

SYDNEY NORTH PLANNING PANEL

Panel Reference	PPSNH - 107
DA Number	LDA2020/199
LGA	City of Ryde
Proposed Development	Demolition of existing structures and construction of a mixed use development comprising four buildings ranging in height between 6 and 7 storeys with 3 basement levels for 419 car parking spaces. The development will be comprised of 133 residential apartments, a boarding house with 162 rooms and 3591m ² of commercial floor space.
Street Address	1 - 20 Railway Road & 50 Constitution Road Meadowbank
Applicant/Owner	Applicant: Sasco Development P/L Owners: Liv-Better (Australia) P/L Shepherds Bay Holding P/L Kiu Foong P/L
Date of DA lodgement	12 June 2020
Total number of Submissions Number of Unique Objections	- 136 submissions received + 1 petition containing 5 signatures. - 67 of the submissions were unique objections. - Out of the 136 submissions – four were in support of the proposal.
Recommendation	Refusal
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	General Development over \$30 Million Cost of works: \$86,092,808.00
List of all relevant s4.15(1)(a) matters	• Environmental Planning and Assessment Regulation 2000; • Environmental Planning and Assessment Act 1979; • Meadowbank Education and Employment Precinct – Master Plan; • State Environmental Planning Policy (State and Regional Development) 2011; • State Environmental Planning Policy No. 55 – Remediation of Land; • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; • State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; • State Environmental Planning Policy (Infrastructure) 2007 ("ISEPP");

	• State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP); • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; • Ryde Local Environmental Plan 2014; • Draft Remediation of Land State Environmental Planning Policy; • Draft Environment State Environmental Planning Policy; • City of Ryde Development Control Plan 2014; and • City of Ryde Section 7.11 Development Contributions Plan 2020.
List all documents submitted with this report for the Panel's consideration	• Attachment 1: Clause 4.6 Written Variation • Attachment 2: Legal Advice on behalf of Council • Attachment 3: Sydney Trains Concurrence Advice and Deferred commencement conditions. • Architectural Plans (amended December 2020)
Clause 4.6 requests	• Yes - Clause 4.3 Height of Ryde Local Environmental Plan 2014.
Summary of key submissions	• Traffic: - Area very heavily congested – this development will make it worse with no improvements proposed. - Rat runs around the streets. - Need for an independent traffic study. - Pedestrian safety. - Lack of street parking. • Lack of infrastructure to cope with the increase in density: - Public transport already full to capacity. - No open space /parks. • Gross overdevelopment with no community benefits. • The boarding house – inappropriate location, elevated levels of crime, anti-social behaviour. • Overshadowing to the apartments opposite in Faraday Lane. • Out of scale/character for the area. • Loss of privacy, loss of views. • Noise and air pollution. • Breach of height – should comply with the height control, 7 storeys out of character. • Carparking: - Number of car parking excessive for the area. - Not enough the for the size of the development. - Faraday Lane carpark entrance too narrow. • Development should be redesigned to reduce the overall size.
Report prepared by	Sandra McCarry Senior Town Planner
Report date	24 June 2021

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
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e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes – 4.6 variation request attached (see Attachment 1)
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Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

<i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not applicable
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Conditions

Have draft conditions been provided to the applicant for comment?

<i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	As the DA is recommended for refusal the draft conditions have not been provided to the applicant.
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1. EXECUTIVE SUMMARY

This report is an assessment of a development application for the demolition of the existing buildings and structures on site, removal of trees, earthworks and excavation for three (3) basement levels and the construction of a mixed used development comprising of four (4) buildings ranging between 6 and 7 storeys in height at 1-20 Railway Road and 50 Constitution Road, Meadowbank.

The development will incorporate ground floor commercial uses comprising of a supermarket and supporting retail tenancies with 4 buildings above. The four buildings are arranged around a central courtyard, as illustrated in **Figure 14**. Buildings A, B, and C are residential apartments and Building D a boarding house pursuant to the Affordable Rental Housing State Environmental Planning Policy 2009 (ARHSEPP). Buildings A & B are located on the western side of the site, facing Railway Road and Buildings C & D on the eastern side facing Faraday Lane.

A total of 133 residential apartments (31 x 1-bedroom, 74 x 2-bedroom, and 28 x 3-bedroom units), 162 boarding rooms (Building D), and 3591m² of commercial floor space (including a supermarket) are proposed. Basement parking will provide for 419 car parking spaces.

A loading dock accessed via Constitution Road serves the retail uses. The residents, visitors and retail car park access is located at the southern end of Faraday Lane.

Key issues

Traffic:

Council's Traffic Department have raised a number of traffic concerns and do not support the application in the current form as the development will result in:

- Worsening future congestion levels at the intersections of Railway Road/Bay Drive/Bank Street and Bay Drive/Underdale Lane.
- Extensive queuing with Bay Drive.
- Traffic impacts at the junction of Constitution Road and See Street.
- Due to the steep grade of Underdale Lane to the east of Angas Street, it is undesirable for the road to be accommodating high traffic volumes from a traffic safety context. The *Guide to Traffic Generating Developments* specifies a maximum environmental capacity threshold of 300 vehicles per hour during peak hour periods for local roads. The proposed development alone is anticipated to generate up to 263 PM peak hour vehicle trips along Underdale Lane. This is expected to trigger the maximum environmental capacity threshold, thereby compromise the amenity experienced by surrounding residents/road users
- The close proximity of the basement car park access to the intersection of Faraday Lane/Underdale Lane and the high peak hour traffic demands generated at the basement car park access could affect the safe and efficient operations of the intersection of Faraday Lane/Underdale Lane (e.g. vehicles queuing onto Faraday Lane extending onto Underdale Lane).

Height:

The development will have a maximum height of 26.4m and will be a maximum of between 4.37m and 7.3m above the respective prescribed height of 21.5m and 18.5m allowed under Ryde Local Environmental Plan 2014 (RLEP 2014).

Building A has a building height of 25.8m (variation of 7.3m), Building B - 26.4m (variation of 4.9m), Building C - 24.5m (variation of 6.06m) and Building D 25.8m (variation of 4.3m).

A Clause 4.6 written justification seeking variation to the building height development standard on the basis that compliance with the standard is unreasonable and unnecessary has been submitted with the application. The written justification has been considered against the matters for consideration under Clause 4.6 and the 5 matters for consideration in accordance with *Wehbe v Pitterwater Council (2007) NSWLEC 827*. The written justification seeking variation to the building height standard and the variations are not well founded and is not supported.

Floor Space:

The maximum floor space ratio for the site is 2.7:1 which equates to 20,987m². The proposal is also relying on the bonus floor space allowed under Clause 29 (1)(c)(ii) of the ARH SEPP which permits an additional 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1. The bonus floor space will allow additional 979.3m², resulting in a total of

21,966m² Gross Floor Area (GFA) allowed. The proposed development will have a GFA of 21,950m² which numerically complies with the maximum allowed.

However, Council does not support the distribution of the bonus floor space across the whole development and consider that the bonus floor space should be used solely for affordable housing (Building D). The additional floor space used by the residential component does not provide affordable housing and is not in accordance with the aim of the ARH SEPP. Council has sought legal advice on this matter. The legal advice obtained supports Council's position in that the bonus floor area can only be used for the area of the development to be used for the purpose of boarding house. Legal Advice attached **Attachment 2**.

If the remaining floor space were to be allocated to the residential and retail components of the development, this would take the GFA over the maximum allowed under Clause 4.4 of the Ryde Local Environmental Plan 2014. No written request pursuant to Clause 4.6 has been submitted to justify the variation.

Apartment Design Guide

The proposal does not comply with the Apartment Design Guide for building depths, separations, deep soil planting, public domain interface, pedestrian access, apartment size and solar access. The non compliances are discussed further in the report under Section 7.1.5.

Meadowbank Education & Employment Precinct Master Plan.

The subject site is within the Meadowbank Education and Employment Precinct Master Plan (MEEP MP) and is an important site for achieving some of the key projects required to achieve the vision of the MEEP MP. As noted earlier in the report, Traffic is a major concern within the area and one of the guiding principles of the MEEP MP is to *"improve access to, from and across the precinct"* with one of the key projects being Traffic Management – Improve vehicles access and intersection around the precinct. The subject site has been identified for Traffic Management and opportunity for improved pedestrian route.

The proposal has not addressed the issue of traffic generated by such a development and further improvements are required to ensure good pedestrian access.

Public Submissions

The application was publicly notified in accordance with the City of Ryde Community Participation Plan from 16 June 2020 to 17 July 2020. One hundred and thirty six (136) submissions plus one petition containing five (5) signatures were received during the notification period.

Note:

- Four submissions received were in support of the development.
- 41 of the 136 submissions were of the same form letter (Form Letter 1)
- 9 of the 136 submissions were of the same form letter (Form Letter 2)
- 7 of the 136 submissions were of the same form letter (Form Letter 3)
- 2 of the 136 submissions were of the same form letter (Form Letter 4)
- 8 of the 136 submissions were of the same letter (Form Letter 5).

The issues raised in the submissions:

- Over development
- Height/Bulk and scale
- Privacy
- No capacity for existing infrastructure to absorb the development with no upgrade to services or green space.
- Lacks consideration of the MEEP Masterplan prepared by the Greater Sydney Commission i.e. Traffic management and improve pedestrian/bicycle access along Railway Road and Constitution Road.
- Traffic – area already congested and overloaded roads, traffic report flawed, and pedestrian safety.
- Boarding house - not suitable location next to the education precinct, brings anti-social behavior and crime, no information as to the target demographics of the tenants, a boarding house is not in keeping with the area, is not congruent with the residential environment, no infrastructure such as health to support temporary and short term residents.
- Parking – either too much proposed as near a train station or parking is insufficient.
- Out of touch with the character of Meadowbank and will demolish historic shopfronts.
- Overshadowing and loss of views to apartments in Blocks 1, 5 & 6 of The Bay in Faraday Lane.
- Noise from the vehicle access in Faraday Lane and the loading area in Constitution Road, carpark exhaust fans, air-conditioning compressors, supermarket customers, and residents using rooftop communal areas – impact residents of “The Bay” development in Faraday Lane.
- Question the need for retail as Top Ryde and Rhodes are nearby.
- Continuous construction activity for the last 10+ years.

Public submissions in Support of the development:

- Improvement/upgrade to the area, much needed boarding accommodation.
- Will provide much needed commercial uses.

Conclusion & recommendations

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the relevant statutory and policy provisions, the proposal is in breach of the height control (the submitted Clause 4.6 variation is not supported), does not allocate the bonus floor space solely for use as a boarding house and is non compliant with the Apartment Design Guidelines.

An assessment by Council’s Traffic Department has identified the proposal will result in an unacceptable impact on the surrounding road network.

Therefore, the proposal is considered unsuitable for the site and is not in the public interest due to traffic impact and does not respond to the context of the site. It results in an overdevelopment of the site and is incompatible with the local character. Accordingly, the application is recommended for refusal.

2. APPLICATION DETAILS

Applicant: Sasco Development P/L

Owner: Liv-Better (Australia) P/L
Shepherds Bay Holding P/L
Kiu Foong P/L

Capital Investment Value: \$86,092,808.00

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

The subject site known as Nos. 1- 20 Railway Road and 50 Constitution Road, Meadowbank. The site is an irregular shape and comprises a total of 16 allotments, legally described as:

- Lots 1 to 8 of DP 13637;
- Lots 4 and 5 of DP 7533;
- SP 35053;
- Lots 1 and 2 of DP 384872; and
- Lots 9, 10 and 11 of DP 7533.

The site has four street frontages, a 59.9m northern boundary to Constitution Road, a 42.8m southern boundary to Underdale Lane, a 139.4m western boundary to Railway Road, and a 136.8m eastern boundary to Faraday Lane. The site has a total area of 7,773m². The location of the subject site is shown edged red in the aerial image provided at **Figure 1**.

The site falls approximately 4.8m from east to west, with a fall on the western side of the site (down to Railway Road). It also falls approximately 3.3m from north to south, through the centre of the site. Adjacent to the north of the site is a rock face which is raised approximately 3.6m above the street level on Constitution Road. Located adjacent to the north-western corner of the site is public stairs with access from Faraday Lane to Constitution Road.



Figure 1: Aerial view of the development site bounded by Constitution Road to the north, Underdale Lane to the south, Railway Road to the west and Faraday Lane to the east.

Existing Development

The site is currently occupied by a mixture of industrial and retail buildings, as illustrated in **Figures 2 to 5**. The site is almost entirely built upon by either buildings or hard surfacing with limited amounts of trees and vegetation across the site with the majority of trees in situ on the northern end of the site. A number of street trees are also located adjacent to the southwest of the site.



Figure 2: Existing retail building on the northwest corner of the site, on the intersection of Railway and Constitution Road. (Red line denote the development site).



Figure 3: Retail buildings on the western side of the site fronting Railway Road.



Figure 4: Southwest corner of the site on the intersection of Railway Road and Underdale Lane.



Figure 5: Southeast corner of the site viewed from the intersection of Underdale and Faraday Lanes. (Red line denote the development site).



Figure 6:View of the north east end of the site (end of Faraday Lane).

Surrounding Development

The site is located within the Shepherd's Bay, Meadowbank locality. The character of the surrounding area is in transition from general industrial sites with the area undergoing redevelopments to an area comprising of multi storey mixed use developments.

To the east and south of the site contain new residential apartment buildings and mixed used developments. This includes the following developments (as illustrated in **Figure 7** below):

- 3-13 Angas Street, LDA 2013/390 a part 4, part 6, part 7 storey residential apartment building located due east of the site on the eastern side of Faraday Lane. The development was approved on 19 February 2014 by the (former) Sydney East JRPP.
- 1 Angas Street, LDA2015/0540 a part 5, part 6 storey residential apartment building located south of Constitution Road, corner of Faraday, Constitution Road and Angas Street. The consent was activated on 7 August 2017 and is currently under construction.
- 21-24 Railway Road, LDA 2014/307 a part 6, part 7 storey residential apartment building located south of the site, on the southern side of Underdale Lane and the western side of Faraday Lane.
- 2 Angas Street (115 Bowden Street), LDA 2014/308. Part 6, part 7 storey mixed use building.

To the northwest, on the western side (opposite side) of Railway Road is 58-64 and 27 Constitution Road. 58 – 64 Constitution Road contains a two storey building with commercial uses at ground floor and associated office/storage space above. The building is identified as a local heritage item and is known as "Meadowbank shops". Adjoining the rear of this building is 27 Constitution road, which is currently being used as a car park which adjoins the rear of 58-64 Constitution Road.

Meadowbank railway station is located approximately 100m from the subject site, with a main entrance adjacent to Nos. 58-64 Constitution Road.

On the northern side of Constitution Road, west of See Street is TAFE NSW Meadowbank campus. The northern part of the site is undergoing redevelopment as part of the Meadowbank Education and Employment Precinct, with new, purpose-built education facilities due to open in 2022. This land is zoned SP2.

On the eastern side of See Street, to the northwest of the site is low density residential housing, zoned R2.



Figure 7: Recent approvals surrounding the site.

Nearby buildings surrounding the site are shown within the images below at **Figures 8 to 13.**



Figure 8: LDA 2013/390 - RFB opposite on Faraday Lane. The building is 4 storey along this section of the development.



Figure 9: LDA 2015/540 currently under construction, part 5/part 6 RFB, located opposite in Faraday Lane (and facing Constitution Road).



Figure 10: LDA 2014/307, part 6/part 7 storey RFB at the corner of Underdale Lane and Railway Road.



Figure 11: LDA 2014/308, part 6/part 7 storey RFB at the corner of Bowden Street and Constitution Road.



Figure 12: Directly opposite at 58 to 64 Constitution Road, 2 storey heritage item and adjacent Meadowbank Station.



Figure 13: TAFE building facing Constitution Road, northwest of the site.

4. THE PROPOSAL (AS AMENDED)

The development application proposes the demolition of the existing buildings and structures on site, removal of nine (9) trees, earthworks and excavation for three (3) basement levels and the construction of a mixed used development comprising of four buildings (Buildings A, B, C & D) ranging between 6 and 7 storeys in height. The proposal includes car parking for four hundred and nineteen (419) parking spaces over three levels of basement parking.

The buildings will incorporate commercial uses at ground level and residential apartments above on the western side (Buildings A and B), and a residential apartments and boarding house above on the eastern side of the site (Buildings C and D, respectively). The buildings are all arranged around a central courtyard, as illustrated in **Figure 14** below.

Buildings A, B & C will comprise of 133 residential apartments (31 x 1-bedroom, 74 x 2-bedroom, and 28 x 3-bedroom units) and Building D a total of 162 boarding rooms (co-living rooms^{*1}). A total of 3591m² of commercial floor space is proposed on the ground floor which will comprise of 20 separate commercial tenancies, including a supermarket. The proposal also includes a new pocket plaza at the corner of Railway Road and Constitution Road, along the north western corner of the site.

A loading dock accessed via Constitution Road services the retail uses. Vehicular access to the three basement parking levels is proposed via a single combined ingress/egress driveway connecting with Faraday Lane at the south-eastern corner of the site.

A total of nine (9) trees are currently located on the site, all within the northern portion of the site. Four of these trees are Camphor laurels which are a weed species, three trees are Tree of Heaven which is also a weed species, one Jacaranda and one dead tree. All trees on site will need to be removed for the building of the basement. Fifty nine replacement planting trees will be provided on the podium level and twenty three new street trees. No deep soil zone is proposed as the basement is built to all boundaries and non residential uses are proposed at the ground floor level.

Note: ^{*1} Co-living rooms are described as a 21st century version of dormitory living for adults that helps to address urban housing affordability. A typical co-living property is a building that contains furnished private studio apartments and shared communal spaces. Communal spaces can include communal kitchen and dining rooms, courtyards, lounge rooms, laundries and study area. Co-living are developed under boarding house regulations (ARHSEPP).

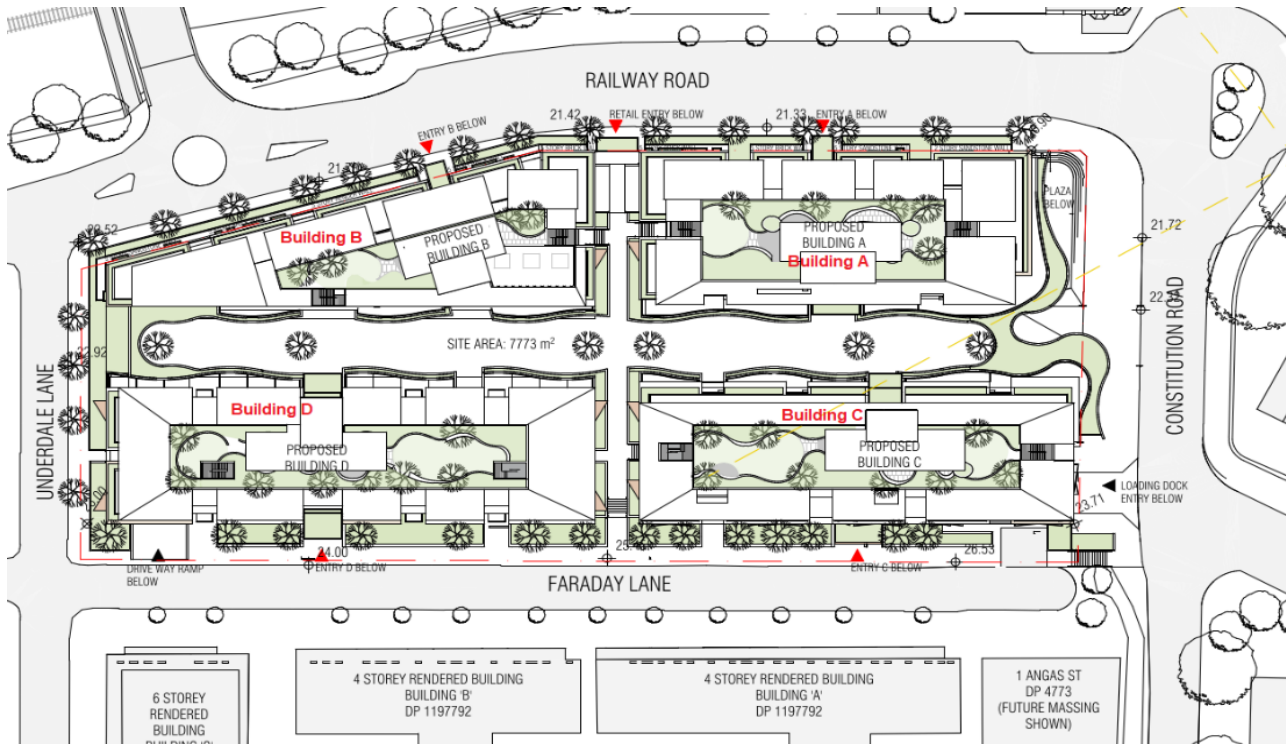


Figure 14: Plan showing the above view of the proposed development, showing the roof level and location of each of the buildings.

Photomontages of the proposal are provided in **Figures 15 to 18** below.



Figure 15: Photomontage of the development as viewed opposite from the corner of Railway and Constitution Road, Buildings A & C are shown with an open plaza area on the corner in front of Building A.



Figure 16: Photomontage of the development as viewed from Constitution Road, Buildings A & C are shown.



Figure 17: Photomontage of the development as viewed from Railway Road near the intersection of Underdale Lane, Buildings B & D are shown.



Figure 18: Photomontage of the development as viewed from Faraday Lane. Buildings C & D are shown.

5. HISTORY OF THE SITE

Planning Proposal

Whilst the Planning proposal discussed below does not form part of this application, it is included to provide a complete background to the history of the site.

- On 17 October 2017, Council received a Planning Proposal (PP) to increase the Height of Buildings and Floor Space Ratio permissible under the provisions of Ryde Local Environmental Plan 2014.

The PP was to facilitate the redevelopment of the site for a conceptual mixed use development to contain 3,681m² of retail, 2928m² commercial (including a child care centre and gymnasium) and 29,436m² of residential (358 apartments) as illustrated in **Figure 19** below.

The proposed amendments to the planning controls proposed under the PP and comparison of the existing planning controls is illustrated in the table below.

Comparison Existing And Proposed Planning Controls		
	Current Planning Controls	Proposed Planning Controls
Land Use	B4 – Mixed Use permitting broad range of residential and business uses	No change
Height limit	Part 21.5m (7 storeys) and Part 18.5m (6 storeys)	82m (approx. 27 storeys)
Floor Space Ratio	2.7:1	5.2:1

Table 1: Comparison of the proposed PP to existing controls.



Figure 19: Conceptual design as provided in the PP.

- Prior to lodgement of the Planning Proposal Council staff met with the proponent representatives on 11 July 2017 where it was advised that the PP would likely not be supported given the location, height and development capacity proposed. Traffic and impacts on the locality were identified as significant issues. At this meeting it was requested that the proponent write to Council and provide the information presented at the meeting so that it could be reviewed in greater detail and formal in-principle advice could be provided to the proponents. This did not occur. The proponent lodged the PP on 17 October 2017.
- The PP made reference to opportunities to discuss potential public benefits via Voluntary Planning Agreements and Council wrote to the proponent via letter dated 21 February 2018 for opportunities to discuss such matter – no formal offer or meeting was held.
- The proponent also at the same time lodged a pre-gateway review with NSW Department of Planning, Industry and Environment (DPIE) and Council was advised by DPIE that the application was to be referred to the Sydney North Planning Panel. Council staff responded by advising that a pre-gateway review would be premature as the preconditions for a pre-gateway review under the DPE's guidelines have not been met, specifically, Council has not yet had sufficient time to consider the proposal.
- On May 2018 Sydney North Planning Panel (SNPP) unanimously refused the rezoning review request and determined that the proposal should not proceed to Gateway determination stage.
- Whilst the SNPP decision did not support the Planning Proposal being submitted for a Gateway determination, it did suggest: *“that council and proponent work together to achieve an appropriate solution for this important corner site”*.

