate for the development as 165 spaces (see previous consideration of condition 9 in **Table 3**). However, as also noted in **Table 3**, Council's Senior Sustainability Coordinator has recommended that the number of car share spaces be increased from 1 to 2. This is considered reasonable and appropriate given the original Concept Approval applies the Macquarie Park Corridor parking rates to the development (Part 4.5 of DCP 2014) and these rates require 1 car share space per 50 parking spaces.

In addition the increase in density was partly predicated on the close proximity of the site to bus and train services and key land uses such as Macquarie Park and Macquarie University. Furthermore, the requirement for a Sustainable Travel Plan to be submitted with the DA emphasises the desired sustainability outcome of the development i.e. reducing the reliance of residents on private cars. As such, 2 car share spaces should be provided. Condition 17 is recommended in this regard. In addition, condition 130 pertains to the on-going operation of the car share spaces.

8.13 Section 94 Development Contributions Plan 2007

Development Contributions Plan – 2007 (2010 Amendment) allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density / floor area.

The development will require Section 94 contributions in accordance with Council's current Section 94 Contributions Plan on the basis of construction of a development comprising:

- * 70 x 1 bedroom units;
- * 84 x 2 bedroom units; and
- * 10 x 3 bedroom units/dwellings.

The development includes the demolition of 3 detached dwellings and this has been included in the Section 94 contribution calculations. Accordingly, the required contributions have been calculated as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$404,064.26
Open Space & Recreation Facilities	\$994,724.77
Civic & Urban Improvements	\$338,324.53
Roads & Traffic Management Facilities	\$46,149.16
Cycleways	\$28,827.36
Stormwater Management Facilities	\$91,627.14
Plan Administration	\$7,771.66
The total contribution is	\$1,911,488.88

Included in the recommendation is a condition requiring payment of the above contribution prior the issue of any Construction Certificate (see condition 32). Where a study has been provided, an analysis of the amended plans indicates these cannot potentially be used as bedrooms in the future and therefore have not been considered as bedrooms for the purposes of Section 94 calculations.

8.14 LIKELY IMPACTS OF THE DEVELOPMENT

Most of the impacts associated with the proposed development have already been addressed in the report. The additional impacts associated with the development or those issues requiring further consideration are discussed below.

Public Domain Works/Public Benefit

The application, as amended, includes the following public domain works:

- Provision of footpath paving to both street frontages (David Avenue and Whiteside Street); and
- Provision of new footpath link between the new footpath on David Avenue fronting the site and Hawkes Pathway (which provides an existing pedestrian link between David Avenue and Epping Road).

Figure 9 below illustrates the location of the proposed new footpath link on David Avenue and Hawkes Pathway in relation to the proposed development.



Figure 9: Aerial photograph illustrating location of Hawkes Pathway and new footpath link (Base Source: s75W Assessment Report MP10_0165 MOD 1)

Although the applicant states that no street lighting or street tree planting is proposed, these are standard requirements for developments of this nature as is undergrounding of telecommunication and utility services. Although no street tree planting is required given the relatively narrow frontages of the site, conditions 53 and 54 require undergrounding and street lighting improvements. Condition 54 also pertains to the required footpath improvements and the new link between the site and Hawkes Pathway.

Traffic

Traffic generation issues and increased potential for 'rat running' through local streets were among the key issues arising from the Department's assessment of the original Concept Plan. In this regard, it is important to note that the original Concept Plan proposal included the widening of the northern section of Whiteside Street to facilitate two way operation. Whilst this would have allowed traffic from the site to access Epping Road without traversing local streets, it potentially would have attracted additional through-traffic to these streets as drivers attempted to avoid the Lane Cove Road/Epping Road intersection.

Although this was considered acceptable in the Department's assessment (subject to design works stipulated in condition 12 (Vehicular Access) and potential mitigation works arising from the provisions of condition 14 (LATM Study)), the PAC determined that the existing left in only access from Epping Road should be maintained.

Accordingly, the s75W and the subject DA proposal incorporate no changes to the Epping Road/Whiteside Street intersection and the northern portion of Whiteside Street will remain one-way, southbound from Epping Road. The retention of the existing one-way arrangement negates the previous community concerns raised in relation to 'rat-running' and this is borne out by the fact only 3 submissions were received in relation to traffic issues following notification of this DA. In addition, the new internal access road will be accessed controlled by way of security gates at David Avenue which will prevent any potential 'rat running' through the site.

With regard to the remaining potential impact on the local road network from the proposal, the PAC considered that potential impacts from the development could be mitigated and, as detailed in **Table 3** previously in this report and referred to above, the approved Concept Plan (as amended) includes condition 14 in relation to an LATM Study. The condition states the following:

14. Local Area Traffic Management Study (LATM Study)

Prior to the lodgement of the first development application a LATM Study for the local road network shall be prepared in consultation with Council and the RMS in order to determine necessary measures to improve the local traffic flow, reduce traffic speeds, improve safety, reduce potential for accidents and provide for pedestrians and cyclists (also see 15 below).

The LATM Study is to assist in determining the percentage of traffic related to the development over the existing traffic volume situation and therefore, the likely impact on the local road network.

The LATM Study is to include a recommendation of the measures and infrastructure required to mitigate traffic impacts resulting from the development. The applicant is to fund the LATM Study and those mitigation and infrastructure works required to mitigate traffic impacts as a result of the development.

In addition to the above, the LATM Study shall detail the outcome of a local road network investigation including the following:

- a) suggest improvements to minimise traffic flow distribution from Kent Road into Milroy Street, Trevitt Street and Napier Crescent;*
- b) investigations into the additional traffic loading to the Kent Street/Lane Cove Road intersection with the view of potential capacity improvements for the side road; and*
- c) a road safety audit.*

The applicant shall consult with Council and the RMS regarding the preparation of the Study.

The completed LATM Study is to be submitted to Council and the RMS for review. Any recommendations made by Council and the RMS to mitigate traffic impacts

from the development are to be implemented in addition to the recommendations identified in the Study. Recommendations of Council or the RMS which are identified as mitigation measures arising from the development are to be paid for by the proponent.

With regard to the subsequent s75W application (which removed the cap of 135 dwellings and assessed a revised capacity of 164) and the overall issue of traffic generation, the Department's Environmental Assessment Report stated the following:

'The application indicates that the proposed increase in overall dwelling numbers results in an increase of the indicative number of car parking spaces from 142 to 165 (an additional 23 spaces).

The RMS Guide to Traffic Generating Development 2001 provides guidance on traffic generation and parking impacts of new developments. The Guide is currently in the process of being revised and in August 2013 the RMS published updated traffic generation rates for high density residential developments. The revised rates are based on surveys undertaken in 2010 across Sydney Metropolitan area (and regional NSW) and indicate a reduction in residential traffic generation over the past 10 years. These rates are significantly lower than the 2001 rates applied in the Department's assessment of the original Concept Approval.

The Department notes that despite the indicative increase in car parking provision (of 23 spaces), the calculation of traffic generated by the development based on the updated traffic generation rates would be 43% - 54% (23 - 29 trips) less than what was originally assessed for the development during morning and afternoon peak periods.

The Department is of the view that the reduction in expected traffic generation coupled with the preparation of a Local Area Traffic Management Study (as required by FEAR 14) will ensure that the traffic impacts of the development will be acceptable.'

As such, although the s75W proposed an increase in the number of dwellings, application of the revised RMS traffic generation rates meant the level of predicted traffic generation actually decreased compared to that of the original Concept Approval.

Following consultation with Council and the RMS, a LATM Study was submitted with the application. The Study concludes that the impact of the proposed development on the local area traffic network and relevant intersections will be negligible. As such, no mitigation infrastructure works are required to be paid for by proponent under the terms of condition 14. The Study nevertheless does include recommendations to improve existing issues for Council's information.

Following the submission of additional information on 11 August 2015, Council's Traffic Engineer has provided the following comments on the proposal:

'Discussions held with both the Traffic Consultant as well as Council planning staff has identified a negligible impact on the surrounding traffic network. The report prepared by Traffix Consulting has been deemed satisfactory in identifying the key concerns and raising options to remedy the concerns. However the options put forward cannot be attributed to the developer as the impact of the development is not deemed high enough to increase the nature of the concerns significantly.'