This DA Application (LDA 2020/199)

Date	Action
12 June 2020	Development Application Lodged with Council. The proponent did not have any pre-DA review by the Urban Design Review Panel or Pre-lodgement meeting with Council.
16 June 2020 – 17 July 2020	Development application notified to neighbours. 136 submissions received.
16 June 2020	Internal and external referrals sent.
2 July 2020	Urban Design Review Panel (UDRP) – 1 st time the Panel has reviewed the proposal.
7 August 2020	1st Request for Information (RFI) letter sent to applicant identifying issues. *The RFI is detailed below.
4 September 2020	Meeting with City of Ryde, Greater Sydney Commission (GSC) and applicant to provide overview of the Meadowbank Master Plan and recommendations by Council's Officer to consider traffic implications by revision of the DA. At the end of this meeting it was advised that the next step is to arrange: - Meeting to discuss RFI letter of 7 August 2020, - Meeting to discuss public domain opportunities subject to Council's traffic investigations.
29 September 2020	Meeting with the applicant to discuss content of Council's Letter of 7 August 2020. The applicant advised that they will address the issues raised in the letter and provide the amended/additional information as requested.
October 2020	Council tried to arrange meeting with the applicant to discuss Meadowbank Master Plan and traffic impacts from the development with regard to Railway Road, Underdale and Faraday Lanes. Meeting cancelled by the applicant.
14 December 2020	Amended plans and additional information received by Council. The changes include: - Plaza redesigned to incorporate public art, trees and public seating; - Balconies on level 5 and 6 of Building B have been replaced with vegetation; - Encroachments (other than awnings) deleted; - West-facing kitchen windows have been deleted from Building D; - location of operable louvres identified on plans; - Skylights have been relocated on Building A and C; - Supermarket entry location shown on plans and its frontage activated by signage; - Building B & D roof form amended to reduce roof overhang; - Detail of Faraday lane I Constitution Road stair connection provided; - Building setbacks and land dedication illustrated on plans; - Drying area provided on rooftop communal open space and Manager's room and office identified on plans for Building D; - Landscaped planters incorporated adjacent to the substation; - Various amendments to the basement car parking areas and vehicular accesses to address traffic management issues; and - Waste areas amended.
14 December 2020	Internal and external referrals and review by UDRP sent.

13 January 2021	Comments received from Council's City Works – Transport Department. Significant concerns raised about traffic generation from the development and its impact to surrounding streets. Request for further information from other departments such as Public Domain, Urban Design, Geotechnical Engineer and Landscape Architect were not requested due to the issues in respect to traffic, floor space ratio and height.
17 & 22 March 2021	Via emails dated 17 and 22 March 2021, Council advised the applicant's planning consultant that there were other issues that were of a concern to Council – specifically the allocation of the bonus floor space from the ARHSEPP. It is considered that all of the bonus should be allocated to the boarding house. The additional floor space used by the residential component does not provide affordable housing and is not in accordance with the aim of the SEPP.
20 April 2021	Briefing Meeting with SNPP. At the briefing, a member from the Greater Sydney Commission gave an overview of the MEEP MP and the importance of achieving the objectives of the plan and the importance of the site in terms of connectivity within Meadowbank. Council's Traffic Engineer also presented to the panel and advised that there were significant traffic issues with the proposal in its current form. The applicant advised the Panel and Council that they are undertaking an independent peer traffic and transport report which will be submitted to Council (by 4 June). The applicant also stated that the allocation of bonus floor space to development other than affordable housing as proposed is permissible. Council indicated a determination date of 21 July 2021.

*Council's letter of 7 August 2020 raised the issues of:

- Non compliant with the height control.
- Amenity concerns due to insufficient building separation.
- Clarification on cross ventilation.
- Pedestrian access to the supermarket and internal walkway from Faraday Lane to be provided.
- Amend roof overhang of Buildings B & D to reduce overshadowing.
- Urban Design Review Panel's comments (full discussion further in the report)
- Traffic and Access concerns:
 - o The Faraday Lane driveway width is non compliant.
 - o Constitution Road loading bay is inadequate for long heavy rigid vehicles
 - o The driveway location being directly opposite See Street non compliant.
 - o Traffic Impact Assessment (TIA) - not accurate indication of current traffic conditions within the adjoining road network. The traffic surveys undertaken 3 years ago and there are discrepancies between the Shepherds Bay Traffic Study and the submitted TIA.
 - o The TIA has not considered the traffic demands at the junction of Bay Drive and Underdale Lane, the total projected traffic generation could be underestimated.
 - o Lack of clarity as to how the additional peak hour trips generated by the proposed development are distributed within the local road network comprising Faraday Lane, Underdale Lane and Angas Street.
 - o Consider widening Faraday and Underdale Lane, extending Faraday Lane to connect with See Street.

- MEEP MP applies to the site. The applicant to liaise with GSC in conjunction with Council with regards to the future infrastructure upgrades planned for the surrounding road network adjoining the development site that would be affected by the proposed development (in particular the future treatment for the junction of Bank Street and Railway Road/Bay Drive and the junction of Bay Drive/Underdale Lane).
- BASIX certificates be amended for the rainwater tank storage volume to be equivalent to that being provided or the rainwater tank volume in the development be increased to comply with both the BASIX certificates.
- The applicant was also requested to liaise with the Council's City Works and Infrastructure Stormwater section to obtain details of the public drainage system downstream and clarify whether the site would be exempt from onsite detention.
- The traffic control point at the base of the driveway ramp. The swept path analysis contained in the traffic report has not represented a median nor exit manoeuvre.
- Boundary Survey of the site; for all drawings (plans and sections, Architectural, Landscape, Engineering, to show the existing property boundary as defined by the above Boundary Survey.
- Land dedication along Constitution Road, Faraday Lane and Underdale Lane or as a minimum a subdivision in stratum to allow for the street infrastructure along these three roads to be properly accommodated.
- Encroachments of the awning along Railway Road, the planters and screens along Railway Road into Council's land is not supported. No encroachment other than the ground floor awnings.
- Basement level setback to be revised to ensure adequate soil volume for new tree planting.
- Boarding house – no provisions for laundry facilities plus a screened area for natural clothes drying. The submitted SEE does not address Council's DCP Part 3.5 - Boarding House. The location of the manager room/office is questionable – should be in a central location, visible and convenient to occupants and visitor.
- Details of the Waste Loading Bay and swept paths for loading bay 2 to be provided. Location of the bulky waste material across the driveway is a Workplace Health & Safety issue.
- Amend landscaping plans to detail street trees to be planted using the “Strat Vault” system, details of soil volumes and depths for each garden bed. The garden bed on the corner of Faraday and Underdale Lane to be setback a minimum 2.6m and splayed at the corner.
- Further Geotechnical information and a hydrology report to be provided.

6. APPLICABLE PLANNING CONTROLS

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

- Environmental Planning and Assessment Regulation 2000;
- Environmental Planning and Assessment Act 1979;
- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX);
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;

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7. PLANNING ASSESSMENT

7.1 State Environmental Planning Policies

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

As the proposed development has a Capital Investment Value of \$86,092,808.00 the development application is required to be determined by the Sydney North Planning Panel.

7.1.2 State Environmental Planning Policy No 55 – Remediation of Land

The requirements of State Planning Policy No. 55 – Remediation of Land (SEPP55) apply to the subject site. In accordance with Clause 7 of SEPP 55, the consent authority must consider if the land is contaminated. If it is contaminated, is it suitable for the proposed use and if it is not suitable, can it be remediated to a standard such that it will be made suitable for the proposed use.

The site contained a number of industrial and commercial users, some of which are still in operation on the site.

The applicant has advised that a Detailed Site Investigation (DSI) prepared by Benviron Group has been prepared (not submitted with the application). *The DSI concludes that the site can be made suitable for the proposed development, subject to a number of recommendations outlined under Section 16 of the report. This includes a recommendation for the implementation of a Remediation Action Plan (RAP) to manage the environmental concerns raised within the DSI.*

A Remediation Action Plan (RAP) prepared by Benviron Group, dated February 2020, was submitted with the application. Council's Environmental Health Officer has reviewed the RAP and has provided the following comments:

The RAP refers to previous site investigations performed by Benviron Group dated 2019 and 2020. These include a preliminary site investigation (PSI) and detailed site investigation (DSI).

Contamination has been identified across the proposed development site and accordingly, the RAP has recommended the following:

- *Section 6 – proposed addition investigation*

- Section 7 – remediation strategy
- Appendix A – unexpected finds protocol.

The RAP outlines the remediation strategy, as well as remediation works and validation proposed to make the site suitable for the proposed development. The RAP concluded that, subject to the implementation and validation of the RAP, the site can be made suitable for the proposed development”.

Accordingly, should approval be granted for development of the site conditions of consent for appropriate remediation of the site, consistent with the requirement of SEPP 55, would be included.

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

The development is identified under the Environmental Planning and Assessment Regulation 2000 as BASIX Affected Buildings.

An amended BASIX Certificate has been submitted for Buildings A, B & C (No. 1080973M_02 dated 14 October 2020) which provides the buildings with a satisfactory target rating.

An amended separate BASIX Certificate has been submitted for Building D (Boarding House No 1082544M_03 dated 12 November 2020) which provides the building with a satisfactory target rating.

Any approval for the site would include conditions of consent for compliance with the BASIX commitments detailed within the Certificates.

7.1.4 State Environmental Planning Policy (Infrastructure) 2007

The SEPP applies to the subject site given its location adjacent to a railway corridor and being a Traffic-generating development. The following provisions of the SEPP are applicable to this application:

Infrastructure SEPP	Comments	Comply
Clause 45 Development likely to affect an electricity transmission or distribution network This clause applies to a development application (or an application for modification of a consent) for development comprising or involving any of the following— (a) the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower, (2) Before determining a development application (or an application for modification of a consent) for development to which this clause applies, the consent authority must— (a) give written notice to the electricity supply authority for the area in which the	The proposal was referred to Ausgrid who advised that <i>“there are existing underground electricity network assets in Railway road, Meadowbank.</i> <i>In this regard, Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.</i> <i>Ausgrid consents to the development subject to conditions.”</i>	Yes - Condition should approval be granted.

Infrastructure SEPP	Comments	Comply
development is to be carried out, inviting comments about potential safety risks, and (b)take into consideration any response to the notice that is received within 21 days after the notice is given.		
Clause 86 Excavation in, above or adjacent to rail corridors (1) This clause applies to development (other than development to which clause 88 applies) that involves the penetration of ground to a depth of at least 2m below ground level (existing) on land— (a) Within, below or above a rail corridor or (b) within 25m of a rail corridor, or (c) within 25m of the ground directly above an underground rail corridor. (2) Before determining a development application for development to which this clause applies, the consent authority must— (a) Within 7 days after the application is made, given written notice of the application to the rail authority for the rail corridor, and (b) take into consideration- (i) any response to the notice that is received within 21 days after the notice is given, and (ii) any guideline issued by the Secretary for the purposes of this clause and published in the Gazette. (3) Subject to subclause (5), the consent authority must not grant consent to development to which this clause applies without the concurrence of the rail authority for the rail corridor to which the development application relates. (4) In deciding whether to provide concurrence, the rail authority must take into account— (a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on— (i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and (ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and (b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.	The applicant in the SEE states that <i>the depth of excavation on the western side of the site, adjacent to Railway Road varies between approx 8m and 10m. However, as demonstrated in the accompanying Structural Engineering Report & Construction Methodology prepared by ABVD Design, the proposed excavation will be located at least 33m from the nearest RailCorp corridor, being the railway assets and Meadowbank railway station due west of the site. As such, Clause 86 of the ISEPP does not apply to the subject development and concurrence of RailCorp (Transport for NSW) is not required in this instance.</i> Due to the site's proximity to the rail corridor, Sydney Trains requested referral to them as Clause 86 (4) for Sydney Trains concurrence may be triggered. The proposal was referred to Sydney Trains who has, via letter dated 22 September 2020, granted concurrence subject to it being a deferred commencement consent. Deferred commencement conditions and general conditions have been provided in Attachment 3. Any approval for the site will be for a deferred commencement consent as outlined in Sydney Trains letter.	Yes – Deferred Commencement conditions (should approval be granted).

Infrastructure SEPP	Comments	Comply
Clause 87 Impact of rail noise or vibration on non-rail development (1) This clause applies to development for any of the following purposes that is on land in or adjacent to a rail corridor and that the consent authority considers is likely to be adversely affected by rail noise or vibration— (a) Residential accommodation, (b) A place of public worship, (c) A hospital, (d) An education establishment or centre-based child care facility. (2) 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 Secretary for the purposes of this clause and published in the Gazette. (3) If the development is for the purposes of residential accommodation, 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 levels are not exceeded— (a) in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am, (b) anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.	Clause 87 of the ISEPP applies to the development as the application proposes residential accommodation and is located on land that is adjacent to a railway corridor. An Acoustic Report prepared by Acoustic, Vibration & Noise P/L has been submitted with the application. The report concludes that <i>“the development if carried out as recommended in plans and specifications and including the acoustic recommendations in this report, will meet the required noise reduction levels as required by Clause 87 of the SEPP - (Infrastructure) 2007, Australian Standards AS 2107 'Acoustics - Recommended Design Sound Levels and Reverberation Times' and the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines" & City of Ryde Council Condition/Requirements.”</i> Section 11 of the report contains construction/building material recommendations for the windows/slider/door/external walls and roof which will ensure compliance with the requirements of the SEPP. Any approval would contain conditions requiring compliance with the Acoustic Report and any other relevant legislation.	Yes
Clause 104 – Traffic Generating Development. Pursuant to Clause 104 the clause applies to new premises of the relevant size or capacity. In this clause, 'relevant size or capacity' means: <i>“in relation to development on a site that has direct vehicular or pedestrian access to any road-the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3”</i>. Schedule 3 of the SEPP requires that car parks (whether or not ancillary to other development) with 200 or more car parking spaces be referred to Transport for NSW (TfNSW) as Traffic Generating Development:	The site is more than 90m from a classified road however has basement car parking for 419 vehicles. TfNSW response of 20 July 2020 provided the following comments: 1. <i>The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.</i> 2. <i>Any public domain works within the vicinity of the signalised pedestrian crossing on Railway Road and modification to the existing Traffic Control Signal plan will need to be reviewed and approved by TfNSW.</i>	As demonstrated further in the report, the development does not adequately cater for pedestrians

Table 2: SEPP Infrastructure.

7.1.5 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.

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development. The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of DCP 2014. The proposed development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.

7.1.6 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017.

The Vegetation SEPP provides approval pathways for the removal of vegetation in non-rural areas and matters for consideration in the assessment of applications to remove vegetation. This policy applies to land in the Ryde local government area on land within the B4 Mixed use zone.

The subject site is not identified as containing significant urban bushland on Council's Environmentally Sensitive Areas map.

An Arborist Report prepared by TALC has been submitted with the application. The report has identified nine (9) trees currently on site and states *"most trees internal to the site are either dead, poor in condition or are undesirable tree species. Tree 5 is fair in condition being a species type commonly found growing in the Sydney Urban environment and is screened to the broader by other trees and the built environment. All trees internal to the site will require removal so as to accommodate the proposed changes to the land"*. Tree 5 is a Jacaranda tree and is of a fair condition. Seven of the nine trees are on Council's nominated weed list and one of the nine trees is dead.

The basement extends to the boundaries on all sides, therefore all trees on site are to be removed. Council's Landscape Architect has no objections to the removal of the trees and the submitted Landscape Plan proposes 59 trees to be replanted on the structure of the site.

7.1.7 State Environmental Planning Policy (Affordable Rental Housing) 2009

The aims of this Policy are to provide affordable rental housing, the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards, and to support local business centres by providing affordable rental housing for workers close to places of work.

The proposed Building D is for a boarding house comprising of 162 rooms (co-living building) and is subject to the provisions of Part 2, Division 3 of the ARH SEPP.

The relevant sections of the ARHSEPP are discussed below:

The site is zoned B4 Mixed Use under the Ryde LEP 2014 and the SEPP is applicable in accordance with Clauses 26 and 27(1) which read as follows:

Clause 26 – Land to which this Division applies

This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones -

- a) Zone R1 General Residential,*
- b) Zone R2 Low Density Residential,*
- c) Zone R3 Medium Density Residential,*
- d) Zone R4 High Density Residential,*
- e) Zone B1 Neighbourhood Centre,*
- f) Zone B2 Local Centre,*
- g) Zone B4 Mixed Use.*

Clause 27 – Development to which this Division applies

Clause 27 of the SEPP stipulates:

- (1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.*

With respect to 27(1), “boarding house” is defined under the ARH SEPP (and the Ryde LEP 2014) as follows:

“boarding house means a building:

- a) that is wholly or partly let in lodgings, and*
- b) that provides lodgers with a principal place of residence for 3 months or more, and*
- c) that may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- d) that has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers,*

but does not include backpackers’ accommodation, a group home, a serviced apartment, seniors housing or hotel or motel accommodation.”

- (3) Despite subclause (1), clauses 29, 30 and 30A do not apply to development on land within Zone R2 Low Density Residential or within a land use zone that is equivalent to that zone that is not in the Greater Sydney region unless all or part of the development is within 400 metres walking distance of land within Zone B2 Local Centre or Zone B4 Mixed Use or within a land use zone that is equivalent to any of those zones.*

The proposed development for a boarding house satisfies the above definition and is within zone B4 Mixed Use and is also within an accessible area (within 100m to Meadowbank Train Station and a bus interchange station).

Clause 29 – Standards that cannot be used to refuse consent

Clause 29 stipulates that a consent authority must not refuse development on certain grounds if the development complies with the standards set out in subclause (1) or (2). Subclause (3) outlines the standards relating to the provision of private kitchen or bathroom facilities. The table below provides an assessment of the proposal against these standards.

Clause 29 Standards which cannot be used to refuse consent	Required	Proposed	Complies
(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio are not more than— (a) the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or (b) if the development is on land within a zone in which no residential accommodation is permitted—the existing maximum floor space ratio for any form of development permitted on the land, or (c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus—	Existing maximum FSR for any residential accommodation permitted on the land is 2.7:1 or GFA of 20,987m² (Site area x 2.7: =7773m² x 2.7 = 20,987m²) Subclause (c)(ii) permits an additional 20% if the existing FSR is greater than 2.5:1 The boarding house (Building D) is located on an area of the site comprising of 2,275m². Therefore, the allowable GFA on this part of the site under the RLEP 2014 is 2.275m² x 2.7 = 6,142.5m². However, 1,245.4m² is a retail component, leaving 4,897.14m² of allowable residential GFA for the boarding house part. Therefore 20% floor space bonus prescribed under Clause 29(1)(c)(ii) (4,897.1 x 20% = bonus of 979.3m² of GFA) is allowable for the development,	The proposal has a total GFA of 21,950m² (FSR of 2.8:1). Additional <u>979.3m²</u> of bonus floor space is allowed for affordable housing. The permitted floor area for the boarding house under SEPP ARH would be a maximum of 5876.55m² (4897 + 979.3 = <u>5876.55m²</u>).	NO – whilst the overall floor space complies with the FSR permitted, the allocation of the bonus floor space has not been allocated entirely for affordable housing.

Clause 29 Standards which cannot be used to refuse consent	Required	Proposed	Complies
(i) 0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or (ii) 20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.	equating to a total allowable GFA of 21,966m² (2.82:1). This is the same figures as shown in the applicant's bonus floor space drawing D508.	FSR Calculation Drawing No D501 show Building D as having a total floor space of 5428m², with the remaining bonus FS of 448.7m² being allocated to the residential and retail components of the development, and not used as Affordable Housing.	See full discussion below*
(2)(a) Building Height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land.	A maximum height of buildings of 18.5m and 21.5m applies to the site.	A maximum height of 21.5m applies to Building D. Building D will have a maximum height of 25.8m, a variation of 20%. The variation is mainly due to the lift overrun and pergola for the common open space area. All of the buildings in the development breaches the building height and a Clause 4.6 has been submitted for the variation in height and is discussed in detail below.	NO
(2)(b) Landscaped area if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,	Landscape treatment of front setback is compatible with streetscape.	The site has four street frontages, Railway Road, Faraday Lane, Underdale Lane and Constitution Road. The street setbacks are compliant with Council's requirements. Landscaping within these setback areas are compatible with the streetscape which is characterised by front courtyards with landscaped strips.	Yes
(2)(c) Solar access where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,	One or more communal living room receives at least 3 hours sunlight between 9am and 3pm at mid-winter.	The proposal has three communal rooms, one on Levels 3,5 & 6 respectively. The communal rooms on Levels 5 & 6 will be able to receive sunlight between the hours of 11am to 3pm midwinter.	Yes
(2)(d) Private Open Space if at least the following private open space			

Clause 29 Standards which cannot be used to refuse consent	Required	Proposed	Complies
areas are provided (other than the front setback area)— (i) one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers, (ii) if accommodation is provided on site for a boarding house manager—one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation,	One area of at least 20m² with minimum dimension of 3m is provided for use of lodgers. 8m² required for boarding house manager with minimum dimension of 2.5m.	A communal open space is provided on the roof level with an area of 398m². One manager room is provided on the ground floor (Level 1) with private open space of 4m² adjacent to house manager unit.	Yes NO
(2)(e) Parking (i) In the case of development carried out by or on behalf of a social housing provider in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and (ii) in the case of development carried out by or on behalf of a social housing provider not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and (iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and (iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the	Not a social housing provider so (iia) and (iii) are applicable. At least 0.5 parking spaces are provided for each boarding room – minimum 81 spaces. A maximum of 1 space is permitted for the on site manager/employees. As such, a total of 82 car parking spaces is required.	The boarding house have been allocated 82 car spaces within Basement Levels 02 and 03, including 5 accessible spaces.	Yes

Clause 29 Standards which cannot be used to refuse consent	Required	Proposed	Complies
development and who is resident on site,			
(2)(f) Accommodation size if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least— (i) 12 square metres in the case of a boarding room intended to be used by a single lodger, or (ii) 16 square metres in any other case.	Single rooms are at least 12m ² , and 16m ² in any other case, in area excluding private kitchen or bathroom facilities.	A total of 162 rooms comprising of 16 single occupancy and 146 double rooms. All of the boarding rooms contain ensuites and private kitchen facilities. Room sizes range between minimum 12m ² (single) to 16.4m ² (double). The floor area calculation does not include the private bathroom or kitchenettes.	Yes
(3)Facilities A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.		All boarding rooms contain private bathrooms and kitchenettes.	Yes

Table 3. SEPP (Affordable Rental Housing) assessment.

*Clause 29 (1)(ii)

The development has 21,950m² of GFA which complies with the maximum GFA allowed (this includes the bonus FS allowed). However, Council do not support the allocation of the bonus floor space.

The permitted floor area for the boarding house under ARH SEPP would be a maximum of 5876.55m². The development has proposed a total of 5428m² for the boarding house. This results in the remaining 448.7m² of bonus floor space being allocated to the residential and retail components of the development.