In conclusion, given the recommendations in the LATM Study pertain to addressing existing traffic issues rather than mitigating issues resulting from the proposed development, conditions of consent are not to be imposed with regard to the recommendations of the Study being undertaken or directly paid for by the developer. Council will instead review the recommendations with regard to potentially undertaking works to the local area road network in the future.

Accordingly, the proposed development is considered acceptable with regard to traffic generation.

Privacy

The proposed residential flat buildings and dwellings generally comply with the maximum height and minimum setback requirements of the approved Concept Plan (as modified). As such, the privacy impacts of the proposal to adjacent residential properties are essentially set by the Concept Plan. Nevertheless, the applicant has given appropriate consideration to mitigating potential privacy impacts and has provided the following comments in this regard:

- *The western façade of Building A has been designed so as to reduce the number of windows adjacent to the neighbouring dwelling on Whiteside Street, whilst ensuring that an articulated façade is presented on the western approach from Epping Road.*
- *The proposed balconies on Level 2 of Building B are over 15.9m from the south western boundary of the site. This setback exceeds the proposed building separation controls planned in the Department of Planning and Environment's Draft Apartment Design Guidelines (ADG). Further the ground and first floor of Building B exceed the required setbacks of the Draft ADG from the southern boundary.*
- *Substantial deep soil planting including screen planting with the capability of growing to 15m (mature height of the Weeping Lily Pilly, as per the indicative plant schedule), will be provided within the proposed setback zone.*

- *The proposed south facing balustrades at Building B will be opaque. This will further ensure that views from the internal areas are obstructed, and will further provide privacy for the occupants of the proposed units.*
- *The proponent confirms that the proposed south facing balconies on Level 2 of Building A will be directly adjoining bedrooms and bathrooms only.*
- *The significant (18.48m) setback approved to the south east at Level 2 of Building B has been maintained as part of this application.*
- *As shown in the western elevation, windows are not proposed on the upper levels of the western façade of Building B, and where proposed on Level 1 is 'hooded' to protect the visual privacy of the adjoining residential property.*
- *Buildings C and D are both two storey dwellings, and as such do not present a significant risk to privacy of neighbouring dwellings.*
- *The upper level of Building D does not include any windows to reduce any potential overlooking to the private open space of existing residential properties to the north of the site.*
- *The rear landscape area of Building C is in line with the private open space of 12 David Avenue, and the rear private open space of Building D is stepped down to meet the level of the private open space of 166 Epping Road. 1.8m side fences will be provided along the boundary of the private open space of each townhouse to ensure that potential privacy impacts from raised landscape areas are mitigated.*
- *Deep soil planting areas are also proposed along the northern and southern site boundaries of Buildings C and D where adjoining neighbouring development.*

The above comments are noted and agreed. Whilst there may be some loss of privacy from the development, this is generally inevitable with any residential redevelopment and will be to a degree that can reasonably be considered acceptable within a residential area and with regard to the heights and setbacks permitted by the approved Concept Plan (as modified) and the proposed mitigation measures as detailed above.

Overshadowing

Other than a minor correction to the 9am midwinter diagram, the submitted shadow diagrams are the same as those submitted with the s75W application. In approving the modification, the Department of Planning and Environment assessed the level of overshadowing as no greater than originally approved.

Nevertheless, the submitted shadow diagrams illustrate the rear gardens of some properties in Parklands Road will be impacted by shadow from the proposed development at 9am in midwinter. Between 10am and 1pm in midwinter, shadowing from the development is essentially confined to within the subject site.

From approximately 1pm onwards, overshadowing begins to occur to the rear garden of 166 Epping Road and properties in David Avenue with shadows by 3pm extending to the rear elevation of 12 David Avenue. The extent of overshadowing is considered relatively minor with in excess of 3 hours solar access maintained to neighbouring properties and associated private open space in midwinter. This level of shadow impact is essentially set by the heights and setbacks of the Concept Approval (as modified) and is considered acceptable.