The aims of the ARHSEPP as outlined in Clause 3 are as follows:

- (a) to provide a consistent planning regime for the provision of affordable rental housing,*
- (b) to facilitate the effective delivery of new affordable rental housing by providing incentives by way of expanded zoning permissibility, floor space ratio bonuses and non-discretionary development standards,*
- (c) to facilitate the retention and mitigate the loss of existing affordable rental housing,*

- (d) to employ a balanced approach between obligations for retaining and mitigating the loss of existing affordable rental housing, and incentives for the development of new affordable rental housing,*
- (e) to facilitate an expanded role for not-for-profit-providers of affordable rental housing,*
- (f) to support local business centres by providing affordable rental housing for workers close to places of work,*
- (g) to facilitate the development of housing for the homeless and other disadvantaged people who may require support services, including group homes and supportive accommodation.*

Accordingly, the policy's intent is to facilitate the increase supply and diversity of affordable rental and social housing. The additional floor space used by the residential and retail component does not provide affordable housing and is not in accordance with the aims of the SEPP as stipulated above.

Council has sought legal advice with regard to this matter (**Attachment 2**), in particular to advice:

- a. can the bonus floor area pursuant to clause 29(1) (c) of the SEPP only be utilised for the purpose of the boarding house component of the development?*
- b. If the answer to (a) above is in the negative, then is there any minimum amount of bonus floor area that must be utilised for the purpose of the boarding house component to comply with the requirements of clause 29(1) (c) of the SEPP?*
- c. In any event, can Council also impose a condition of consent requiring a restriction as to use being registered on the title of the land to ensure that the bonus FSR is utilised for the boarding house component in perpetuity?*

Council's legal advice provided the following:

- 13. It seems self-evident that the entirety of the mixed use development cannot be said to be "for the purpose of a boarding house" as required by clause 27 in order to engage Division 3 of Part 2. The retail and residential uses could not be said to be ancillary to the boarding house element or necessary to achieve the purpose. They are entirely separate uses (with the possible exception of the car park, if any spaces in it are allocated to the boarding house.*
- 14. Even if the developer seeks to divide the uses into "retail" and "residential", the broader "residential" use is simply not for the purpose of a boarding house. While a few non-boarding style residences might be ancillary to a boarding house use (for example, for managers to reside in, in this case considerably more bedrooms in the development are allocated to general residences than to boarding rooms.*
- 15. The developer can only engage Division 3 of Part 2, and so enjoy the bonus floor space under clause 29(1)(c) if the development is approached as being for several separate uses, one of which is boarding house. It follows that the bonus floor space can only be calculated on the floor space area used for boarding house (which appears to be the case in the developer's calculations) and can only be applied to the area used for a boarding house.*

16. Applying bonus floor space to areas of the development used other than for a boarding house could also be said to be contrary to the aims of ARH SEPP, which are all directed at the provision of affordable housing. This provides an alternate argument as to why the bonus floor space should be limited to the part of the development used for the purpose of a boarding house.

The development does not comply with the floor space permitted under the ARH SEPP with the additional floor area of 448.7m² allocated as floor space not for affordable housing. The additional floor space results in a non compliance with the height.

Clause 29 (2)(a) Building Height

Clause 29 (2)(a) states that a consent authority must not refuse consent to a proposal if the building height is not more than the maximum building height permitted under another environmental planning instrument. Clause 29 (4) of the ARH SEPP also states that a consent authority *may* consent to a development which this division applies, whether or not the development complies with the standards set out in subclause (1) and (2).

In the judgement for *193 Liverpool Road Pty Ltd v Inner West Council* [2017] NSWLEC 13, the Commission, Moore J, found the following:

“48 I do not consider that a strict cl 4.6-like approach is mandated because there is nothing in the terms of this provision of the SEPP that purports to impose fetters on the exercise of the discretion given by it in the fashion that arises from the very structured testing regime that flows from cl 4.6 itself. The absence of such a regime, in my view, means that it is inappropriate to infer that such a strict regime would be required to be applied.

49 A proper merit assessment, having regard to the matters pressed by the Council in its contentions, would, in my view, be the appropriate course to follow”

Accordingly, a written Clause 4.6 variation request is not required for the boarding house component (Building D) however a Clause 4.6 variation request have been submitted and discussed under Section 7.3 of the report as the development as a whole is considered a mixed use development, to which Clause 4.6 applies. The variation in height for the buildings are not supported for the reasons in the Clause 4.6 section of this report.

Clause 30 – Standards for boarding houses:

Clause 30(1) stipulates that a consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:

Clause 30 (1) Standards for boarding houses	Required	Proposed	Complies
(a) Common room	Minimum one communal living room for 5 or more boarding rooms	The proposed boarding house will have 162 rooms. Three communal rooms are proposed on Levels 3,5 & 6. The communal rooms will have an area of 61m ² , 120m ² and 66m ² , respectively. The communal living areas are provided with facilities such as lodge/tv area, and on Level 5 with communal dining seating and cooking facilities.	Yes
(b) Gross Floor Area	No boarding room to have gross floor area exceeding 25m ² excluding private kitchen and bathroom	Boarding rooms (not including the House Manager unit) will not exceed 25m ² , (excluding bathrooms and kitchenettes).	Yes
(c) Occupancy	No boarding room to be used by more than 2 adult lodgers	Boarding rooms are proposed to contain 1 to 2 lodgers.	Yes
(d) Kitchen/ Bathroom	Adequate kitchen and bathroom facilities are required for a boarding house for the use of each lodger	Each boarding room is self-contained with individual bathrooms and kitchenettes.	Yes
(e) Manager	If a boarding house accommodates 20 or more lodgers a manager's dwelling shall be provided onsite.	A boarding manager unit is provided.	Yes
(g) Commercial zoning	If the site is primarily zoned for commercial purposes ground floor not to be used for residential purposes	The site is not zoned for commercial purposes.	N/A
(h) Parking	At least 1 motorcycle and bicycle parking space shall be provided for every 5 boarding rooms. Based on 162 rooms – 33 motorcycle and 33 bicycle spaces are required.	33 motorcycle and 33 bicycle parking spaces are provided in Basement 3.	Yes

Table 4: Standards for Boarding House.

Clause 30A – Character of local area

Clause 30A stipulates that a consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area. An assessment of the proposal's compatibility with the character of the area is provided below. It is noted this assessment is of Building D, as this is the only element of the proposal subject to the ARH SEPP requirements.

The site is located within the Shepherd's Bay, Meadowbank locality, an area that is undergoing significant redevelopment. The subject site is surrounded by recently constructed four (4) to seven (7) storey residential apartment buildings within the vicinity of the site. Plus, construction is currently under way for redevelopment of Meadowbank TAFE to a new Multi-trades and Digital Technology Hub, as detailed earlier in this report.

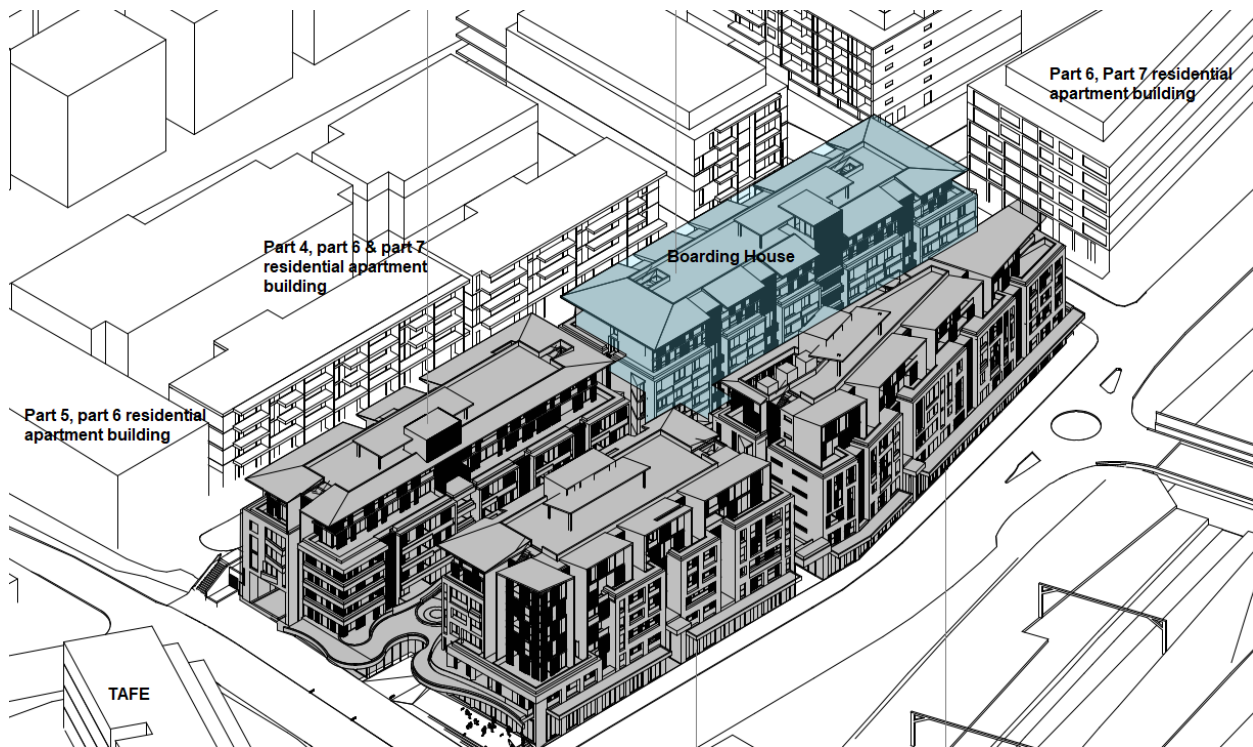


Figure 20: Boarding House high light in blue.

The surrounding area consists of multi storey high density residential apartment buildings built generally to Council's controls. It is considered that the proposed Building D responds to the scale and character of recently constructed buildings opposite at Faraday Lane and Underdale Lane and of the Shepherd's Bay, Meadowbank precinct through the architectural design, the form and appearance of the building. Whilst Building D does not comply with the height control, the height variation is generally compliant except for the lift overrun and the roof top pergola. Building D has compliant street setbacks, being 4m to Underdale and Faraday Lanes. Street setbacks are also increased at upper levels, consistent with the precinct controls and other nearby buildings. The proposed boarding house has provided the required setbacks, articulation and street landscaping and will not be out of character with the emerging character of the area, as illustrated in **Figure 21** below.



Figure 21: Surrounding residential apartment buildings opposite proposed boarding house on the corner of Railway Road and Underdale Lane.

Clause 52 – No subdivision of boarding houses

In accordance with Clause 52, consent must not be granted for the strata subdivision or community title subdivision of a boarding house. The proposal does not seek approval for subdivision of the boarding house.

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

This policy aims to improve the design quality of residential apartment buildings development in NSW. It recognises that the design quality of residential apartment developments is of significance for environmental planning for the State due to the economic, environmental, cultural and social benefits of high quality design.

The proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- (i) Urban Design Review Panel
- (ii) The 9 SEPP 65 Design Quality Principles; and
- (iii) The Apartment Design Guide

(i) Urban Design Review Panel (UDRP)

The application was lodged without a pre-DA lodgement review with the application, and was reviewed by the UDRP after lodgement on 2 July 2020 (1st review).

Amended plans were received on 14 December 2020 and the UDRP on 25 January 2021 (2nd review) provided additional comments as detailed in the table below (Table 5).

(ii) Design Quality Principles

There are 9 design quality principles identified within SEPP 65. Table 5 below provides an assessment of the development proposed against the 9 design principles of the SEPP with comments from the review by the Panel on 2 July 2020 and 25 January 2021 and the applicant's response.

SEPP 65 – Design Quality of Residential Flat Buildings	
Context and Neighbourhood Character <u>UDRP comments for 25 January 2021 (amended plans – 2nd review)</u> Plaza Design The plaza design has been improved to support public access by removing outdoor dining. Public seating on stairs and around trees is provided to promote its use. Tenancies facing the space could incorporate bifold doors to enhance engagement and activation of the space without utilising exterior space for private seating. Pedestrian access The DDA path of travel for Building C and D residents appears to require residents to travel from their building around the development via Faraday Lane, Underdale Lane and Railway Road to access the train station and for building D residents to access the shops within the development. All residents should have easy access to both the train station and the shops with the shortest path of travel. The applicant should confirm that residents in Building C and particularly D (which is likely to have a separate management structure) will have access to lifts in Buildings A to enable a more direct, easily accessible route to the train station and shops.	<u>Council's Response:</u> Any approval will be conditioned to reflect the UDRP's comments, however, Council's Urban Designer has advised that the proposed layout for the corner plaza has not optimised its functions and character to be perceived as a public space. Despite being a privately owned publicly accessible space, it should be designed to function and be understood as a true public space. Stairs leading up to the plaza are provided along the site boundary. The level changes and the three proposed street trees along the boundary signify the plaza as a separated space from the public domain and compromise the perception of a public space. The stairs should be pulled back to align with the northern retail shopfront, allowing a larger levelled space to be created and be perceived as an integral part of the public domain. The street trees should be located behind the kerb of Constitution Road to define the public domain and provide shade to the plaza space. Public seating and other public domain elements such as artwork and landscape planting are to be provided to cater for passive recreational purposes. <u>Pedestrian Access</u> This issue has been raised previously but has not been addressed to Council's satisfaction. The site is located at the north western end of the Shepherds Bay urban renewal area. It is expected that many residents from the east and south of the Shepherds Bay area may choose to walk to the new supermarket and retail shops within the site as well as the railway station. The proposal currently does not provide any direct access to the supermarket and shops from Faraday or Underdale Lanes. In the current layout, pedestrians arriving at the Faraday and Underdale lane intersection will have to walk down the stairs at the northern end of Faraday Lane or walk out to Railway Road then turn back into the internal walkway to visit the shops and

SEPP 65 – Design Quality of Residential Flat Buildings	
Stair and public domain at intersection of Faraday Lane and Constitution Road. The levels at the eastern edge of the stairs and their relationship to existing levels to the east of the site boundary are not documented. The seamless integration of new public domain works by the proponent and existing site level should be documented. The stairs appear to marry in with the existing levels, but a more considered edge detail is needed to accommodate both existing and future public domain levels. The streetscape works between the proposal and the recent development to the east of Faraday Lane are within the public realm and should be addressed by Council to enable a holistic streetscape/public domain outcome. The solid balustrade height wall along the western side of the stairs could be more open at the northern end to improve pedestrian sight lines and increase surveillance /safety for stair users.	supermarket. Enabling direct entry to the supermarket or the internal walkway via Faraday Lane is important for wayfinding and will also increase the permeability through the site, increase activation to the street and optimise the patronage for the retail uses. <u>Stair at Faraday Lane and Constitution Road.</u> Any approval would have a condition requiring the western side of the stair to be open (glass balustrade) to improve pedestrian sight lines as noted. Public Domain has advised that the submitted plans show the proposed stairway connecting Constitution Road and Faraday Lane partially within the site boundary. This access must be for public use and therefore wholly on Council land.
Built Form and Scale <u>UDRP comments for 25 January 2021 (amended plans 2nd review)</u> Separation and Privacy In the previous Panel meeting, separation between A and C and between B and D at Level 5, 6, 7 were raised as a concern. The design revisions propose screens, staggered windows and balconies, ear windows and vegetation to ameliorate the reduced separation distance. Planting, particularly on upper building edges outside dwelling units, is not a reliable form of privacy screening as it may not be maintained properly or be sustained in the long term. In Building B apartments are oriented generally to the west with the exception of units 504/604, unit 505 and the common lobby area. Units 504 and 604 appear to have floor to ceiling glazing along the whole south-east façade directly across from 4 boarding house dwellings on each level in Building D. Separation between the glass line of Unit 504/604 and the opposing dwellings balustrade edge is 16.7m. While operable screens are provided on Building D, Unit 504/604 should be designed to avoid overlooking, particularly as the units benefit from outlook to the west and south and units in Building D do not have alternative outlook. Unit 604 includes areas of non-trafficable roof to improve separation to the north, however this space is within the dwelling area and its use could change overtime. A planted solution either outside the balustrade or in a raise	<u>Council's Response:</u> The proposal was also reviewed by Council's Urban Designer who also raised concerns about the buildings separation and advised that separation between habitable rooms/balconies on Levels 5 and 6 should be a minimum of 18m in accordance with the Apartment Design Guide (ADG). The separation distances in the following locations are inadequate: Buildings B & D: • between the living room of Unit B1-504 and the balconies of the boarding house units (approximately 16.7m of separation). • between the glass-line of Unit A1-505 and the balconies of the boarding house units (approximately 15m of separation). • between the living room of Unit B1-604 and the balconies of the boarding house units (approximately 16.7m of separation). Buildings A & C: • between the balconies of Unit A1-504 and the balcony of Unit C1-502 (approximately 14.9m of separation).

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planter within the balustrade may be preferable subject to the comments below in Landscape. Unit 505 is oriented to the north and east. It also includes non-trafficable space and the comments above apply here too. Screens on the eastern edge of the paved area assist in mediating overlooking. Common lobby on Level 5 and 6 could be setback further from the building edge to increase separation between the edge of the lobby and the edge of the opposing balconies in Building D. There is insufficient separation between Building A and C on Level 5. In Building C the proposed long linear units 501 and 502 reduce the number of dwellings facing Building A. Operable screens on both Building C and A enable occupants to control their privacy within the units and within the private space of Building A. The privacy of open spaces on Building C could be refined to enable a space within the long terrace, perhaps adjacent the main living area, to achieve additional privacy mitigation. Building Length and Separation (between A & B, C & D). From an urban form perspective, the separation and the building articulation approach defines a series of bays along the street and effectively breaks the visual continuity of the building length. The separation between Buildings A and B and between C and D complements the articulation of the bays along the street, while maintaining the proportions and continuity of the façade design along the street. While ear windows reduced the visual separation between buildings, they are setback from the street façade and visually recessive. They also provide additional daylight and outlook for apartments, and this is particularly beneficial in smaller apartments with limited choice of outlook.	• between the living room and balcony of Unit B1-505 and the balcony of Unit C1-502 (approximately 14.9m of separation). • between the balcony of Unit C1-506 and the balcony of Unit B1-501 (approximately 14.9m of separation). • between the balcony of Unit C1-602 and the balcony of Unit B1-605 (approximately 17.45m of separation). Relying on louvres on the primary aspect of the units for privacy is not an acceptable reason for reducing the separation distances as louvres will compromise the outlook and daylight access of the units. Accordingly, the separation between Buildings A & C and B & D on Levels 5 & 6 are insufficient and cannot be supported. The separation between Buildings A and B and between C and D, whilst not complying, the applicant has dealt with the privacy issues in these locations by offsetting window locations, providing highlight windows, fixed windows, louvres to windows or no windows (as in Building D). As the interface is between the secondary aspect of the buildings and the units do not rely on these windows for outlook and solar access, such treatments are considered acceptable regarding privacy.
Density <u>UDRP Comments (2 July 2020 1st review)</u> Density complies with the relevant development standards, and the proposed form is appropriate to the evolving context and scale of the existing heritage building to the west.	<u>Council's Response:</u> The proposal does not comply with the floor space allocation, resulting in non-compliance with height and density. The non-compliances are discussed in full further in the report.
Sustainability <u>UDRP Comments (2 July 2020 1st review)</u> Although sustainability was not specifically addressed during the meeting, the Panel considers a development of this scale should seek to exceed minimum Basix compliance with innovative approaches.	<u>Council's Response:</u> BASIX Certificates have been provided for the residential and boarding house component. However, the development does not provide any innovative sustainability approach other than the BASIX commitments.

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Landscape <u>UDRP comments for 25 January 2021 (amended plans 2nd review)</u> Landscape Planting Level 5 along the edges of the buildings on the exterior side of the balustrade, and therefore external to individual dwellings. While a note has been added to the drawings for “maintenance access to roofs”, it is not clear how these areas will be accessed and maintained. A management plan and a detailed section showing the interface between the balcony edge, balustrade and planter would be useful to explain how the planting is achieved and maintained. Privacy walls between the common open space on Level 1 and private terraces improves privacy but limits the outlook and benefits of adjacent vegetation for dwellings. Privacy screens could be more open to improve green outlook for resident while limiting sightlines into private space. Within the common open space, landscape longevity is more certain than on upper building edges as discussed above in separation.	<u>Council's Response:</u> It is still unclear how the access for landscape maintenance can be provided to the following proposed landscaped areas. Further amendments or clarifications are needed. • The planter adjoining the lift and balcony of Unit A1-203 in Building B • The planter adjoining the void on Level 2 of Building D • The planter adjoining the void on Level 4 of Building D Accordingly, insufficient information has been provided to demonstrate the viability of the proposed landscaping i.e. how planting along the balcony edge, balustrade and planters will be maintained.
Amenity <u>UDRP comments for 25 January 2021 (amended plans 2nd review)</u> Plenums for ventilation are proposed in some apartments. More information is required to justify how these are will function and that they are an appropriate area to facilitate air flow through the apartment. Ducts should function without fan assistance to achieve natural ventilation.	<u>Council's Response:</u> The applicant has advised that the plenums are operable and can be adjusted by occupants of the relevant apartments (drawing D504_B). Skylights to apartments B1-602, A1-605, and A1-604 have been located deeper into the floorplate. B1-602 is cross ventilated utilising an operable plenum via the common corridor.
Safety <u>UDRP Comments (2 July 2020 1st review)</u> Resolution of equitable pedestrian access and vehicle turn around at the northern end of Faraday Lane is required.	<u>Applicant's Response:</u> Refer to drawing D602_A for a proposed permeability diagram emphasising pedestrian access to and through the site, including equitable access. Pedestrian wayfinding from the south and east is satisfactory as pedestrians are easily able to access the site via Underdale Lane or the north of Faraday Lane. <u>Council's Response:</u> Council is still not satisfied that the issue of equitable pedestrian access has been addressed. See earlier comments under “Context and Neighbourhood Character – pedestrian access via Faraday.”

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Housing Diversity and Social Interaction <u>UDRP Comments (2 July 2020 1st review)</u> Supported.	<u>Council's Response:</u> The amended proposal provides for a mixture of bedrooms mix which contributes to the availability of a range of apartment types to meet housing needs in the local area and is acceptable. The proposed boarding house provide for “co-living” apartments providing for self contained rooms with communal facilities.
Aesthetics <u>UDRP Comments (2 July 2020 1st review)</u> The admission of daylight into the retail mall space would make this space more welcoming and add amenity for shoppers. Discrete sky lights could be incorporated into the landscape design of the podium above subject to detail design managing any light spill impacts to adjacent residences. The careful modelling of the building form and the considered use of building and landscape elements creates a high-quality architectural contribution to the locality and is supported by the Panel. Concerns are also raised about the substation on the Railway Road frontage, at the corner opposite Bank Street resulting in poor urban design. The substation should be relocated off Railway Road.	<u>Applicant's Response:</u> The podium communal open space (COS) does not align with the centre of the retail arcade below and therefore skylights are not feasibly integrated into the design without compromising the quality of the COS at podium level. The retail arcade will receive natural light from openings on Railway and Constitution Roads, in addition to artificial lighting which is consistent with the requirements for the use of the ground floor space. The substation has not been relocated, however planters have been incorporated adjacent to them on Underdale Lane to provide screen planting. Furthermore, activation of the Railway Road frontage has been enhanced by the potential for display windows long the supermarket frontage. <u>Council's Response:</u> To minimise the visual impact of the substations, Railway Road frontage is to be “activated” by display windows for part of the supermarket along Railway Road. This has been confirmed by Coles, who have provided an indicative layout that does not to have any shelves up against the glass frontage along Railway Road in order to provide activation and allow passive surveillance into the store. An example of another Coles having full glazing along the street frontage is in Crows Nest (illustrated below).