Trees

The application involves the removal of 35 trees. Of these, 9 are deemed exempt under the Part 9.5 of DCP 2014 as they are weed species and the majority of the trees are considered to be of low amenity and retention value by Council's Consultant Landscape Architect.

The proposal includes works that would result in the loss of a tree located in the rear garden of 6 David Avenue. Owners consent has not been provided for the removal of this tree and the applicant has agreed to a condition being imposed for the design of the retaining wall to be revised in order to retain the tree. Condition 2(b) is therefore recommended in this regard.

The proposed landscape plan includes the planting of a significant number of new trees and large numerous shrubs. Council's Consultant Landscape Architect has reviewed the Arborist report and proposed landscape plans and considers the proposal will result in a high quality landscape outcome.

Accordingly, no concerns have been raised and appropriate conditions of consent are recommended requiring compliance with the approved landscape plans (including replacement planting), all required tree protection measures are implemented and that all works are carried out by an appropriately qualified arborist (see condition 88).

9. SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The suitability of the site to support a land use of this type and scale was determined through the consent granted to the Concept Plan. This application is consistent with that Concept Approval (as modified).

10. THE PUBLIC INTEREST

The development is considered to be in the public interest as it is consistent with the Concept Approval (as modified) and subsequent assessment of this application has not identified any issues of concern.

11. REFERRALS

The following table (**Table 8**) provides a summary of internal and external referrals undertaken for this application:

Internal	
Consultant Landscape Architect	No objection - conditions provided.
Environmental Health Officer	No objection - conditions provided.
Senior Development Engineer	No objection - conditions provided.
Senior Sustainability Coordinator	No objection - conditions provided.
Public Works (Drainage)	No objection - conditions provided.
Public Works (Traffic)	No objection - conditions provided.
Public Works(Public Domain)	No objection - conditions provided.
Public Works (Waste)	No objection - conditions provided.
External	
Roads & Maritime Services	No objection - conditions provided.
Sydney Water	No objection.
NSW Police	No objection - conditions provided.

Table 8: Referrals Table

12. PUBLIC NOTIFICATION AND SUBMISSIONS

The proposal was notified and advertised in accordance with Part 2.1 (Notification of Development Applications) of DCP2014. The exhibition period was from 29 April, 2015 until 13 May, 2015. Revised shadow diagrams were also notified to relevant properties in Parklands Road and David Avenue on 14 July 2015.

4 submissions were received objecting to, or commenting on, the proposal. The majority of the issues raised have been addressed in the above assessment report. Comments are however provided in relation to the following matters:

Issue 1 I strongly suggest that platform road humps also be installed on Parklands Road.

I also urge Council when determining the application and imposing conditions of consent that the recommendations of the LATM are implemented in a timely manner.

Response:

The revised LATM Study includes the requested road hump in Parklands Road. As detailed in Section 8.14 of this report, the recommendations in the LATM Study pertain to addressing existing traffic issues rather than mitigating issues resulting from the proposed development. As such, conditions of consent are not to be imposed with regard to the recommendations of the Study being undertaken or directly paid for by the developer. Council will instead review the recommendations with regard to undertaking works to the local area road network in the future.

Issue 2 I would like confirmation that the setback from the boundary of 59 Parklands Road to Building B is still 12m.

Response:

A setback of 11.95m is provided between the rear boundary of properties in Parklands Road and the southern elevation of Building B. This is consistent with the Concept Approval (as modified).

Issue 3 The shadow diagram for 9am indicates a longer shadow from Building B into our property than other houses along Parklands Road.

Response:

The shadow diagrams originally submitted with the DA were incorrect with regard to the overshadowing of neighbouring properties in Parklands Road at 9am in midwinter. Following the receipt of revised shadow diagrams, these were notified to relevant properties in Parklands Road and David Avenue. No submissions were received in response to notification of the revised shadow diagrams.

Issue 4 The increase in the number of units will impact the traffic flow on Epping Road, Whiteside Street, Parklands Road and David Avenue. The traffic assessment must be carried out again.