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	 Figure 22: Coles in Crows Nest with full glazing along the frontage. Allows passive surveillance. The amended plans show that 5 of the window panels of the supermarket will have window display signage. To ensure that the glazing along the Railway road elevation is not covered in signage any approval would have a condition to ensure that the 5 window panels for signage for the supermarket is not to be covered with signage, with at least 75% of the area of each of the window or glass remain uncovered by any advertising sign. All other windows are to remain free of signs.

Table 5: SEPP 65 Table.

(iii) Apartment Design Guide

The SEPP requires consideration of the "Apartment Design Guide" (ADG) which supports the 9 design quality principles discussed above by giving greater detail as to how those principles might be achieved. The table below addresses the relevant matters.

Part 2 Development the controls		
	Proposal	Compliance
Building Depth Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line.	Building A: 22 to 24m Building B: 10m to 23.6m Building C: 21 to 23m Building D: 20 to 22m (boarding house – not applicable). Council has supported building depths variation in the past. The proposed buildings can achieve acceptable amenity with room and apartment depths. UDRP raised no objections to the building depth.	No - does not comply with max building depth however the variations can be supported.
Building Separation Minimum separation distances for buildings are: <i>Up to four storeys (approx 12m):</i> - 12m between habitable rooms/balconies - 9m between habitable and non-habitable rooms	The building separation is provided as follows: <u>1st to 4th storeys</u> <u>Between A & B / C & D</u> Require a 12m separation between A & B, & C & D. Only a 6m separation has been	No – does not comply. Variations can be supported between 1st and 4th storeys

- 6m between non-habitable rooms. <i>Five to eight storeys (approx 25m):</i> - 18m between habitable rooms/balconies - 12m between habitable and non-habitable rooms - 9m between non-habitable rooms <u>Note:</u> • At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m • No building separation is necessary where building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within centres.	provide. Variation accepted on merit See earlier discussion in Table 5 above under Built form and scale. <u>1 to 4th storeys</u> <u>Between A & C /B & D</u> Require 12m Does not comply on Level 1 being only min 8.4m to 10m. Variation can be supported as privacy screen provided and UDRP has raised no issues with this separation. Levels 2 to 4 provides the 12m separation. <u>Level 5 and above</u> require 18m separation. <u>Levels 5 & 6</u> <u>Buildings A & C</u> – 14.9m from balconies to balconies. UDRP has advised that “there is insufficient separation between Buildings A & C on Level 5 and whilst there are operable louvres proposed relying on louvres on the primary aspect of the units for privacy is not an acceptable reason for reducing the separation distances as louvres will compromise the outlook and daylight access of the units. Furthermore, the privacy of open spaces on Building C could be refined to enable a space within the long terrace, perhaps adjacent the main living area, to achieve additional privacy mitigation. <u>Buildings B & D:</u> • between the living room of Unit B1-504 and the balconies of the boarding house units (approximately 16.7m of separation). • between the glass-line of Unit A1-505 and the balconies of the boarding house units (approximately 15m of separation). • between the living room of Unit B1-604 and the balconies of the boarding house units (approximately 16.7m of separation) The proposed mitigation measures to minimise overlooking impacts from the non compliance such as planting is not acceptable. Planting on upper building edges outside dwelling units is not a reliable form of privacy screen as it may not be maintained properly or be sustained in the long term. Some units benefit from outlook to the west and south and can be designed to avoid overlooking, plus common lobby on Levels 5 & 6 can be	No – does not comply on level 1 – variation supported. Yes for Levels 2 to 4 No – does not comply on levels 5 & 6 – variation not supported.
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	setback further from the building edge of the lobby.	
Front, Rear & Side Setbacks See discussion under the relevant Development Control Plan.	As per requirement under Council's DCP (this is discussed later in this report).	Yes
Part 3 Siting the development Design criteria/guidance		
3B Orientation Building types and layouts respond to the streetscape and site while optimising solar access and minimising overshadowing of neighbouring properties in winter.	The site has 4 frontages - Constitution Road, Railway Road, Faraday and Underdale Lane. The building layout corresponds to the site constraints and the 4 frontages. <u>Overshadowing</u> The proposal has demonstrated that the overshadowing impact on adjacent residential properties to the east and south is not significant. The majority of the west-facing residential apartments in No. 9-11 Angas Street are able to receive at least 2 hours (approximately from 11am to 1pm) of direct sunlight in mid-winter. Those units which will be impacted from 1pm onwards are low-level apartments which would otherwise be impacted by a compliant scheme. Overall, the overshadowing impact on No. 9-11 Angas Street is considered reasonable. Some north-facing apartments in No. 21-24 Railway Road will be overshadowed by the proposal until approximately 2pm. The 12m building separation between Buildings B and D assist with providing solar access to some low-level apartments between 10am to 1pm. All of these north-facing apartment will receive direct sunlight for 2 hours from 2pm to 4pm. Amendment was made which reduced the proposal's overshadowing impact (the extent of the roof overhangs of Buildings B and D to the south was reduced The proposal is considered satisfactory in this regard.	Yes
3C Public domain interface Transition between private & public domain is achieved without compromising safety and security and amenity of the public domain is retained and enhanced.	Further information required to demonstrate: - 1m dedication strip on Underdale and 2m strip on Faraday Lane and a splay corner at Faraday and Underdale Lane. - future connectivity of the Constitution Road footway with 1 Angas Street. - Stairway between Constitution Road and Faraday Lane partially within the site boundary. If the extent of Land dedication is shown correctly the stairway should not encroach onto private property.	No – insufficient information provided.

3D Communal & public open space Provide communal open space to enhance amenity and opportunities for landscaping & communal activities. <u>Design Criteria</u> Provide communal open space (COS) with an area equal to 25% of site; Minimum 50% of usable area of communal open space to receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June.	Communal open space is located on the roof of each of the buildings and will be embellished with BBQ, seating and landscaping. Required COS: 1943m²; Provided COS: 2402m². This equates 30%. Majority of the communal open space on the roof top will receive at least 2 hours direct sunlight between 9:00 am and 12:00pm.	Yes Yes
3E Deep Soil Zone Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality. <u>Design criteria</u> 1. Deep soil zones are to be provided equal to 7% of the site area and with min dimension of 3m – 6m.	Required: 544m² (7%); Provided: None. The ADG recognise that it may not be possible to achieve the 7% DSZ requirement on site with limit or no space for DSZ in CBD areas, constraints or high density areas and on site that has non residential uses at ground floor. Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure. No DSZ is proposed with this development as the basement levels are right up to the boundaries with the ground floor being entirely commercial with zero setbacks along Railway Road and Constitution Road. Alternative form of planting is proposed (planting on structure) however it has not been demonstrated that the extent of planting on structure is 7% of the site area and can support planting on structure for medium trees. Council's Senior Development Engineer has advised that the revise stormwater plans have implemented onsite detention however the design strategy has not been clarified. Insufficient information has been provided with respect to the OSD design.	No – The proposal provides no deep soil landscaped area. Insufficient information provided.
3F Visual Privacy Building separation distances to be shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. <u>Design Criteria</u> Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum	See Building separation requirements. The amended plans & proposed setback has been reviewed by UDRP and Council's Urban Designer. The separation and privacy impact between Buildings A & B and C & D (north-south) are considered satisfactory.	No – the proposal is unacceptable with respect to Visual Privacy on Levels 5 & 6 between Buildings A & C and B & D.

required separation distances from buildings to the side and rear boundaries are as follows: <table border="1"> <thead> <tr> <th>Building Height</th><th>Habitable rooms & balconies</th><th>Non habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m(4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>	Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m(4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	No – separation for level 5 between Building A & C and levels 5 & 6 between B & D insufficient. See full discussion earlier under “Building separation”.	
Building Height	Habitable rooms & balconies	Non habitable rooms												
Up to 12m(4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												
<u>Note:</u> • No separation is required from blank walls; • Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.														
3G Pedestrian Access & entries Pedestrian Access, entries and pathways are accessible and easy to identify.	All residents should have easy access to both the train station and the shops with the shortest path of travel. However, residents of Building C & D have to travel around the development via Faraday Lane, Underdale Lane and Railway Road to access the train station and for building D residents to access the shops within the development. The proposal currently does not provide any direct access to the supermarket and shops from Faraday or Underdale Lane. In the current layout, pedestrians arriving at the Faraday and Underdale lane intersection will have to walk down the stairs at the northern end of Faraday Lane or walk out to Railway Road then turn back into the internal walkway to visit the shops and supermarket. Council consider that direct entry to the supermarket or the internal walkway via Faraday Lane is important for wayfinding and will also increase the permeability through the site, increase activation to the street and optimise the patronage for the retail uses.	No – Council is not satisfied with the proposed pedestrian access through the site.												
3H Vehicle Access. Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Council’s Traffic Engineer has raised concerns about the location of the vehicular entry/exit point on Faraday Lane. The close proximity of the car park access to the intersection of Faraday Lane/Underdale Lane and the high peak hour traffic demands generated could affect the safe and efficient operations of the intersection of Faraday Lane/Underdale Lane (vehicles queuing onto Faraday Lane extending onto	No – not supported												

	Underdale Lane), which is not a desirable outcome.	
3J Parking Provisions. Car parking: For development in the following locations: • on sites that are within 800 metres of a railway station; or • within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, the minimum parking for residents and visitors to be as per TfNSW Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less.	Zone B4: The site is within 800m of the Meadowbank Railway Station. The following TfNSW rate will apply: • 0.6 space/ 1 bed • 0.9 space/ 2 bed • 1.4 space/ 3 bed • 0.2 space/ unit (visitor parking); The proposal is for: • 31 one bedroom • 74 two bedrooms • <u>28</u> three bedrooms <u>133</u> apts Proposal involves: 1 Bed: 31 X 0.6 = 7.8 space; 2 Bed: 74 X 0.9 = 66.6 space; 3 Bed: 28 X 1.4 = <u>39.2</u> spaces; = <u>113.6</u> (114 residents) Visitor: 133 X 0.2 = 26.6 (27) visitor spaces. Total required = <u>141</u> for the RFB Boarding House – 0.5 per room + 1 space per employee residing on site. = 81 + 1 manager = 82 spaces. (<u>82 spaces</u> allocated for the boarding house). Parking = 223 spaces required for residential. Commercial required 144 (See DCP Section) = 367 spaces (min). Proposed = 419 parking spaces	Yes – provided the minimum parking required.
Bicycle Parking: Provide adequate motorbike, scooter and bicycle parking space (undercover). 10% of carspaces	For the residential apartment building – 10% of 141 spaces = 14.1 (15) spaces. 12 bicycle spaces proposed for Buildings A, B & C (shortfall of 3 spaces). However, the total amount of bicycle provided on site exceeds what is required under Council's DCP – Carparking (see full discussion further in the report) and should approval be granted, a condition requiring 15 bicycle spaces being allocated to the residents of Buildings A, B & C can be imposed.	No – variation supported.
Part 4 Designing the building 4A Solar & daylight access 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	70% of 133 apartment = 93.1 apartments. The applicant has advised that 93 apartments can receive minimum 2 hours of sunlight between 9 am and 3 pm at mid-winter.	No – variation not supported.

However, Council's Urban Designer states that "The information related to solar access shown on Drawing D503 is incorrect. The following east-facing units are indicated on Drawing D503 to be capable of receiving a minimum of two-hour direct sunlight on the 21st June from 9am to 3pm.

- Building A - Units A1-207, A1-307 and A1-407
- Building B – Units C1-408 and A1-505
- Building C - Units B1-406, C1-407, A1-408 and B1-409.

However, based on the views from the sun on Drawing D410, they will receive direct sunlight from 9am until just past 10am. It suggests that they will fail to meet the ADG's two-hour minimum solar access requirements. If these nine units are excluded from the calculation, the proposal will only have 84 (or 63%) out of the 133 proposed units which meet the ADG's solar access requirements."

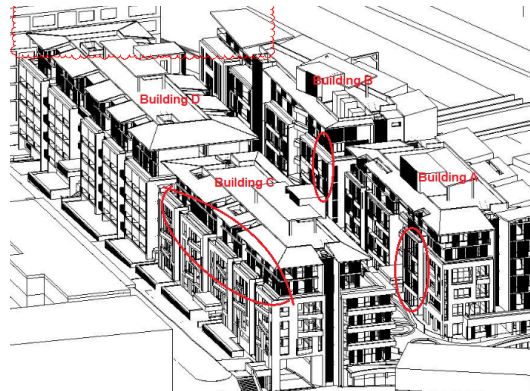


Figure 23: View from the sun at 9am.
Rough location of apartments mentioned above, circled where it will only get direct sunlight from 9am until just part 10am.



Figure 24: View from the sun at 10am.
After 10am, the apartments mentioned

	above will not receive the required solar access.	
No more than 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter.	15% of 133 = 19.95 (20) All apartments will receive direct sunlight in mid-winter.	Yes
Design should incorporate shading and glare control, particularly for warmer months.	Roof overhang and location of main windows set behind balconies.	Yes
4B Natural Ventilation All habitable rooms are naturally ventilated.	All habitable rooms are naturally ventilated (have access to a window).	Yes
Design layout of single aspect apartments to maximises natural ventilation and airflow (See Figure 4D.3)		Yes
<u>Design criteria for natural cross ventilation:</u> 1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	60% of 133 = 79.8 (80) 80 apartments are naturally cross ventilated. 	

• 4 bedroom = 102m². <u>Note:</u> ➤ Additional bathrooms increase the minimum internal area by 5m²;	<u>2 bedroom (2 bathrooms)</u> – range from 74m² to 90m² In Building B Apts 101,201,301 & 401 are 2 bed, 2 bathroom therefore require 75m². These apartments are only 74m², short of 1m². <u>3 bedrooms (2 bathrooms)</u> range from 95m² to 122m² In Building C on Level 5, Apts C1-503 & 505 have an unlabelled room, with nothing in the room. The room is approx. 6m² in area, with no windows. Council is assuming that these rooms are meant to be the main bathroom, same as the apartment above on Level 6. In the event approval is granted a condition to have these rooms not to be used as a habitable room and for details of the rooms to be provided prior Construction Certificate.	
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	All habitable rooms have direct access to a window opening that achieves light and ventilation. No borrowed daylight and air is proposed.	Yes
Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layouts – habitable room (where the living, dining and kitchen are combined) be maximum depth of 8m from a window.	All units comply with this requirement.	Yes
Bedroom - minimum dimension of 3m (excluding wardrobe space)	All bedrooms have minimum dimension of 3m.	Yes
Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments; • 4m for 2 & 3 bedroom apt	Complies with the minimum width for 1,2 & 3 bedrooms.	Yes
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Building B at the southern end are cross through apartments and are more than 4m in width.	Yes

4E Private Open Space and balconies Apartments must provide appropriately sized private open space and balconies to enhance residential amenity. <u>Design criteria</u> 1. All apartments are required to have primary balconies as follows: <table border="1" data-bbox="165 439 625 689"> <thead> <tr> <th>Dwelling type</th><th>Minimum area</th><th>Min. depth</th></tr> </thead> <tbody> <tr> <td>Studio apartments</td><td>4m²</td><td>N/A</td></tr> <tr> <td>1 bedroom</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bedroom</td><td>10m²</td><td>2m</td></tr> <tr> <td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr> </tbody> </table>	Dwelling type	Minimum area	Min. depth	Studio apartments	4m ²	N/A	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	All balconies comply with minimum size and depth requirement.	Yes
Dwelling type	Minimum area	Min. depth															
Studio apartments	4m ²	N/A															
1 bedroom	8m ²	2m															
2 bedroom	10m ²	2m															
3+ bedroom	12m ²	2.4m															
2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.	Private open space is provided.	Yes															
4F Common circulation and spaces. <u>Design criteria</u> 1. The maximum number of apartments off a circulation core on a single level is 8. Where design criteria 1 is not achieved, no more than 12 apartments should be provided of a circulation core on a single level.	<u>Building A</u> Maximum of 8 apts on a single lift core. <u>Building B</u> Max 8 apts on a single lift core. <u>Building C</u> 8 apts on Level 1, 10 apts on Levels 2 to 4 and 5 apts on Levels 5 & 6. Whilst Levels 2 to 4 of Building C have more than 8 apartments off a single core, there is less than 12 apts and there is an area for seating adjacent to the lift (See Plan DC102). However, it is unclear on the plan whether there is a full glazed wall between the lobby and seating area. Further clarification is required on the plan.	Yes															
<u>Design Guide:</u> Daylight and natural ventilation should be provided to all common circulation space above ground. Windows should be provided at the end wall of corridor, adjacent to the stair or lift core.	Window and seatings (in Building C) provided in the middle of the corridor, adjacent to the lift core.	Yes															
4G Storage Adequate, well designed storage is to be provided for each apartment. <u>Design criteria</u> 1. In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:	Storage for apartments comprise a mix of storage located within the apartment and in the basement as shown on the architectural plans. The amount of storage exceeds the minimum required.	Yes															

<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom apt</td><td>6m³</td></tr><tr><td>2 bedroom apt</td><td>8m³</td></tr><tr><td>3 + bedroom apt</td><td>10m³</td></tr></table>	Dwelling type	Storage size volume	Studio	4m ³	1 bedroom apt	6m ³	2 bedroom apt	8m ³	3 + bedroom apt	10m ³		
Dwelling type	Storage size volume											
Studio	4m ³											
1 bedroom apt	6m ³											
2 bedroom apt	8m ³											
3 + bedroom apt	10m ³											
At least 50% of the required storage is to be located within the apartment. Additional storage is conveniently located, accessible and nominated for individual apartments (show on the plan).												
4H Acoustic privacy Noise transfer is minimised through the siting of buildings, building layout, and acoustic treatments. Plant rooms, services and communal open space and the like to be located at least 3m away from the bedrooms. Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	Plant room and communal space is located on the roof level. The site is opposite a rail corridor and an Acoustic Assessment Report has been prepared by Acoustic, Vibration & Noise P/L. This report looked at rail noise intrusion, mechanical plant, car park mechanical ventilation and roller door noise, plus noise assessment of the proposed boarding house. The report states that the development will comply with the vibration criteria without any additional vibration treatments being installed. The report provides recommendations for building improvements to enable the development to be capable of complying with all relevant acoustic criteria through means of standard acoustic treatment and management. The acoustic treatment and management methods suggested in this report include: • Glazing – laminated or double glazing • Windows and doors with acoustic seals • Acoustic assessment of all proposed mechanical plans and equipment preparation of a Mechanical Services Plans once approval is granted • External air conditioning units to be acoustically enclosed or set away by more than 3m from any boundary. • Preparation of PoM for the boarding house. An amended PoM has been submitted listing the relevant requirements recommended in the Acoustic Report. The report concludes that if carried out as recommended in plans and specifications, including the acoustic recommendations in the report, will meet the required noise reduction levels as required by Clause 87 of SEPP (Infrastructure) 2007, Australian Standards AS 2107 'Acoustics Recommended Design Sound Levels and Reverberation Times' and the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads – Interim Guidelines".	Yes										

4K Apartment mix A range of apartment types with different number of bedrooms (1bed, 2 bed, 3 bed etc) should be provided.	A mix of 1, 2 & 3 bedroom apartments have been provided.	Yes
4L Ground floor apartments Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents.	The facades are adequately articulated to provide visual interest and reflective of contemporary buildings recently approved in the locality.	Yes
Building functions are expressed by the façade.	Buildings A, B & C are mixed use with residential above. The design reflects the proposed use of the buildings.	Yes
4N Roof design Roof treatments are integrated into the building design and positively respond to the street.	Roof elements are integrated into the buildings design.	Yes
Opportunities to use roof space for residential accommodation and open space are maximised.	Communal open space is proposed on each of the roof.	Yes
Roof design incorporates sustainability features.	The application will comply with BASIX.	Yes
4O Landscape design Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable	The proposal includes a landscape plan. Insufficient information has been provided to demonstrate the established soil depth is able to provide medium tree planting.	No – insufficient information provided.
4P Planting on structures Appropriate soil profiles are provided.	Further information is required to ensure that 7% of the site area is able to provide medium tree planting.	No – insufficient information provided.
4Q Universal design Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are to be provided.	10% of the units are adaptable with accessible car space <u>Building A</u> (which have 44 apartments) will have 5 adaptable units and 5 livable apartments (Silver level). <u>Building B</u> (which have 41 apartments) will have 5 adaptable units. <u>Building C</u> (which has 48 apartments) will have 5 adaptable units and 5 livable apartments (Silver level).	Yes
4T Awnings and signage Awnings are well located and complement and integrate with the building design.	Awning along Railway Road and Constitution Road to provide weather protection to pedestrian.	Yes
4U Energy efficiency Development incorporates passive environmental design measures – solar design, natural ventilation etc.	BASIX Certificates submitted.	Yes

Table 5: ADG Table.

As indicated by the table, there are aspects of the development that are unsatisfactory. The proposal in its current form results in unacceptable amenity impacts for future residents, forming reasons for refusal of the application.

7.2 Meadowbank Education and Employment Precinct Master Plan July 2020.

The subject site is within the Meadowbank Education and Employment Precinct and a Master Plan (MEEP MP) for this precinct was recently released by the Greater Sydney Commission.

The MEEP Master Plan developed a set of Guiding principles aimed at ensuring that the precinct is a more integrated, liveable and accessible place. One of the six guiding principles is to “*improve access to, from and across the precinct*” with the master plan identifying nine key projects to help achieve these principles. These 9 key projects are:

- Living Streets
- Enhanced connectivity
- Pedestrian improvements
- Traffic management
- North-South shared pathway
- Gateways into Education Areas
- Green Infrastructure
- Station Centres
- Sydney water & Employment Lands.

The subject site has the potential to impact on achieving several of these nine key projects – pedestrian improvements and traffic management, as identify in **Figure 25**.



Improve vehicle access and intersections around the precinct



Subject site



Existing signalised intersection



Opportunity for improved intersection



Existing key pedestrian route



Opportunity for improved pedestrian route



Existing key cycle route



Opportunity for shared pedestrian/ cycle route



Existing key bus route



Opportunity for additional bus stop & route



Opportunity for train station improvement



Existing public open space



Opportunity for new green space



Green space within the School site



Opportunity for blue/green link



Potential new Sydney Water facilities and complementary uses



MEEP 'Core' area boundary



MEEP 'Frame' area

Figure 25: Extract of the MEEP Master Plan identifying the key projects.

The applicant was advised to consider the MEEP MP and to meet with Council to discuss solutions for improve vehicles and pedestrian options around the site.

The applicant in their response advised that they have reviewed the MEEP MP and, in their opinion, *the MEEP MP has little bearing on the currently applicable built form controls for the site. On this basis, it should not be seen as an impediment to proceeding with finalisation of the assessment of the subject application. Indeed, the design of the proposed development contributes positively to the outcomes envisaged in Section 3 of the Master Plan, by:*

- *Enhancing the pedestrian environment around the site and increasing permeability through the site;*
- *Providing high quality residential and commercial uses in an accessible location in close proximity to Meadowbank Station, thus promoting active transport;*
- *Creating a landmark development that will support the local community and provide a new public plaza;*

- *Unlocking a 'shovel-ready' development site to increase employment opportunities in the locality;*
- *Increasing the urban tree canopy and improving water management on the site.*

Further, we note communications with Council staff in relation to the design of access for the development, and traffic circulation initiatives for the Precinct. We deal with these matters in our submission however in essence, are of the view that the proposed access design meets the relevant planning and traffic requirement inherent in the applicable planning controls. The pursuit of initiatives that are not embodied in any relevant planning documents, and in our view that will in some regards have negative impacts for the development and precinct, is outside the ambit of the required development assessment.