Response:

This issue has been considered previously in Section 8.14 of this report.

Issue 5 *Dwellings adjacent to 166 Epping Road are to address privacy issues by ensuring permanent shutters/louvres are installed on all unit balconies and windows.*

The adjacent perimeter fencing is to be replaced with a solid brick wall to a minimum of 2m in height. I am to be consulted prior to construction in determining ideal colours and materials.

Response:

The eastern elevation of Building A is setback 11.7m from the western boundary with 166 Epping Road. Whilst sliding louvre screens are proposed to the east facing balconies of units in Building A that look towards 166 Epping Road, it is not considered reasonable to require fixed shutters or louvres to these balconies given the setback involved. It should be noted that Building A is only 3 storeys in this location and proposed landscaping along the eastern boundary will further assist in mitigating any potential privacy impacts.

With regard to fencing, the applicant has advised that a 2m wall adjoining 166 Epping Road can be accommodated and that the owner of 166 will be consulted in accordance with the requirements of the *Dividing Fences Act 1991*. This has been denoted on the amended plans.

Issue 6 *I request that the large tree at 16 David Avenue be removed due to health concerns and damage.*

Response:

Removal of the subject tree (Tree 38) is proposed as part of the DA.

Issue 7 *The development should be refused for the following reasons:*

- *No strategic land use studies have supported high-rise residential in excess of established planning controls south of Epping Road.*
- *NSW Government ad-hoc planning approvals are not in the long-term interest of the Macquarie Park Business Park.*
- *Property owners were bought out by speculative developers who then gained major up-zoning from State Government resulting in windfall profits denied to owners.*
- *Traffic congestion is a serious issue with no benefits foreseeable from NWRL for this area.*

Response:

In approving the original Concept Plan, the Department and the PAC considered the strategic planning merits of the proposal. In this regard it was determined that the proposal was consistent with the strategic intent of the Draft Metro Strategy, the Metropolitan Plan and the Draft Inner North Subregional Strategy as it will provide for increased housing density within reasonable walking distance of Macquarie Park and will assist in promoting the viability of the Global Economic Corridor and associated public transport infrastructure.

The issue raised in relation to windfall profits to developers rather than property owners is not a planning matter and is not relevant to the assessment of this DA.

The issue of traffic has been considered previously in Section 8.14 of this report.

13. CONCLUSION

This report considers an application for demolition and construction of 2 residential flat buildings extending to a maximum of 3 and 5 storeys containing 160 units and basement parking for 147 cars, construction of 4 dwellings fronting David Avenue, new internal road, civil works and landscaping at 5 Whiteside Street & 14-16 David Avenue, North Ryde.

The proposal is the subject of the transitional provisions of Part 3A of the Environmental Planning and Assessment Act, and benefits from a Concept Plan Approval granted on 10 September 2013, as most recently modified on 1 April 2014. The development application is considered consistent with the modified Concept Plan approval.

Most of the 'high level' contextual, site suitability, site planning issues and the like have therefore been resolved through the Part 3A/Section 75W assessment and approval processes. Consequently, provided this associated development application is consistent with those underlying approvals, there are limitations upon the extent to which the consent authority is able to revisit those matters.

Given that circumstance, and noting the outcomes from the assessment, the proposal on balance is considered to be fundamentally sound in terms of its design, function and relationship with its neighbours.

It is recommended that the application be approved subject to conditions.

14. RECOMMENDATION

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

- A. That the Sydney East Region Joint Regional Planning Panel grant consent to development application LDA2015/0166 for demolition and construction of 2 residential flat buildings containing 160 units and basement parking for 147 cars, construction of 4 dwellings fronting David Avenue, new internal road, civil works and landscaping at 5 Whiteside Street & 14-16 David Avenue, North Ryde, subject to the conditions of consent in Attachment 1 of this report; and
- B. That those persons making a submission be advised of the decision.

Report prepared by:

Andy Nixey
Senior Town Planner

Report approved by:

Sandra Bailey
Team Leader Major Development

Liz Coad
Manager Assessment

Sam Cappelli
Acting Group Manager – Environment and Planning