Council is not in agreement that the proposed development, with its built form and density has little bearing with regard to the MEEP. The development is four 6 to 7 storey buildings with 133 apartments, 162 boarding rooms and 3591m² of commercial floor space which will have significant impact to the surrounding street networks.

In assessing the development application, the likely impacts of the development must be considered in conjunction with the relevant planning controls in accordance with 4.15(i)(b) of the EP & A Act. The traffic assessment carried out has identified the subject development will have an unacceptable impact on the road network. An assessment of the likely impact of the development correlate with the MEEP MP, which identifies the requirement of improved vehicle access and intersections in the vicinity of the site (see **Figure 25**).

To minimise this impact, traffic management is a key consideration. In the MEEP MP, traffic management has been identified as one of the key projects for the site and its vicinity. Accordingly, further negotiation/discussion between Council and the applicant is warranted to ensure that the vision of the MEEP MP is able to be achieved and the traffic impact mitigated.

The site has frontages to Railway Road and Constitution Road which are identified as having “opportunity for improved pedestrian route”. The intersection of Constitution Road and See Street has been identified as “opportunity for improved intersection”, in addition to “improve vehicle access and intersections around the precinct”.

Accordingly, this is an important corner site and it is crucial that traffic management and vehicle and pedestrian access to/from and within the vicinity of the site are addressed as part of this development. Therefore, access/connection from Faraday Lane to See Street and to the train station and traffic management are required to be satisfactory addressed as part of any redevelopment of this site so as to achieve an outcome in line with the vision of MEEP MP.

7.3 Ryde Local Environmental Plan 2014

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

Clause 2.2 - Zoning

The site is located within the B4 - Mixed Use zone under the Ryde LEP 2014. The proposed development comprising of 3591m² of ground floor commercial, 133 residential apartments, 162 boarding rooms and 3 levels of basement parking for 419 parking spaces is permitted with consent.

Clause 2.3 - Zone Objectives

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

The objectives for the B4 Mixed Use zone are as follows:

- *To provide a mixture of compatible land uses.*
- *To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*
- *To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.*
- *To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.*

The development complies with the first two objectives as it provide for a mixed use in an area close to public transport. The last two objectives are not applicable as the site is not near or within Macquarie Park Corridor.

Clause 4.3 - Height of Buildings

Clause 4.3 of Ryde LEP 2014 prescribes the maximum building height for the site with the maximum building heights permitted at the subject site being 18.5m and 21.5m, as illustrated in **Figure 26** below.

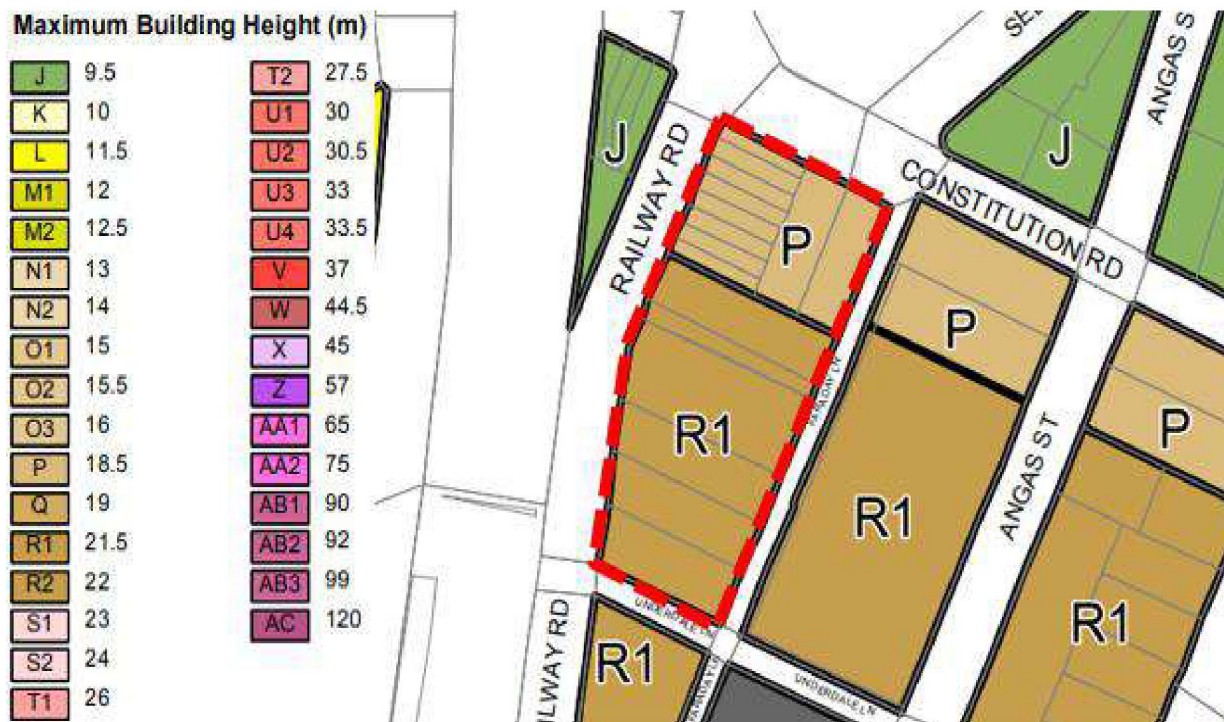


Figure 26: Extract from height of building map (HOB_003). Subject site outlined in red.

The height of 21.5m is across the middle and southern portion of the site with the height of 18.5m stepping down to the northern portion opposite low density development.

The proposal do not comply with the height and it is proposed to vary the height as illustrated in the Table 6 below and **Figures 27 to 30** below.

Building	Maximum Permitted Building Height under Ryde LEP 2014	Proposed Maximum Height (m)	Maximum Exceedance
A	18.5m (northern portion) 21.5 (southern portion)	25.8m	7.3m (39%)
B	21.5m	26.4m	4.9m (23%)
C	18.5m (northern portion) 21.5 (southern portion)	24.56m	6.06m (33%)
D	21.5m	25.87m	4.37m (20%)

Table 6: Proposed maximum height for each of the buildings and the extent of variation.

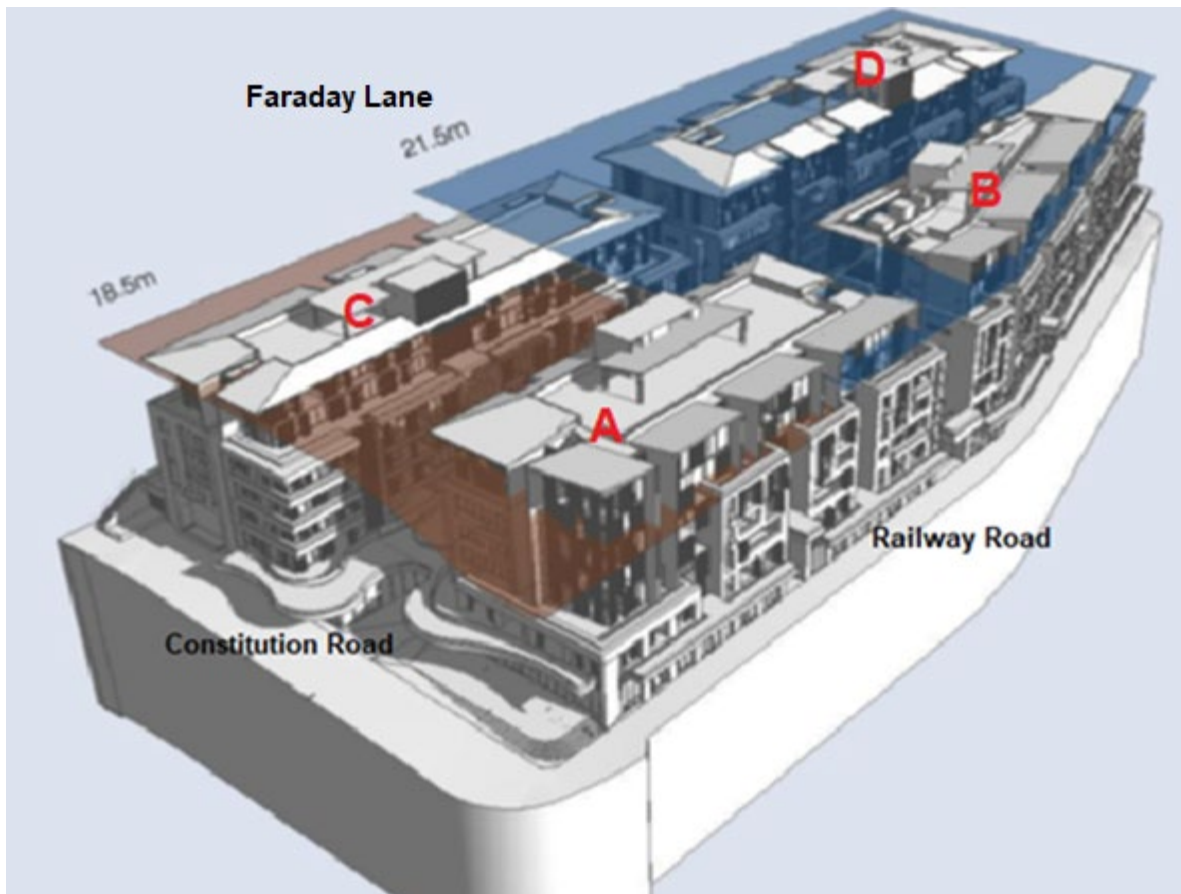


Figure 27: Height blanket showing areas of exceedance against the two prescribed height for the site (18.5m in red and 21.5m in blue). Aerial view from the north western end of the site, at the corner of Railway Road and Constitution Road.



Figure 28: Height blanket showing areas of exceedance. Blue plan is 21.5m height plan. As viewed from Railway Road south western end of site at Railway Road and Underdale Lane.

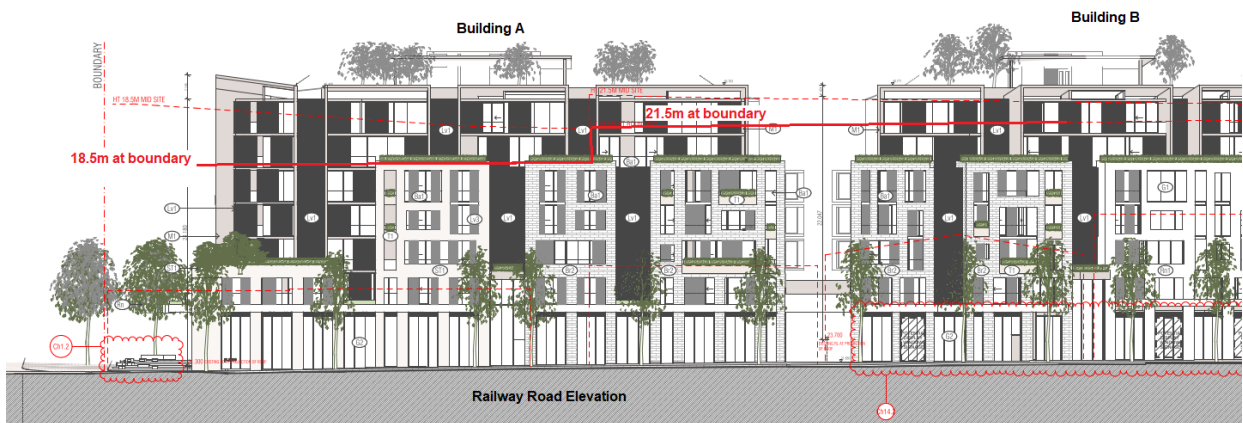


Figure 29: Railway Road elevation showing the breach in height as viewed from Railway Road. The solid red line illustrate the height limit at the boundary and the dotted line is at mid site.

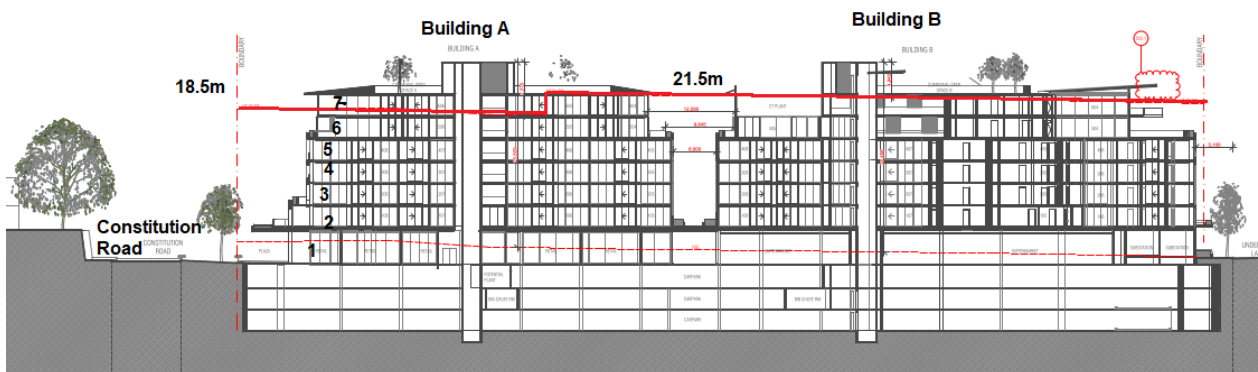


Figure 30: Cross Section of Buildings A & B mid section of the buildings. Red line is the height limit.

Clause 4.6 Exceptions to Development Standards

The applicant has submitted a written request (a copy of the request is attached to this report as **Attachment 1**) under Clause 4.6 to vary the proposed height.

Clause 4.6(3) (a) & (b) require the applicant to demonstrate that compliance with the development standard is unreasonable and unnecessary in the circumstance of the case and there are sufficient environmental planning grounds to justify contravening the standard. Clause 4.6 (4)(ii) requires that the consent authority is satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone.

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

In *Initial Action Pty Ltd v Woollahra Municipal Council* [2018] NSWLEC118, 5 matters were listed to demonstrate whether compliance of a development standard was unreasonable or unnecessary, as established in *Wehbe v Pittwater Council*

(2007) NSWLEC 827. This case also stipulated that all 5 methods may not need demonstrate compliance is necessary where relevant. The 5 matters for consideration are as follows:

- 1. Compliance with the development standard is unreasonable or unnecessary because the objectives of the development standard are achieved notwithstanding non-compliance with the standard.*
- 2. Establish that the underlying objective or purpose is not relevant to the development with the consequence that compliance is unnecessary.*
- 3. Establish that the underlying objective or purpose would be defeated or thwarted if compliance was required with the consequence that compliance is unreasonable.*
- 4. Establish that the development standard has been virtually abandoned or destroyed by the Council's own decisions in granting development consents that depart from the standard and hence compliance with the standard is unnecessary and unreasonable.*
- 5. Establish that the zoning of the particular land on which the development is proposed to be carried out was unreasonable or inappropriate so that the development standard, which was appropriate for that zoning, was also unreasonable or unnecessary as it applied to that land and that compliance with the standard in the circumstances of the case would also be unreasonable or unnecessary.*

The applicant has advised:

Compliance with the building height development standards is considered to be unreasonable and unnecessary as the objectives of those standards are achieved for the reasons set out in Section 7 of this statement. For the same reasons, the objection is considered to be well-founded as per the first method underlined above.

Notably, under Clause 4.6(4)(a)(ii) a consent authority must now be satisfied that the contravention of a development standard(s) will be in the public interest because it is consistent with the objectives of the particular standard(s) and the objectives for development within the zone in which the development is proposed to be carried out.

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out (Clause 4.6(4)(a)(ii)).

Objectives of Development Standard

Clause 4.3 of RLEP 2014 contains the following objectives to be achieved by the height of buildings development standard:

- "(a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development,*
- (b) to minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area,*
- (c) to encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure,*

- (d) to minimise the impact of development on the amenity of surrounding properties,
- (e) to emphasise road frontages along road corridors."

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

The proposed development will be compatible with the size of the subject site and its surrounding built and natural environment. The height breach is largely a consequence of the sloping topography of the site, down to its low point on Railway and Constitution Roads. Extensive excavation is proposed to allow a suitable building pad and provide level access to the site from these frontages, in accordance with the vision for the site outlined in the RDCP 2014. This allows the development to properly address these key street frontages and provide an exemplary commercial/retail plaza that provides a village plaza and 'gateway' to the Shepherd's Bay, Meadowbank precinct from the northwest and Meadowbank Railway Station.

The scale of development, being 6 or 7 storeys in height is in keeping with the scale and height of other recently constructed high density developments in the locality. This includes developments throughout the precinct and directly adjacent sites to the south and west, which also benefitted from height of building breaches.

As can be seen from the Figure 31 below, the proposed development will not appear as an overdevelopment of the site and will not be at odds with other built form in the locality. Despite the breach in building height, the development will sit comfortably into the site and the use of articulation and breaking up the built form by increasing the height – resulting in the breach - will actually reduce the overall appearance of bulk of the development when viewed from the street and surrounds.



Figure 31: Photomontage of development viewed from intersection of Constitution Road and Railway Road.

Planner's comments

Not agreed - The subject site has two distinct height requirements, 21.5m and 18.5m. The higher height of 21.5m height is located along the southern portion of the site, then stepping down to 18.5m for the northern portion of the site, along Constitution Road and the northern end of Railway Road and Faraday Lane. The intent of the two height zones between Constitution Road and Underdale Lane is to provide a "stepping" down of height to provide a transition between the lower density and lower building height located opposite (northern side of Constitution Road and north western side of Railway Road, 54-64 Constitution Road and 27 Railway Road).

Consideration of the compatibility of the proposal and its surroundings can be undertaken with regard to the Land Environment Court Planning Principle on "compatibility with context" in *Project Venture Developments v Pittwater Council* [2005] NSWLEC 191. In order to test whether a proposal is compatible with its context, the following questions can be asked,

- *Are the proposal's physical impacts on surrounding development acceptable?*
- *Has the proposed development of the site has been undertaken with due consideration of the existing and future redevelopment of neighbouring properties?*

Building A will exceed the height by 7.3m above the 18.5m height limit and this exceedance relates to habitable floor space, comprising of an additional level of apartments opposite the western side of Railway Road at 58-64 Constitution Road. 58 -64 Constitution Road is a 2 storey heritage building comprising of a group of shops with maximum height of 9.5m (top of parapet). Behind 58 Constitution Road at 27 Railway Road (opposite the subject site) a prelodgement meeting was recently held where it is proposing a 3 storey retail and commercial building. The advice given for 27 Railway Road is that a 9.5m height restriction applies to the site. Generally, any proposal will be required to be of a scale and form and height in line with the adjoining heritage item and Council's controls (height 9.5m). This dictates the desired future character of this section of Railway Road.

Whilst it is accepted that the locality is undergoing significant transformation with 21.5m height buildings, the character/future redevelopment of the properties opposite on the western side of Railway Road and southern side of Constitution Road is of a lower density with the lower height of 18.5m for the northern portion of the site is to provide a transition and reduce the bulk impact to the properties opposite. The built form along this north western end should be of a transition in scale to reflect the lower scale buildings opposite.

In addition, 1 Angas Street (which faces Constitution Road) is currently under construction for a 5 storey residential apartment building and complies with the 18.5m height limit, albeit for the lift overrun. 3-13 Angas Street, which is the site opposite in Faraday Lane is part 4, part 6 & part 7 storey and also have the two height zones, 21.5m and 18.5m across their site. 3-13 Angas Street has been designed so that upper storey of the building does not extend right across the building, stepping down to comply with the maximum height of 18.5m at the northern end of the site. This compliance with the 18.5m along their northern end of the site

has allowed for a transition for 1 Angas Street to comply with the 18.5m height control.

The breach in height results in an over development resulting in a built form which is incompatible with the desired future built form/character of this section of Railway Road. The north western end of the site is not in harmony with future buildings opposite in Railway Road and the desired future character of the Railway Road and Constitution Road.

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

Despite the height non-compliance, the proposed development will not give rise to significant adverse overshadowing impacts on neighbouring properties, over and above those created by a compliant development.

Due to the orientation of the site, there would be a degree of overshadowing, a number north-facing windows of apartments at Nos. 21-24 Railway Road and Nos. 15-17 Angas Street, and west-facing windows of apartments at Nos.

3-13 Angas Street will be overshadowed by the development. However, as demonstrated by the accompanying shadow diagrams (an extract of which is provided at Figure 27), the level of overshadowing caused by the height breach will be nominal and will not give rise to additional significant adverse impacts on apartments within those neighbouring developments.

Furthermore, the proposed development will maintain compliant building separation and street setbacks, as prescribed by the ADG, and complies with the FSR prescribed for the site. As such, the level of overshadowing caused by the development is consistent with that which is reasonably expected by the building envelope controls that apply to the site.

Additionally, as previously stated, the proposed development is of a scale and form that is characteristic of the high density streetscape within the precinct and is compatible with other developments in the locality. The proposed development will enhance the general appearance of the site and wider streetscape through a high quality development that exhibits design excellence.

Therefore, despite the non-compliance, objective (b) is achieved.

Planner's comments

It is not sufficient to demonstrate a minimisation of environmental harm to justify a Clause 4.6 variation and in this instance, Council do not agree that the proposal is compliant with the FSR for the site. The bonus floor space has been applied across the site which adds to the height of the buildings. A compliant height/ building envelope controls for Building A will ensure that there is no additional overshadowing, especially to the heritage building opposite. Additionally, compliance will also ensure that the development at the northern end is compatible with the lower scale buildings located opposite.

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

The proposal provides a large scale development on a site consisting of 16 smaller lots. This provides a development of a scale and type that is consistent with other developments in the Shepherd's Bay, Meadowbank precinct and that is encouraged by the planning controls that apply to the site.

The development provides a significant uplift in housing and employment generation on the site, in a location with excellent access to public transport. As such, it will encourage sustainable modes of transport and demonstrate a truly transit-oriented development that is encouraged in the precinct. Furthermore, the development provides a compatible mix of residential and on-residential uses on the site. Therefore, despite the non-compliance, objective (c) is achieved.

Planner's comments

Agreed – the proposal provides for a development that integrate land use near Meadowbank train station and a bus interchange.

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

As set out earlier, the proposed development does not result in any unreasonable adverse amenity impacts on neighbouring properties. Compliant building setbacks and separation have been provided in accordance with the ADG and RDCP 2014 requirements. Furthermore, the proposed density (FSR) is consistent with what is prescribed by RLEP 2014 and ARH SEPP. Consequently, the development has been designed to not adversely impact levels of visual and acoustic privacy, and outlook for neighbouring residences.

Furthermore, as set out under Objective (c) above, the level of overshadowing caused by the development is considered to be reasonable and in accordance with what is anticipated by the building envelope controls that apply to the site.

Planner's comments

As above, Council do not agree that the proposal is compliant with the FSR for the site. The bonus floor space has been applied across the site which adds to the height of the buildings. A compliant height for Building A will ensure that there is no additional overshadowing to the properties opposite. The extra height of Building A along the northern end of Railway Road visually adds to the bulk and scale of the building which is not in keeping with the lower scale buildings opposite.

The applicant has indicated that the proposal is compliant with building setbacks and separations however all development is required to comply with these controls and this is not a sufficient justification for contravening the standard.

(e): "to emphasise road frontages along road corridors."

The proposed development has been arranged into four distinct residential buildings over a ground floor comprising commercial/retail uses. The development follows the alignment of surrounding roads, with level access provided from

both Railway and Constitution Roads to emphasise these road frontages. The form of the development also follows these road alignments, with a zero setback provided for most of the building.

Residential buildings on upper levels will provide a rectilinear form that spans the site from north to south. Building A and B are separated from Building C and D by physical break approximately 12m wide which runs the entire length of the site. This further expresses the length of the site along the Railway Road frontage.

Therefore, despite the non-compliance, objective (e) is achieved.

Planner's comments

Agreed.

7b Objectives of the Zone

Clause 4.6(4)(a)(ii) also requires that the consent authority be satisfied that the development is in the public interest because it is consistent with relevant zone objectives. The objectives of Zone 84 are as follows:

- To provide a mixture of compatible land uses.*

The proposed development will provide a mixture of compatible residential and non-residential uses on the site. These includes residential apartments, co-living development, and commercial and retail uses.

- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.*

There will be a significant uplift in housing and employment generating uses on the site as a result of the development. Given the excellent accessibility of the site adjacent to Meadowbank Railway Station, this will encourage sustainable modes of transport for future occupants. Furthermore, the public domain in and around the site will be enhances as part of the development, improving the pedestrian and walking environment in the locality.

- To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.*

This objective does not apply to the subject site.

- To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.*

This objective does not apply to the subject site.

The proposed development is consistent with the objectives of Zone B4 in that it will result in the development of a mixture of compatible uses in a highly accessible area. The use will be compatible with the mix of uses in the zone and will be compatible with the existing environmental and built character of the locality.

The building height variation is not antipathetic to the objectives for the zone and for that reason the proposed variation is acceptable.

Planner's comments

Agreed. The proposal would be consistent with the objectives of the zone. The proposal would provide for a mixture of residential and non-residential uses on the site such as residential apartments, co-living development, and commercial and retail uses so as to maximise public transport patronage.

It is noted, the reasons provided for the proposal achieving the objectives of the zone are reasons any mixed use development could achieve.

The Public Interest

Clause 4.6(4)(a)(ii) requires that the consent authority to be satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for the zone in which the development is proposed to be carried out.

It is considered that the proposed height variation will be contrary to the public interest. The proposal is inconsistent with the objectives of the building height standard. The proposal is over its optimal yield relying on additional bonus floor space contained above the maximum height limit in building forms that is not responsive to the specific site context, topography and urban interface.

Accordingly, Council is not satisfied that the contravention of the development Standard is in the public interest as it is not consistent with the objectives of the height standard.

Clause 4.6(3)(b) requires the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards. The applicant has provided the following planning grounds to justify contravening the prescribed maximum building heights:

(b) Sufficient environmental planning grounds to justify contravening the development standard.

- a. The encroachments into the maximum building heights have allowed building mass to be centred above the buildings so as to enable a significant setback at the intersection of Railway Road and Constitution Road to provide a plaza area. That is, the opportunity is available to increase building volume at the front of the site where a void has been created. Notably, during the design process the architects were able to ascertain that the approximate volume of the plaza and its setbacks was equivalent to 1 storey across both buildings A and B. Preference has been given to increasing the height of the buildings at points of little or no impact. Rather than filling the proposed void with floor space the proposal lifts up the floor space to provide an open area which will contribute to the public domain and the social fabric of the site and the locality.*

- b. The breach of the building height enables the built form of the development to be broken up above ground level, creating four distinct residential towers and enhancing the building expression when viewed from the surrounding streets. The additional height actually has the effect of reducing the overall visual bulk of the development, enabling horizontal and vertical physical breaks to be provided through the site, maximising views through the site and creating a sense of openness. The provisions of a two storey street wall along Railway and Constitution Roads, and an increased setback to provide a public plaza in the northwest corner of the site ensures that the development has a 'human' scale from street level.
- c. The orientation of the subject site combined with steep topography, results in a number of constraints and hence presents a challenge to ensure good outcomes for commercial and retail areas, reasonable residential amenity and minimising amenity impacts to nearby developments. The constraints require a unique and tailored built form response to meet the RLEP objectives of providing development that is generally compatible with or improves the appearance of the area and encourages sustainable development patterns around key public transport infrastructure.

The existing ground level of the subject site steeply drops on its western side, down to street level at Railway and Constitution Roads. The steep drop to the western part of Constitution Road means the height plane technically drops substantially at the corner of the site (see Figure 29 below). It is this drop in the height plane that results in the highest degree of the height breach. Whilst the proposal could dip at this corner such a characteristic is not evident in other developments in the area which tend to emphasise the corners and it would not be compatible with a harmonious streetscape profile.

As such, the proposed development maintains a consistent height with high density developments within the precinct and achieves a compatible scale and form with developments along the eastern side of Railway Road and the southern side of Constitution Road.

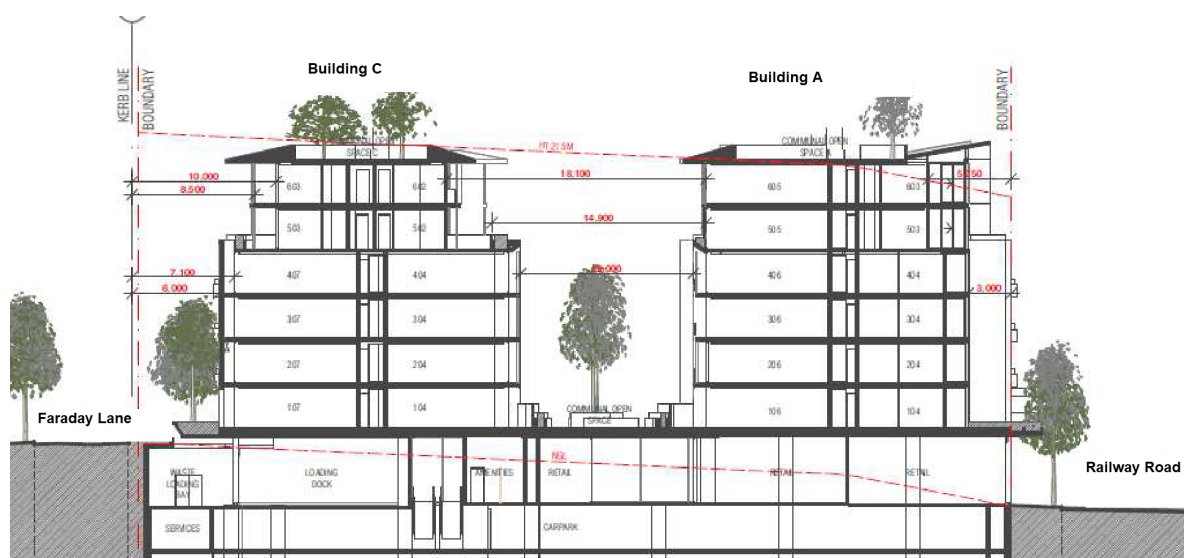


Figure 32: Section through Buildings C & A showing natural ground level.

- d. *Despite the numerical non-compliance, the development provides a scale and form of development that is compatible with surrounding developments and the emerging high density character of the Shepherd's Bay, Meadowbank precinct. The majority of new developments in the precinct are 6 and 7 storeys in height and as such, the proposed development will not be out of character with this scale. Indeed, if a storey were removed, creating a part 5, part 6 storey development, this would appear at odds with the scale and character of developments to the south and east of the subject site.*
- e. *A large portion of the building height non-compliances relate to the lift overruns and shade structures for the rooftop communal open spaces. These structures are primarily located at the centre of the building. The location and minimal bulk of the structures will ensure they will not be highly visible from the public domain, and the impacts to adjoining properties will be negligible. The rooftop communal open spaces provide high quality communal open space with good solar access for future residents as encouraged by the Apartment Design Guide (Part 3D). In order to provide equitable access to this space the lift overrun must necessarily breach the height control. Therefore, this non-compliance provides substantial benefits to the development without impacting neighbouring sites;*
- f. *The design of the development carefully considers surrounding built context, including heritage assets in the locality. This includes Meadowbank shops, a local heritage item located on the western side of Railway Road. To provide appropriate relief to this heritage item the development incorporates a large 7.5m setback from Constitution Road which allows for a public plaza including public domain improvements, outdoor dining opportunities, and landscaping. This increased building separation ensures that the heritage significance and setting of nearby heritage items is not prejudiced by the development, as confirmed in the accompanying Heritage Impact Statement which concludes that:*
- *No part of the subject site is listed as a heritage item in any statutory list, nor does it contain a heritage item.*
 - *The site is not located in or near any heritage conservation areas.*
 - *The site is located in the vicinity of the following heritage items listed in Schedule 5 of the Ryde LEP 2014:*
 - o *Item No: 137 - 58-64 Constitution Road, Meadowbank (Meadowbank shops), and*
 - o *Item No: 1116 - Comer 1A Angas and 34 See Streets (Attached dwellings)*
 - *The proposed design for a Mixed Use & Co-Living development prepared by Fender Katsalidis Architects is sympathetic to the adjacent Meadowbank shops through the transition between the two, in both stepping of the buildings and in the careful articulation of the façade.*
 - *The siting of the proposal does not obscure any views of the Meadowbank Shops heritage item, and whilst the wider setting for the buildings is altered by the addition of the multi storied development to the east, the appreciation of the significance of the heritage item is retained and conserved.*
 - *The architectural form and detailing of the comer entry to the pedestrian plaza is strongly influenced by the form and scale of the heritage item, and specifically by the rhythm and proportions of the existing façade. The retention of the historic character of the item in an acceptable setting*

is further supported by a sympathetic choice of materials and colour palette for the new development.

- *The visual impact and proximity of the new building to the heritage item in the vicinity has an acceptable heritage impact.*
- *In supporting and enhancing the relationship between the new development and the existing heritage building, specifically the open public space in front of the main heritage façade, the intent of Section 5 of the Ryde DCP 2014, will be fulfilled in that the project will support and encourage lively and safe streets by requiring active street frontages. The proposal will ideally encourage the care and use of the heritage buildings, driven by an increase in the local community and subsequent activity, which will provide an opportunity for the future care and conservation of the building fabric and potentially the establishment of more active uses.*
- *The proposed redevelopment of the property at 1-27 Railway Road & 50 Constitution Road, Meadowbank, will have an acceptable impact on the heritage significance of the heritage items in the vicinity.*
- *The proposed project, for a Mixed Use & Co-Living development, is consistent with the heritage objectives of the Ryde LEP 2014 and the Ryde DCP 2014. In our view, the consent authority should have no hesitation, from a heritage perspective, in approving this application.*

f. New developments within the precinct generally comprise of solely residential developments with no non-residential uses on ground level (despite the B4 Mixed Use zoning). In contrast, the proposed development includes a ground floor that is entirely made up of non-residential land uses and publicly accessible areas (other than servicing and plant areas). This achieves a truly mixed used development, which will provide a new village square for the precinct, providing amenities, services and employment opportunities that will serve the whole precinct and wider locality. The development therefore provides an exemplary response to desired future character that is envisaged for the locality and is consistent with the desired future character objectives for the precinct which have been discussed in detail in Section 7 below.

g. There will be no adverse impacts on solar access to neighbouring properties as a result of the non-compliances. The proposed development will not give rise to additional adverse impacts on solar access to neighbouring private open space or living areas between 9am and 3pm on 21 June, consistent with the relevant provision under the ADG. Shadow diagrams that have been prepared with the development application demonstrate that the additional height as a result of the non-compliance will not result in any significant increase in adverse solar impacts to neighbours, over and above a height compliant development. The additional height creates minor additional overshadowing between 10am and 1pm in midwinter with the shadows primarily falling on the adjoining roads and thus no impacting on adjoining residential apartments.

h. The height breach does not result in any additional adverse amenity impacts on neighbouring properties. Compliant building setbacks and separation have been provided in accordance with the ADG and RDCP 2014 requirements. As such, levels of visual and acoustic privacy, and outlook for neighbouring residences will not be adversely affected by the non-compliant part of the development.

- i. *The increased height as a result of the breach has allowed floor space to be concentrated into the four residential building elements rather than spread across the entire frontages of the site. Opportunities for private and public views through the site are enhanced by the height breach which has enabled the built form to be broken up, providing physical gaps in the development, both from north to south and east to west through the site.*
- j. *The breaking up of the built form, facilitated by the height breach, has enhanced opportunities for sunlight penetration and cross ventilation to dwellings within the proposed development. As a result, the proposed residential apartments comply with the ADG in respect of solar access and natural ventilation requirements, and the co-living development complies with the solar access requirements under SEPP ARH. As a direct consequence of the height breach and physical breaks provided in the built form, the development has achieved enhanced amenity for future occupants, providing high quality dwellings that will improve the choice of housing stock in the locality to the benefit of the local community.*
- k. *The proposed development meets the objectives of the development standards and meets the objectives of the B4 Mixed Use zone (as further detailed in Section 7).*
- l. *The proposed development achieves the objects in Section 1.3 of the EP&A Act, specifically:*
 - *The development facilitates ecologically sustainable development by providing much needed, well- designed housing and commercial/retail floor space in an appropriate and highly accessible location. This will positively permute sustainable modes of transport and increase employment opportunities locally. Furthermore, the development will have a positive economic and environmental impact on the locality, increasing urban tree canopy on site (1.3b);*
 - *The proposal promotes the orderly and economic use and development of land through the redevelopment of an underutilised site for an appropriate mixed use development. There will be substantial uplift in both housing and employment generation on the site, which aligns with the desired future character of the Shepherd's Bay, Meadowbank precinct (1.3c);*
 - *The development will deliver a 162 room co-living building which will provide high quality affordable rental housing for the wider Ryde community. The development is well placed to maximise the benefits of this type of housing, being adjacent to a TAFE and Meadowbank Railway Station, providing access to the wider Sydney region (1.3d);*
 - *As stated earlier in this statement, the development will not prejudice the heritage significance and setting of heritage items in the vicinity of the site (1.3e); and*
 - *The development has been designed to be compatible with the surrounding built form and despite the height non-compliance, will not adversely impact neighbouring amenity. The development will provide excellent levels of amenity for prospective occupants, which is facilitated through the increased height enabling the built form to be broken up. Furthermore, the proposed development exhibits design excellence (1.3g).*

The above environmental planning grounds are not general propositions. They are unique circumstances to the proposed development. The additional height will facilitate a high quality mixed use development with excellent levels of internal amenity that does not prejudice the character or appearance of the local streetscape or levels of residential amenity enjoyed by neighbouring properties.

Planner's comments:

Clause 4.6(3)(b) requires the applicant to demonstrate that there are sufficient environmental planning grounds to contravene the development standard. Further, the applicant is required to demonstrate this in light of environmental planning grounds particular to the circumstances of the site and that Council is satisfied that there is sufficient environmental grounds for the variation, that is, the specific aspect/element causing the exceedance rather than just promoting the benefits and no significant amenity impacts.

Council is not in agreement with the applicant's planning grounds in that the additional height is a result of the providing the plaza area at the intersection of Railway Road and Constitution Road. The floor area where the void has been created is used across Buildings A & B, *"at points of little or no impact"*. The applicant contents that the open area (plaza area) contributes to the public domain and the extra height has enable the built form to be broken up above ground level with the extra height enabling physical breaks.

The ARH SEPP allows for additional FSR for the provision of affordable housing and must be balanced with a site responsive design. The breach in height is a consequence of additional floor space from the bonus floor space being applied across the site. The proposal has only applied 531m² of the 979.3m² of bonus for affordable housing (Building D) with the remaining 483m² applied across the site to the other residential buildings, which is not affordable rental. The extra floor space facilitates extra an extra level of residential living along the north west end of Building A. This extra floor space is not due to any circumstance of the site but incorrect allocation of bonus floor space, adding to the bulk of the building and resulting in an overdevelopment of the site. Furthermore, the provision of a public plaza, whilst providing a public benefit, is not a reason to vary the height for the site.

Council do not accept that the topography of the site requires a breach of height to the height standard for Building A. The intent of the lower height zone at the northern end of the site is to provide a transition to the lower density/height properties opposite at Railway Road, and good design follows the topography of the site, stepping down to the lower height.

Council do not disagree that the immediate surrounding development to the south and east at 21-24 Railway Road and 3-13 Angas Street, respectively are 6 to 7 storeys however these developments generally complies with the maximum height, albeit minor variation of lift overruns or the upper portion of the top floor, with the building stepping down to follow the topography. 3-13 Angas Street which is the site opposite in Faraday Lane is part 4, part 6 & part 7 storey and have the two height zone, 21.5 and 18.5m across their site. Their development has been designed so that upper storey of the building does not extend right across the building, hence complying with the maximum height of 18.5m at the northern end of the site.

Council do not agree that a large portion of the building height non compliances relates to lift overruns and shade structures of the rooftop communal open spaces. A large proportion of the non compliance at the north western end of Building A is a storey above the height limit and is habitable floor space visible from the public domain as illustrated in **Figure 33**. This height variation adds to visual bulk when viewed from properties opposite and is not in keeping with the desired future character for this end of Railway Road.

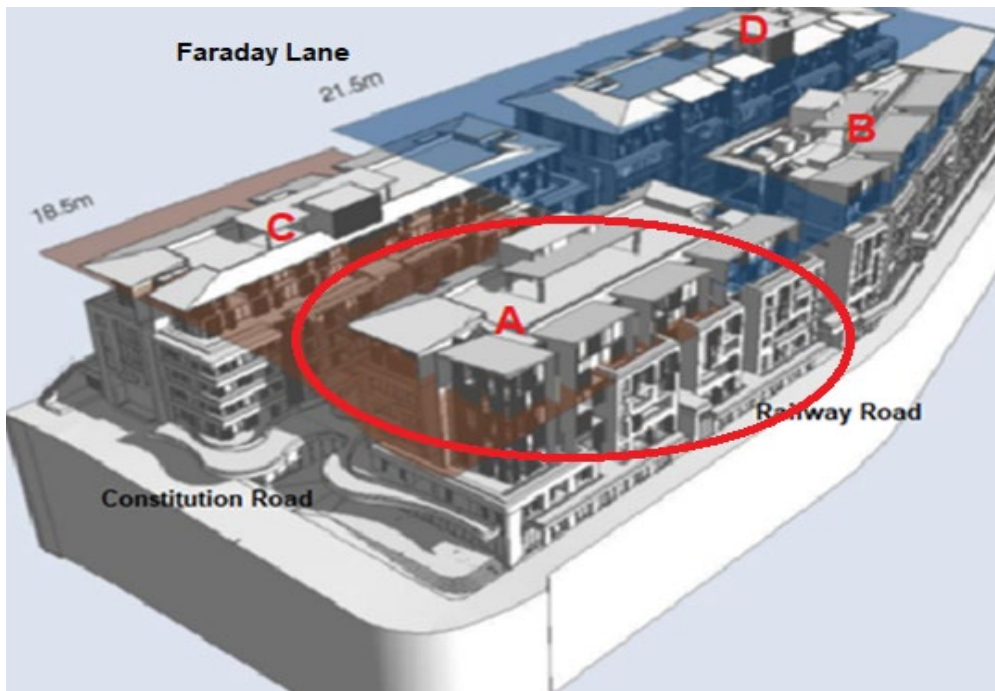


Figure 33: The extent of height exceedance is more than just lift overruns and shade structure in Building A. The height exceedance is more than one storey and is habitable floor area visible from a public domain.

The argument that the development is a true mixed development providing amenities, service and employment opportunities is not a unique circumstance to the site and is required to be provided in a B4 mixed use zone.

The argument that the exceedance will not result in additional adverse impact to the heritage item or surrounding properties is not of itself, a reason that justifies the non-compliance. A compliance development will have no additional adverse impact.

The argument that the increased height allows for the buildings to be broken up is also not a plausible planning ground to breach a development standard. The development is required to be provide for a good site responsive design that complies with the ADG requirements.

Clause 4.6 (4)(b) Concurrence of the Planning Secretary.

Whilst the variation is greater than 10%, the Planning Secretary's Concurrence may still be assumed pursuant to Planning Circular PS20-002 issued 5 May 2020 as the proposal is to be determine by the Sydney North Planning Panel.

Clause 4.6 (5) (b) – The Public Benefit of maintaining the standard.

As discussed above the proposal is not consistent with the height objectives and is not in the public interest as such there is a greater public benefit in maintaining the standard.

As the development has not met the prerequisites of Clause 4.6(3)(a) and (b) it cannot be demonstrated that the proposal satisfies Clause 4.6(4)(a)(ii). Therefore, the proposed non compliance of the building height development standard is not supported.

Clause 4.4 - Floor Space Ratio

Clause 4.4 of RLEP 2014 prescribes the maximum floor space ratio for the site with the maximum FSR permitted at the subject site being, 2.7:1.

Based on a site area of 7773m² the gross floor area allowed is 20,987m². However, the proposal is also utilising the bonus floor space allowed under the ARH SEPP (see full discussion earlier in the report under ARH SEPP).

In summary the additional 20% bonus allowed would equate to 21,966m² (FSR 2.82:1). The development proposes a GFA of 21,950m² which numerically complies with the FSR permitted pursuant to the SEPP. However, Council do not accept the allocation of the bonus floor space across the other residential buildings (predominantly Building A). The bonus floor space has not been solely used for affordable housing purposes, in accordance with the aim of the SEPP. Accordingly, the proposal does not comply with the maximum FSR allowed.

As detailed earlier in the report under Clause 29 (c) of the ARH SEPP, only 530.6m² of the 979m² bonus floor area has been used for Building D (affordable housing) with the remaining 448.7m² being used elsewhere on site and over the permitted floor space (or 7.3%). No written request pursuant to Clause 4.6 has been submitted to justify the variation.

Clause 5.10 - Heritage Conservation

The subject site is within the vicinity of two heritage items:

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

The proposal was referred to Council's Heritage Advisor who has reviewed the proposal and has made the following comments:

Demolition works:

None of the existing buildings on the allotments comprising the subject site are identified as items of heritage significance and while they each provide historical evidence of the progressive urbanisation of the Meadowbank precinct from the early to mid 20th century, the buildings are each considered to have little architectural interest or value. Each of the buildings display various

forms of modification and are either considered austere, typical and utilitarian examples of their respective class and style, or substantially obscured, making them poor examples of their class and style.

The Heritage Impact Statement (NBRS, May 2020) does not provide an assessment of cultural significance of any of the buildings, however it is evident from the information available, that none of the buildings are likely to satisfy the Heritage Council of NSW significance assessment criteria in demonstrating heritage significance. In this regard, no objection is raised to the demolition of existing buildings and structures on the site.

New Development

The proposed development is considered as development 'within the vicinity' of heritage items. The most directly associated heritage item to the site is the group of early 20th century Federation period shops, which are situated directly opposite the site. A more obscured visual relationship exists between the site and the heritage item in Angas Street.

The primary manner in which the heritage listed shops are viewed and appreciated, is from a pedestrian scale from Constitution Road. Oblique axial views are obtained towards the heritage item from within both Constitution Road and Railway Road, however the more significant views are from Constitution Road facing west towards the heritage item.

To respond to this, the proposed development incorporates a new pedestrian plaza, which will allow the building to be set further back from the existing building alignment, whereby providing added benefit to the heritage item by further opening up views along Constitution Road. Additionally, the pedestrian plaza has the benefit of pulling the visual bulk of the new building away from the heritage item, so that it retains a clear skyline backdrop and is afforded a reasonable and sufficient sense of spatial separation, aided by the road carriageway, which reduces the abrupt transition in height and scale, whereby reducing the sense of visual dominance. The proposed setbacks to podiums and overall height is considered acceptable from a heritage perspective.

The development adopts a contemporary architectural form and language which will aesthetically enhance the locality and provide clear contrast to the heritage item and will have the benefit of visually amplifying the traditional form and detailing of the heritage item.

The building fronting the heritage item incorporates a podium that is framed by a bold two storey form with sandstone cladding. These design features provide for a sense of relationship and respectful language that relates positively to the scale and materiality of the adjoining heritage item. The use of a darker materials and colour finishes palette to the vertical tower above the podium is considered a good design response in that it gives the impression of a regressive building with visual emphasis placed on the lighter sandstone clad podium of two-storey scale.

Overall, the proposal is considered to provide for a well-considered design response that relates positively to the adjoining heritage item, maintaining its

landmark quality while achieving what can be considered a high-quality urban design outcome.

Archaeological potential

The site is considered to have archaeological potential. An Archaeological Assessment Report has been provided (AMBS February 2021) and has been reviewed. The Archaeological Assessment Report considers both the Indigenous archaeological potential and significance, as well as the historical archaeological potential and significance. The report is considered well informed, providing a credible and robust assessment of the archaeological potential of the site. It correctly considers all relevant legislation and provides for a due-diligence Aboriginal archaeological assessment. In summary, the Archaeological Assessment Report establishes that there are no previously identified Aboriginal heritage sites recorded on or near the site and given the level of disturbance, the site is unlikely to yield evidence of previous occupation by Aboriginal people. Similarly, the report considers the historical archaeological potential to be low.

In light of the findings and recommendations of the Archaeological Assessment Report, it is accepted that the site has low archaeological potential and precautionary 'unexpected finds' conditions would satisfactorily address this matter.

The proposal is considered satisfactory on heritage grounds.

Clause 6.1 Acid sulfate soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

The subject site is within 220m of both a Class 2 and a Class 3 ASS site. Council's Environmental Health Officer has advised that *"The site is located at an elevation of approximately 20.9 to 26.93m AHD and the proposed maximum inferred excavation depth will be 14.4m BGL which is above 5m AHD. The geological profile encountered during the geotechnical investigation indicated weathered sandstone from 0.3m – 2.4m BGL. Therefore the potential for ASS/PASS is low risk."*

As such, no further assessment with regards to acid sulfate soils is required.

Clause 6.2 – Earthworks

The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The subject application proposes 3 levels of basement parking, involving excavation, shoring and piling works.

A Geotechnical Report has been submitted with the application which outlines the ground conditions and the methodology for the proposed excavation works. The report was referred to Council's Consultant Geotechnical Engineer who has requested further assessment with regards to the strip of land adjacent to the

southern side of Constitution Road identified as risk of slope instability and “*be requested to have Benvision, their geotechnical advisors, assess the risks associated with soil creep in the silty clay layer underlying the fill layer.*”

As Council is not supportive of the proposal, this has not been requested.

Clause 6.4 – Stormwater Management.

Stormwater plans have been submitted with the application and reviewed by Council’s Senior Development Engineer who has advised that the revised stormwater plans have implemented onsite detention however the design strategy has not been clarified. Council’s DCP Part 8.2 (*Stormwater and Floodplain Management*) requires the Permissible Site Discharge (PSD) must not exceed the 5yr ARI post development discharge from the site. It is noted that the development is generally acceptable subject to submission and review of the DRAINS model to clarify the adequacy of the onsite detention system.

7.4. Draft Environment State Environmental Planning Policy

The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating SEPPs, which include the following:

- State Environmental Planning Policy No. 19 - Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

As the site does not contain any endangered or significant bushland and is not located in the foreshore and waterways areas, the proposal is considered to be consistent with the provisions of the draft SEPP.

7.5 Draft Remediation of Land State Environmental Planning Policy

The draft Remediation of Lands SEPP was exhibited from 31 January 2018 to 13 April 2018. The SEPP will maintain the objectives and existing framework of SEPP 55 and require the consent authority to consider the potential for land contamination as part of the assessment of development applications. The SEPP will identify remediation works that require development consent and introduce certification and operational requirements for remediation works that can be carried out without development consent.

A Detailed Site Investigation (DSI) prepared by Benviron Group has been prepared (not submitted with the application). *The DSI concludes that the site can be made suitable for the proposed development, subject to a number of recommendations outlined under Section 16 of the report. This includes a recommendation for the implementation of a Remediation Action Plan (RAP) to manage the environmental concerns raised within the DSI.*

A RAP prepared by Benviron Group, dated February 2020, was submitted with the application. The RAP outlines the remediation strategy, as well as remediation works and validation proposed to make the site suitable for the proposed development.

The RAP concluded that, subject to the implementation and validation of the RAP, the site can be made suitable for the proposed development. As such, the proposal is considered to be consistent with the provisions of the draft SEPP.

7.6 Ryde Development Control Plan 2014

The proposal has been considered against relevant sections of the Ryde DCP 2014 below:

Part 4.2 – Shepherd's Bay Meadowbank

RDCP 2014	Comment	Complies
3.2 Staged Development Applications		
On sites over 5000m² a stage development application is required that addresses: - Existing and future character; - Design principles drawn from an analysis of the site and its context; - Proposed staging of development; - Distribution of land uses, including open space and landscaping; - Ways in which the development will interface with, and contribute to, the public domain and the context; - Pedestrian, cycle and other transport access and circulation systems; - Parking provision; - Impact on traffic movements; - Built form, including the height and bulk of buildings; - Infrastructure provision; - Site densities and coverage; - Design elements; - Heritage conservation/ interpretation; - Remediation of the site; - Provision of public facilities and/or public art; - Social, cultural and economic impact assessment; and - Analysis of the potential impact of the proposed development.	Site is 7773m² however the application is not a stage DA. The applicant has stated in SEE that staged DA was not considered to be necessary given previous discussions with Council and comments from Sydney North Planning Panel that were received during a Planning Proposal process for the site.	No – not a staged DA
4.1.1 Mixed-Use Development		
Mixed-use development will comprise either: a. a combination of medium and high density residential development with compatible employment related activity; or	The proposal includes commercial units ranging from 28m² to 2,477m² (supermarket) in size. Details of fitout and use of each commercial unit would be provided under separate applications should approval be granted to this application.	Yes

b. compatible employment related activities including: i. restaurants and cafes; ii. small scale retail establishments such as convenience stores and news agencies up to 2000m²; iii. small commercial offices and studios such as real estate agencies offices; iv. professional suites such as doctors suites; and v. home offices.		
4.1.2 Public Domain, Access and Pedestrian/ Cyclist Amenity		
The achievement of maximum heights and density is contingent on meeting the public domain provisions of this plan and all public domain items being provided by the proponent. New developments must be provided with a minimum of one barrier free access point to the main entry. Publicly accessible pedestrian and cycle ways must be provided through large sites. (even if not envisioned by this plan) (refer to Figure 4.2.03). New pedestrian and cycle way access points, gradients and linkages are to be designed to be fully accessible by all. New commercial development should provide facilities, including showers, bike lockers etc, to encourage walking and cycling to work - refer to Part 9.3 - Parking. New roads, shared ways, pedestrian and cycle paths shall be provided in accordance with Figure 4.2.03. Constitution Road, Faraday Lane and Porter Street (see Figure 4.2.03, Figure 4.2.04, Figure 4.2.04a, Figure 4.2.04b, Figure 4.2.05, Figure 4.2.06 and Figure 4.2.07) are to be widened. The design and location of vehicle access to developments should minimise conflicts between pedestrian and vehicles on footpaths, particularly along high volume pedestrian streets.	The proposal does not comply with the maximum height permitted on site. A Clause 4.6 Variation has been submitted, but is not supported. Public domain requirements will be required with any granting of approval. The proposed development provides barrier free (i.e. ramps) access to main building entries. The proposal currently does not provide any direct access to the supermarket and shops from Faraday or Underdale Lanes. In the current layout, pedestrians arriving at the Faraday and Underdale Lane intersection will have to walk down the stairs at the northern end of Faraday Lane or walk out to Railway Road then turn back into the internal walkway to visit the shops and supermarket. Direct entry to the supermarket or the internal walkway via Faraday Lane is important for wayfinding and will also increase the permeability through the site, increase activation to the street and optimise the patronage for the retail uses. Bicycle parking and end of trip facilities for commercial uses are provided in accordance with Council parking rates at Basement Level 1. Street setbacks have been provided to enable road widening on Constitution Road and Faraday Lane as required by Council. However, no details of the existing cycle way on Underdale Lane have been provide. Vehicular access to the site is from the southern end of Faraday Lane. Vehicular access for the service vehicles will be from Constitution Road. Council's Traffic Engineer has raised concerns about the close proximity of the basement car park access to the	No Yes No Yes Yes (in part) No

The ground floor of all development is to be flush with the street footpath for the predominant level of the street frontage and at the main entry to the building. Recesses for roller doors and fire escapes are to be wide and shallow to provide for personal security. Narrow, deep recesses are to be avoided.	intersection of Faraday Lane/Underdale Lane. The high peak hour traffic demands generated at the basement car park access could affect the safe and efficient operations of the intersection of Faraday Lane/Underdale Lane due to vehicles queuing onto Faraday Lane extending onto Underdale Lane. Along Railway Road and Constitution Road, the ground is generally flush with the footpath at ground level. Entry to Buildings C & D along Faraday Road is on Level 1. No narrow, deep recesses are proposed.	Yes – along Railway Road & Constitution Road. No – along Faraday Lane. Yes
4.1.3 Implementation – Infrastructure, Facilities and Public Domain Improvements		
The public land such as the road verge adjoining a development site is to be embellished and if required dedicated to Council as part of any new development. The Access Network as shown Figure 4.2.03 is to be embellished if required and dedicated to Council as part of the new development. S7.11 contributions still apply throughout area, notwithstanding any land dedications, public domain improvements, infrastructure provision etc as required by this DCP.	Any approval will have conditions to ensure that the adjoining road verge is embellished and ROW created. Figure 4.2.03 show Underdale Lane with an existing pedestrian/cycle link. No details of this is shown on any plans. S7.11 will be required with granting of any approval.	Yes No Yes
4.1.4 Views and Vistas		
Panoramic views of Parramatta River are to be maintained from Faraday Park, Settlers Park, Anderson Park, and Helene Park. Development is to ensure that vistas towards Parramatta are maintained. Maintain views for pedestrians and cyclists along the public open space to the Parramatta River. Orientate new development to take advantage of water views and vistas.	The proposed development will not compromise views from the identified parks. Views of Parramatta River from the nearby residential flat buildings to the south and east of the site will not be affected by this development. The properties to the north are zoned low density and are lower in height than the subject site. The siting of the building will not adversely impact views along the public space to Parramatta River. Buildings A & B faces Railway Road orientated south west with views to Parramatta River.	Yes Yes Yes
4.1.5 Landscaping and Open Space		
All development proposals are to be accompanied by a Landscape Plan prepared by a qualified and suitably experienced landscape architect. This is to include an arborist's report on existing trees and demonstrate how proposed landscaping will contribute to	A landscape plan has been submitted and reviewed by Council's Landscape Architect. No objections to the removal of the 9 trees on site however insufficient information provided to demonstrate that the proposal provides 7% of the site area with planting on structure	No

ecologically sustainability. Management of construction impacts must also be addressed. Roof gardens are encouraged and must be considered in any landscaping plan. Provide adequate deep planting zones above car parking and other concrete or similar structures to allow sustainable planting. Provide at ground floor, where possible, open space for dwelling units and contiguous open garden areas to create common large landscaped space. Construction of roof areas of multi unit developments is to make provision for useable roof gardens. Where appropriate, developments should incorporate landscaping (such as planter boxes) integrated into the upper levels of building to soften building form. Where a proposal involves redevelopment of a site the developers are to arrange for electricity and telecommunications utilities to be undergrounded along the entire length of all street frontages. Such utility modifications will be carried out to the satisfaction of the responsible authority (e.g. Energy Australia). This is to improve the visual amenity of the area and allow street trees to grow unimpeded.	supporting medium trees (planting beds supporting medium trees should be included in the calculations). The proposal includes the provision of accessible roof gardens. Further information is required – a plan showing the total areas supporting trees on structure is 7% of site area. Only planting beds supporting trees should be included in the calculations. Private open space and communal open space is provided at Level 1. COS is accessible for all residents. The proposal includes an accessible roof garden on each of the four buildings. Planter boxes have been integrated into the façade design. Will be required with any granting of approval.	Yes No Yes Yes Yes Noted
4.1.6 Street Furniture and Public Art		
All development proposals are to be accompanied by a landscape plan, prepared by a qualified and suitably experienced landscape architect, indicating how public domain improvements including paving and street lighting will be incorporated into the development. Public domain finishes including the style, colour and installation methods of street furniture, paving and street lighting shall be in accordance with Ryde Public Domain Technical Manual. Public art is to be provided in accordance with Council's Public Art Policy. Developers must examine opportunities to incorporate public art in both internal and external public spaces and indicate how public art will be	Will be required with any granting of approval. Will be required with any granting of approval.	Noted Noted Noted

incorporated into major developments. Relevant themes include: i. the harbour location; ii. industrial history and heritage; iii. Aboriginal heritage; and iv. urban revitalisation	Will be required with any granting of approval.	
4.1.7 Safety		
Public spaces need to be designed to meet Crime Prevention Through Environmental Design (CPTED) principles (DUAP 2001). Open sightlines and landscaping needs to be provided that allows for high levels of public surveillance by residents and visitors. Lighting is to be provided to all pedestrian ways, building entries, corridors, laundries, lifts, stairwells, driveways and car parks to ensure a high level of safety and security for residents and visitors at night. Further, external lighting including street lighting if necessary (in accordance with pedestrian lighting AS1158 is to be provided which makes visible potential hiding spots at night. Entrances to public open spaces will need to encourage pedestrian use and establish clear sightlines to improve visual security. The design of public domains must not result in dead ends or similar design outcomes.	CPTED principles including natural surveillance, Natural Access control, territoriality, maintenance have been conditioned – NSW Police has reviewed the proposal and advised the proposal is satisfactory. Open sightlines and landscaping have been provided to ensure public surveillance of common areas including open space. Will be required with any granting of approval. Corner of Railway Road and Constitution Road – public plaza is open and provide clear sight lines and visual security. The pedestrian walkway on the ground floor does not lead to a dead end.	Yes Yes Noted Yes Yes
4.2.1 Height		
The maximum building height is to comply with the heights shown in Ryde Local Environmental Plan 2014 Height of Buildings Map. Buildings must comply with the maximum number of stories shown in Figure 4.2.10. The ground floor height shall be 4m floor to floor regardless of use. Retail and commercial uses at ground floor are to have floor levels contiguous with finished footpath levels. On sloping sites the levels must be contiguous at entries.	The DCP prescribed a maximum no of storeys for the site – being 6 storeys for the majority of the site (where the height is 21.5m) and 5 storeys for northern portion of the site where the height is 18m. The proposal exceeds the height and number of storeys, being 6 and 7 storeys. 4.45m. Entries to commercial uses and the public pedestrian walkway are level with the footpath on Railway and Constitution Roads.	No Yes Yes
4.2.2 Setbacks		
Setbacks must be consistent with the setback map (see Figure	Zero boundary setback along Railway Road and for section of Constitution Road. On the corner of Railway Road and Constitution	Yes for Railway Road

4.2.12): - zero setback along Railway Road and Constitution Road - 4m setback along Underdale Road and Faraday Lane. Development in the vicinity of the station to have no setback at ground level (ie built to the lot boundary). Setback for buildings of four storeys and above to be consistent with Figure 4.2.13.	Road, a public plaza is proposed resulting in a setback of between 7.5m to 0 along Constitution Road. The increase setback to Constitution Road to create a new plaza is a positive response to the existing station plaza on the western side of Railway Road and is supported. The proposal has stepped the top 2 storeys of the buildings in to provide indentation however the setback is 3m instead of 4m and for the top 2 storeys. The variation is considered acceptable as the development provides articulations with horizontal and vertical breaks. The UDRP and Council's Urban Designer has no objections to the buildings setbacks and articulation.	No –for the corner of Railway Road and Constitution Road - variation acceptable. No – variation acceptable.
4.2.3 Roof Form		
Buildings below RL 15 must have articulated roofs, as they will be viewed from buildings above. Articulated roofs refer to well-deigned roof zones with landscaping, useable areas and/or richly detailed roofs made of high quality materials.	The proposed building is not below RL 15. Despite this, articulation on the rooftop is provided through the provision of a communal open space area.	N/A
4.2.4 Building Facades and Articulation		
Building facades should be articulated within a 3m zone to provide entries, external balconies, porches, glazed balcony enclosures, terraces, verandahs, sun shading elements etc. Penthouses should be set a minimum of 4 metres from any building façade. Articulate buildings to respond to orientation, views, breezes, privacy, views, acoustic requirements, street widths and relationship of the building to external garden spaces. Articulate buildings vertically and horizontally: materials and building setbacks on the upper storeys are to be used to reduce the perceived bulk of buildings. Provide and denote entries along street frontages and public domain spaces where appropriate. Buildings are to address streets, open spaces and the river foreshore. Street frontages are to be parallel with or aligned to the street alignment.	The proposed building facades incorporates articulated forms including balconies and use of materials. Penthouses are setback at least 3m from the street edge, which is considered to be an appropriate design. The UDRP and Council's Urban Designer has no objections to the buildings setbacks and articulation. Unit layout and corresponding external areas are orientated to respond to orientation, views, privacy etc. Articulation of the building incorporating both horizontal (slab edges, cladding, balustrades) and vertical (blades, materials) forms. Entries from Railway Road and Constitution Road to the ground floor shops. Entries from Faraday Lane to Level 1 (podium level) to apartment building and Boarding house. The buildings addresses street frontages and align with the street alignment.	Yes No – variation acceptable. Yes Yes Yes Yes

Provide balconies and terraces, particularly where buildings overlook public spaces.	Balconies and terrace are provided for all apartments.	Yes
4.2.5 Private and Communal Open Space		
a. Private open space with sunlight access, ventilation and privacy shall be provided for apartments in accordance with SEPP 65.	Refer to the ADG Assessment.	
4.3.2 Energy Efficient Design		
Residential development must be designed in accordance with principle outlined in the Building Sustainability Index (BASIX).	The development complies with the BASIX requirements.	Yes
4.4.2 Noise and Vibration Attenuation		
Residential New residential developments, including those within a mixed use building, are required to consider noise attenuation and acoustic treatment in their design. Particularly, the building layout, walls, windows, doors and roofs are to be designed and detailed to reduce intrusive noise levels. Commercial The use of a premises, and any plant, equipment and building services associated with a premises must not: i. create an offensive noise as defined by the Protection of the Environment Operations Act 1997; and ii. add significantly to the background noise experienced in a locality. Loading and unloading facilities must not be located immediately adjacent to residential development. Retail premises must limit any spruiking and the playing of amplified music or messages so as not to disturb the amenity of other public and private places.	An Acoustic Report has been submitted which concludes the proposal is acceptable subject to noise mitigation measures. The majority of plant, equipment and building services are located at basement level or adjacent to non-residential uses. Loading facilities are located within the building envelope at ground level, adjacent to non-residential uses. Will be required with any granting of approval.	Yes Yes Yes Noted
4.4 Parking Access and Loading		
All new buildings are required to provide on-site loading and loading facilities.	Provided.	Yes
Loading docks shall be located in such a position that vehicles do not stand on any public road, footway, laneway or service road and vehicles entering and leaving the site move in a forward direction.	The loading dock is located within the building envelope.	Yes

5.0 Precinct Specific Development controls		
Precinct 1 – Station Views from the Parramatta River must be protected and not be interrupted by a continuous line of buildings. Apartments fronting the main railway line at the western side of the precinct must be treated with suitable acoustic glazing and appropriate solar control. The use of recessed balconies and winter gardens (glazed balconies) is encouraged to counter the western orientation. Acoustic treatment such as high performance glazing/double glazing is to be considered for development fronting the railway cutting. Awnings are required on Railway Road with a minimum height to the underside of 3.2 metres. Awnings are to allow for street tree planting. Properties between Faraday Lane and Railway Road, between Constitution Road and Underdale Lane, must, wherever possible, accessed from Railway Road.	The site is set some 400m to the north of Parramatta River and will not prejudice views from the Parramatta River. An Acoustic Report prepared by Acoustic, Vibration & Noise P/L has been submitted with the application. The report contains construction/building material recommendations for the windows/slider/door/external walls and roof. A continuous awning is proposed along the Railway Road frontage of the development, approximately 4.8m above street level. Street planting are proposed. The proposal currently does not provide any direct access from Railway Road to Faraday or Underdale Lanes. In the current layout, pedestrians arriving at the Faraday and Underdale lane intersection will have to walk down the stairs at the northern end of Faraday Lane or walk out to Railway Road then turn back into the internal walkway to visit the shops and supermarket. Direct entry to the supermarket or the internal walkway via Faraday Lane is important for wayfinding and will also increase the permeability through the site, increase activation to the street and optimise the patronage for the retail uses. A publicly accessible escalator or lift can be provided to manage the level difference between Faraday Lane and the supermarket/shops on the ground floor level.	Yes Yes Yes No

Table 7: Meadowbank DCP.

Part 3.5 – Boarding Houses

Section 1.3 states that the objectives of Part 3.5 are:

1. *“To recognise boarding house accommodation as a component of the City of Ryde’s residential housing mix.*
2. *To facilitate the provision of high quality affordable rental housing in the form of boarding houses where permissible in residential and business zones in the City of Ryde.*
3. *To support government policy which facilitates the retention and mitigates the loss of existing affordable rental housing.*
4. *To encourage appropriate design of boarding house development to ensure the impact and operation does not interfere with surrounding land uses and amenity.*
5. *To provide controls for boarding houses that are not within “accessible area” as defined under the SEPP ARH.*
6. *To ensure that boarding houses are designed to be compatible with and enhance the local area character and the desired future character.*
7. *To ensure that any building that has been developed or adopted into a boarding house maintains a satisfactory standard of amenity for both the needs of occupants and neighbours alike”.*

It is considered that the development satisfies the above in that the development provide a form of housing type that is permissible in the zone, will replace industrial buildings on site with a mixed use development that incorporate a boarding house. (Building D). The building has been designed to be compatible with multi storey buildings in the immediate area and is considered in keeping with the character of the local area. See full discussion about compatibility earlier in the report.

The following table provides an assessment of the development against the applicable clauses of Part 3.5.

Provision	Required	Proposed	Complies
1.6 Relationship of this Part to other Plans and Policies	Where boarding house development is associated with residential flat building design, the provisions of SEPP No. 65 Residential Flat Development (SEPP 65) are also relevant.	An assessment against the provisions of SEPP 65 and the ADG is provided earlier in this report as the proposal is associated with a residential flat building design.	Yes
2.0 Location and Character	The design must demonstrate compatibility with character of local area and address: • Existing character (streetscape and visual catchment areas) • Predominant building type • Predominant height • Predominant front setback and landscape treatment • Permissible FSR and site coverage	The immediate surrounding area of Building D generally consists of a high density mixed use and residential flat building developments ranging from 5 to 7 storeys. Whilst Building D does not comply with the height control, the height variation is generally for the lift overrun and the communal open space. The proposed building has compliant street setbacks, being 4m to Underdale and Faraday Lanes. Street setbacks are also increased at upper levels, consistent with the precinct controls and other nearby buildings. The proposed boarding house has provided the required setbacks, articulation and street	Yes

Provision	Required	Proposed	Complies
	- Predominant pattern of subdivision and spacing of buildings - Predominant parking arrangement - Predominant side setbacks - Predominant rear setback and rear landscaping	landscaping and will not be out of character with the emerging character of the area.	
2.3(c) Heritage	Within vicinity of heritage item needs to be sympathetic to heritage significance	The site is not located opposite a heritage item, however Building D is located at the south eastern end of the site, away from the heritage item.	Yes
2.3(f) Size and Scale	The bulk and scale of the development must demonstrate acceptable impacts for the street and adjoining properties relating to: - Overshadowing and privacy - Streetscape - Building setbacks - Parking and traffic impact - Landscape requirements - Visual impacts and impact on views - Impact on significant trees - Suitable lot size, shape and topography	Overshadowing impact from Building D to the properties opposite at: 21-24 Railway Road, part 6, part 7 storey residential apartment building located south of the site, on the southern side of Underdale Lane and the western side of Faraday Lane and 3-13 Angas Street (opposite Faraday Lane), a part 4, part 6, part 7 storey residential apartment building located due east of the site on the eastern side of Faraday Lane. With regards to Nos. 21-24 Railway Road, Building D will cast a shadow to their north facing apartments in the morning but by 1pm to 3pm onwards, the majority of their north facing apartment will be unaffected. 3-13 Angas will not be impacted on by Building D's shadow until 1pm, thereby receiving the morning sun. The proposal complies with the building separation between Building D and 3-13 Angas.	Yes
2.3(g) and (h) Parking and Traffic	Parking is not to be located within communal open space or landscape areas. A boarding house with 30 or more rooms is to be supported by a Traffic and parking Impact Assessment report, prepared by a suitably qualified person, addressing as a minimum the following: - prevailing traffic conditions - the likely impact of the proposed development on existing traffic flows and the surrounding street system - pedestrian and traffic safety, and	Basement car parking is proposed with a vehicular driveway from Faraday Lane A Transport Assessment Report prepared by TTPP Transport Planning has been submitted with the application. Council's Traffic Engineer reviewed the report and had concerns that the projected traffic generation associated with the development could be underestimated and requested additional information with regards to the SIDRA modelling, updated peak hour traffic survey of the existing road networks, a 10 year (2030) projected modelling which consider traffic growth, amendments to the Constitution Road driveway and extension of Faraday Lane to See Street.	Yes No

Provision	Required	Proposed	Complies
	justification of any variation to the parking requirements (if proposed).	The applicant provided a peer review of the traffic report prepared by TTPP. Council's Traffic Engineer has reviewed the submitted information and has advised that the previous concerns initially raised have not been satisfactorily addressed and that the proposal cannot be supported in its current state.	
3.2 Privacy and Amenity	(a) Main entrance to be located and designed to address street	The main entrance to the boarding house is from Faraday Lane.	Yes
	(a) Access ways to front entrance located away from windows of boarding rooms for privacy	Two entrances are available to Building D – from Faraday Lane and from the podium courtyard. The accessways are not adjacent to any boarding room windows, however the balcony of Room 109 on the podium level is adjacent to the access way, however privacy is maintained to this balcony as a condition can be imposed to continue the 1.6m privacy screen with returns to Rooms 106 to 109.	Yes
	(c)Designed to minimise and mitigate visual and acoustic privacy impacts on neighbours	An Acoustic Report has been submitted. The report provided construction recommendations to comply with the noise objectives. Part 3 of the report looked at the noise impact assessment of the boarding house such as predicted noise from the boarding house, noise from music/tv from guest rooms and communal area and provided recommendations (ie building components, glazing to maintain acoustic privacy, Plan of Management, signs and Noise Management Plan). There is sufficient separation between the buildings opposite in Faraday Lane and Underdale Lane so as to maintain visual privacy.	Yes
	(d)An acoustic report prepared by a suitably qualified acoustic consultant may be required where there is the potential for noise impacts on occupants and neighbours.	An Acoustic report has been submitted with the application, see comments above.	Yes
3.3 Accessibility	All boarding house developments to be accompanied by accessibility report	An Access Report prepared by Vista access architects was submitted with the application. The report states that: <i>"By compliance with the recommendation in this report, the development complies with the requirements of Access Code of Disability (Access to Premises-Building) Standards 2010, the Disability Access</i>	Yes

Provision	Required	Proposed	Complies
		<i>relevant sections of Building Code of Australia 2019, the requirements of SEPP 65 related to Objective 4Q1 – Livable Housing and the essential criteria of AS4299-Adaptable Housing.</i>	
3.4 Waste Minimisation and Management	Required in accordance with Part 7.2 of the RDCP 2014	An amended Waste Management Plan was submitted. The plan states that bin/chute are provided for Building D and waste from the chute outlet will fall directly into an 1100 litre mobile waste bin in the Basement 2 Floor Plan - Tower D. Representatives of the Owners Corporation will be responsible for transferring the waste bins to the storage area of the residential waste located on the Ground Floor where they are stored prior to servicing.	Yes
3.5 Sustainability and Energy Efficiency	BASIX Certificate required	An amended BASIX Certificate has been submitted.	Yes
3.6 Internal Building Design	Must make provision for laundry facilities, communal food preparation facilities, sanitary facilities and storage areas	The architectural plans show that each boarding room has a bathroom and kitchenette. An 84m ² communal laundry facilities room is provided on Basement 3. Storage facilities is provided within Basement 3 & 2. Communal lounge areas are provided on Levels 3, 5 & 6. The communal lounge on Level 5 also have a kitchen facility.	Yes
	Safety to be optimized by providing for overlooking of communal areas, provision of lighting and providing clear definition between public and private spaces	The communal areas are generally all within the building and have adequate security and surveillance. Security measures (such as automatic lighting of common areas and CCTV) will be required as part of any approval.	Yes
3.6(e)(i) Bedrooms	• Not to open directly onto a communal area • Must comply with SEPP (Affordable Rental Housing) 2009 • Minimum 2.1m² required for basin and toilet plus 0.8m² for shower, 1.1m² for laundry which must include a tub and 2m² for a kitchenette • Kitchenettes must have small fridge, cupboards, shelves, microwave and 0.5m² of bench space	Boarding rooms do not open directly to communal living areas. The boarding rooms complies with the minimum and maximum room size. Sufficient area is provided for basins, toilets and showers within each room. Kitchenettes provide for fridges, sink, pantry/shelves and robe.	Yes

Provision	Required	Proposed	Complies
3.6(e)(ii) Communal Living Room	- Locate adjacent to communal open space to minimise impact on neighbours - Minimum size 15m² plus additional 15m² for each additional 12 persons. - Openings to be oriented away from adjoining residential properties.	Communal living areas and communal facilities are located middle of building with communal open space on the roof terrace. Based on 308 lodgers, 400m² of communal living area is required. 247m² of internal communal living area is provided over 3 levels. The communal living area does not comply with the minimum 247m² required by the DCP, being short by 153m². The communal living areas are located in the middle of the building with sufficient building separation between the windows of the communal living areas and the buildings opposite.	Yes No Yes
3.6(e)(iii) Communal Kitchen and Dining Areas	- To be in accessible location - Area to be minimum 6.5m² or 1.2m² per resident that does not contain a kitchenette and provide one sink and stove top cooker per 6 people - Combined kitchen/dining areas to have minimum 15m² area and 1m² per room = 56m²	Given each room contains a kitchenette, a communal kitchen is not required.	N/A
3.6(e)(iv) Bathroom	Communal bathrooms must be accessible 24 hours a day	No communal bathrooms are proposed, given each room contains its own bathroom.	N/A
3.6(e)(v) Laundry and Drying Facilities	Laundry and drying facilities are to be provided for all lodgers. Where lodgers do not have their own laundry facilities, the following is to be provided: i. A minimum space of 4m² for every 12 lodgers; an additional 3m² for every additional 12 lodgers or part thereof; ii. 15m² external clothes drying area for every 12 residents in an outdoor area (can be retractable).	Based on 308 lodgers (308/12 = 296/12 = 25 x 3 = 75 + 4 = 79m² of laundry area is required). 84m² of communal laundry facilities is provided on Level 3. Based on 308 lodgers (308/12 = 26 x 15 = 390m² of external clothes area is required. An outdoor clothes drying area of approximately 34m² is provided on the roof top communal open space area. This does not comply with the required 390m². The development does however propose 18 commercial washer and dryers within the laundry. While there is no standard that can be used as a guide to the appropriateness of this arrangement, on merit this is considered	Yes No – The variation can be supported

Provision	Required	Proposed	Complies
	Outside drying areas shall be located in a communal open space in a location which maximises solar access and ensures that the usability of the space is not compromised. Internal drying and laundry facilities shall be located in a safe and accessible location for all residents, and separate from communal kitchen facilities.	acceptable. as a communal laundry facilities room with 18 commercial washers and dryers are provided. The outdoor drying area has retractable clothes lines. A clothes drying area is provided adjacent to the communal open space on the rooftop. This area will be screened so not to compromised the outdoor space. Communal laundry facilities are located in Basement Level 03, separate from kitchen facilities and are accessible by with stair and lift access for all residents.	Yes Yes
3.6(e)(vi) Management office design	The Manager's office is to be in a central, visible location for occupants and visitors.	Manager's office located in Level 1 (front entrance from Faraday Lane) lobby and is central and visible to occupants and visitors.	Yes
4.2(a) to (d) Management Controls	To be managed by a manager who has overall responsibility including the operation, administration, cleanliness, maintenance and fire safety of the premises. A Plan of Management is to be submitted to address the ongoing management and operational aspects of the boarding house	An amended Plan of Management PoM has been submitted and considered acceptable. POM specify, inter alia, maximum length of stay, measures to mitigate acoustic impact on adjoining properties, management and operational aspects.	Yes

Part 7.2 Waste Minimisation and Management

The proposal provides a loading bay within the site on the ground floor level (in the basement car park) with access from Constitution Road. Separate residential, boarding and commercial waste storage facilities (including bulky waste storage) are proposed and is consistent with the requirements of the RDCP 2014. Council's Waste Management Section has reviewed the proposal and has raised no objections, subject to conditions.

Part 9.2 Access for People with Disabilities

Accessibility for persons with disabilities has been addressed in the Accessibility Review Report prepared by Vista Access Architects (Reference No. 19264).

The report states that the proposal is capable of providing adequate accessibility within the development in accordance with the requirements of relevant Australian Standards, the BCA and RDCP 2014 and by compliance with the recommendations in the report, the development complies with the requirements of Access Code of

Disability (Access to Premises-Building) Standards 2010, the Disability Access relevant sections of Building Code of Australia 2019, the requirements of SEPP 65 related to Objective 4Q1 – Liveable Housing and the essential criteria of AS4299-Adaptable Housing.

Part 9.3 – Parking Controls

Part 9.3 specifies that car parking is to be provided at the following rates:

Residential Development - High Density (Residential Flat Buildings)

- 0.6 to 1 space / one bedroom dwelling
- 0.9 to 1.2 spaces / two bedroom dwelling
- 1.4 to 1.6 spaces / three bedroom dwelling
- 1 visitor space / 5 dwellings

The development will contain a total of 133 apartments comprising of: 31 x 1 bedroom, 74 x 2 bedroom and 28 x 3 bedroom apartments.

Based on the above, the following car parking is required:

	Min	Max
31 x 1 bed	18.6	31
74 x 2 bed	66.6	88.8
28 x 3 bed	39.2	44.8
Total	124.4 (125)	164.6 (165)
Visitor /5	26.6 (27)	26.6 (27)
Total	152	192

Based on the above a minimum of 152 spaces to maximum of 192 spaces are required for the residential parking.

Boarding Houses – accessible area:

- At least 0.2 parking spaces / boarding room (1 space /5 boarding rooms).
- Not more than 1 parking space for each person employed in connection with the development.

Based on 162 rooms & 1 employee = $81 + 1 =$ 82 spaces for the boarding house.

Retail Premises and Industrial Retail Outlet:

- 1 space / 25 m2 GFA

Based on commercial floor space of 3591m2 (supermarket and other retail tenancies) = 144 commercial car spaces.

The proposal is required to provide between 378 to 418 spaces. It is proposed to provide 419 spaces which is one space above the maximum range. Can be condition to convert a space to storage.

Bicycle Parking

The DCP states that: *in every new building, where the floor space exceeds 600m² GFA (except for dwelling houses and multi-unit housing) provide bicycle parking equivalent to 10% of the required car spaces or part thereof."*

Based on the above, a minimum of 38 bicycle spaces are required to be provided. The development incorporates 12 bicycle spaces for Buildings A, B & C, 16 bicycle spaces for commercial component and 33 bicycle spaces and 34 motorcycle spaces for Building D. The proposal complies with the number of bicycle spaces.

8 SECTION 7.11 CONTRIBUTIONS

Section 7.11 - Development Contributions Plan – 2007 Interim Update (2014)

For mixed use development, outside Macquarie Park, the Development Contributions Plan 2020 is either S7.11 (Residential) or 7.12 (Non-residential) whichever is the greater. In this instance S7.11 is the greater and is the applicable Contribution Plan.

Council's current Section 7.11 Development Contributions Plan 2020 effective from 1 July 2020 requires a contribution for the provision of various additional services required as a result of increased development density. The contribution is based on:

- The number of apartments and their unit mix
- the number of lodgers* there are in the development proposal, being a maximum of lodgers.

The contributions that are payable with respect to the increase housing density on the subject site (being for residential apartments and boarding house development outside the Macquarie Park Area) are as follows:

- 133 apartments comprising of:
 - o 31 x 1 bed
 - o 74 x 2 bed
 - o 28 x 3 bed
- 162 boarding rooms comprising of 308 lodgers:
 - o 146 double rooms (292 lodgers)
 - o 16 single rooms (16 lodgers)

Note: Council's S7.11 plan outside of Macquarie Park, commercial component is not chargeable therefore no concession is given for the existing commercial/warehouse on site, however a concession for the existing 3 x 2 bedroom and 2 x 1 bedroom units has been given.

* The rate is based on number of lodgers (Table 3 Section 7.11 contribution rates – residential development outside Macquarie Park * per resident rate is relevant to calculating the contributions for boarding houses, group homes, and hostels).

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$ 1,346,837.06
Open Space & Recreation Facilities	\$ 2,319,194.44
Roads & Traffic Management Facilities	\$ 711,983.75
Plan Administration	\$ 65,669.19
The total contribution is	\$ 4,443,684.44

A condition of consent would be imposed for the payment of these contributions in the event approval is granted to the application.

9 LIKELY IMPACTS OF THE DEVELOPMENT

The impacts associated with the proposed development have been addressed in the report and summarised below:

- The proposed allocation of the bonus floor space results in exceedance in building height resulting in additional building bulk which is out of character with the desired future developments in Railway Road and Constitution Road.
- The traffic impacts associated with the proposed development will have an unacceptable impact on the surrounding street networks.
- Residential amenity:
 - The building separation between habitable rooms/balconies on Levels 5 and 6 between Buildings A & C and B & D and A & B are inadequate.
 - It has not been demonstrated that 70% of the apartments can achieve the required solar access
 - 5 of the residential apartments are undersized and will result in poor amenity for future occupants
 - Pedestrian access to/from Faraday Lane to Railway Road fails to improve wayfinding and permeability and is unacceptable given the scale of the development
 - The proposal provides insufficient POS for the site manager of the boarding house
 - Insufficient indoor communal living area is provided for the lodgers of the boarding house

10. REFERRALS

The following section outlines the latest response from each of the internal and external referrals in relation to the subject application:

Internal Referral Comment

City Works (Traffic)

Council's Traffic Engineer does not support the proposal and has made the following comments with regards to the latest set of information concerning traffic:

- 1) *The addendum traffic statement prepared by Colston Budd Rogers & Kafe (CBRK) has assessed the traffic impacts associated with the proposed*

mixed use development by adding the traffic generated by the development to the current (2021) peak hour traffic demands identified on the surrounding road network. It should be noted that the proposed development will only start generating traffic when the development has been constructed and occupied by tenants, employees and visitors which would occur well after 2021 provided that the development is approved in the same year. As such, using 2021 traffic volumes is not considered a realistic base to assess the traffic impacts associated with the proposed development. The assessment should therefore be based on a future 10 year scenario (2031), which accounts for the traffic growth in the surrounding area, in accordance with Clause 3.6.1 of Council's Traffic Impact Assessment Guidelines.

- 2) CBRK's traffic statement acknowledges that the junction of Constitution Road and See Street would operate poorly, with a level of service 'F' by the year 2031, with vehicles exiting from the See Street approach experiencing the greatest delay. This is consistent with the conclusion previously reached in our assessment report, based on the internal traffic modelling undertaken by Council staff. The addendum traffic statement recommends that access movements at the loading dock driveway, located directly opposite the junction of Constitution Road and See Street, be restricted to left in/left out to minimise the impact to this public road intersection. Such a measure would necessitate a wider driveway and splay, which would take away the public space available to pedestrians. This could be problematic from a pedestrian safety context as well as be a poor place outcome for the community. Notwithstanding this, the applicant has not accounted for the traffic generated by the development that would use See Street to travel to the site. As such, the development traffic directly contributes to the future congestion within See Street at its junction with Constitution Road, which requires a more effective treatment compared to what is currently proposed, to assist with improving the safety and efficiency of turning movements out of See Street onto Constitution Road.*
- 3) There has been no analysis/commentary provided on the potential queuing within Bay Drive (south of Railway Road and Bank Street) during peak periods for the year 2031.*
- 4) There were a number of errors identified in the SIDRA model (e.g. left turning traffic volumes from Bay Drive into Bank Street has not included traffic turning right from Underdale Lane and left into Bank Street (see diagram below for reference)), which affects the accuracy of the modelling outcomes.*
- 5) CBRK's traffic statement indicates that Underdale Lane between Angas Street and Bowden Street currently accommodates two-way traffic flow in the order of 150 and 220 vehicles per hour during the weekday AM and PM peak hour periods. The additional traffic generated by the proposed development being in the order of 180 and 250 vehicles per hour coinciding with the AM and PM peak hour periods respectively (whereby 50% of this traffic is assumed to be loaded on the section of Underdale Lane between Angas Street and Bowden Street) is expected to result in Underdale Lane between Angas Street and Bowden Street accommodating 240 AM and 345 PM peak hour vehicle movements (two-way). It is evident from this analysis that the environmental capacity threshold of 300 vehicles per hour specified within the Guide to Traffic Generating Developments would be exceeded in the afternoon peak hour period. Further, as mentioned previously the applicant's traffic analysis has not considered the future background traffic*

growth in the area up to the point when the development is likely to be operational. Had this been considered, it is likely the traffic demands along Underdale Lane would also exceed the environmental threshold for the AM peak hour period. As such, the future traffic generated by the proposed development is likely to contribute to the deterioration of the residential amenity in the area.

- 6) CBRK's traffic analysis has not provided a queuing analysis to demonstrate that there is adequate storage space within the site to accommodate the maximum number of vehicles that is likely to wait at any point in time at the control point to enter the basement car park.*

Based on the above considerations, the outstanding issues that have been previously raised in our assessment report have not been satisfactorily addressed. As such, our original position on the DA in that it cannot be supported in its current state (more specifically without appropriate intervention measures at the affected intersections being Constitution Road/See Street, Railway Road/Bay Drive/Underdale Lane and Bay Drive/Underdale Lane) remains unchanged.

City Works (Public Domain)

Council's Public Domain section has reviewed the amended plans and there are still outstanding matters to be resolved and has requested revised plans/submissions:

- A plan showing the required 1.0m dedication strip on Underdale lane and the required 2.0m strip on Faraday Lane to facilitate adequate pedestrian access. In addition a splay at the corner of Faraday Lane and Underdale Lane should be shown, of sufficient dimensions to maintain a consistent footway width of a minimum of 2.60m from the back of kerb to the boundary. Any additional amendments to maintain compliance with internal aspects of the plans, resulting from the required dedication should be addressed within the plans.*
- A concept plan should be incorporated into the plans showing connectivity of the footways along Constitution Road and stairway access to Faraday Lane. The concept plan should confirm that constitution footway will coordinate with public domain works undertaken as part of the development works at 1 Angas Street and demonstrate a consistent, uninterrupted footway width at the completion of both developments. The concept plan should not the extent of rockface removal required to achieve this outcome.*
- The architectural plan submission shows that the proposed stairway connecting the Constitution Road footway with the Faraday Lane footway, are partially within private property. The stairway is to accommodate public access between the two streets and must be wholly on Council land. Please show the proposed property boundary line following the 2.0m strip land dedication along the Faraday lane frontage and ensure the proposed steps are wholly on Council land.*

As such, the applicant has provided insufficient information to demonstrate the public domain in the area would function as required. This information was requested on multiple occasions, as outlined in this report.

City Works (Waste)

Council's Waste Officer raises no objection to the amended proposal and is satisfied that the location and size of waste storage facilities are appropriate for the scale of the development and adequate servicing of the site can be accommodated within the proposed loading dock. Council's Waste Officer has recommended conditions relating to the operational management of waste storage and collection for the development. These conditions would be imposed in the event the application was approved.

Environmental Health

Council's Environmental Health Officer raises no objection to the proposal and is satisfied that the site can be made suitable for the mixed use in accordance with considerations under SEPP 55. The proposal is supported subject to construction and operational conditions.

Development Engineering

Council's Senior Development Engineer has reviewed the amended plans and has advised: *"Assessment of the engineering components of the proposed development notes the development is generally acceptable subject to submission and review of the DRAINS model to clarify the adequacy of the onsite detention system."*

As such, the applicant has provided insufficient information to demonstrate the stormwater design is suitable.

Landscape Architect

Council's Landscape Architect has stated that: *"as the development is predominantly residential, it should comply with the Apartment Design Guide and provide 7% of the site for Deep Soil Area so that at least medium size trees can be planted. All proposed trees are on structure and therefore only small trees are proposed. If no Deep Soil Areas is accepted by Council, then a plan is required showing the areas supporting trees on structure and calculations of their area and reach the required 7% of site area. Only planting beds supporting trees should be included in the calculations."*

Sections are required through planting beds demonstrating that soil depths can be achieved. Where possible soil depth should be maximised to 1200mm depth by dropping the garden bed deeper into the basement. Therefore, the proposal cannot be supported in its current state."

As such, the applicant has provided insufficient information to demonstrate the soil depths provided will allow for suitable landscaping, in particular, mature tree planting that will be commensurate with the scale of the development.

Heritage Officer

Council's Heritage Officer has reviewed the amended proposal together with the submitted Archaeological Assessment Report and is satisfied the site has low archaeological potential. No objections are raised to the demolition of the existing

building/structures on site and of the proposed built form. The proposal is considered satisfactory on heritage grounds, subject to conditions.

Consultant Geotechnical Engineer

Similar to the original geotechnical report, the current report does not acknowledge that a strip of land within the site and adjacent to the southern side of Constitution Road is indicated on Council's maps as being potentially at risk of slope instability.

The revised report assess that the only risk of slope instability is soil creep within the shallow fill layer on the site (0.1 m to 0.6m in depth) and advises that the level of risk posed is very low.

According to table 2 in the current geotechnical report, the fill layer is underlain by sandy silty clay to a maximum depth of 2.4m

Cardno queries why Benvision did not assess that soil creep was also possible in the silty clays and assess the level of risk associated with this mode of instability.

Before this matter can be further assessed, Cardno recommends that the applicant be requested to have Benvision, their geotechnical advisors, assess the risks associated with soil creep in the silty clay layer underlying the fill layer.

The applicant has failed to address the issues raised by Council's Consultant Geotechnical Engineer throughout the assessment of this application. The Geotechnical report does not adequately address the risks associated with potential soil instability on the site.

External Agency Referrals

NSW Police

The NSW Police reviewed the proposal, the CPTED report prepared by Planning Ingenuity and the Plan of Management. NSW Police note that the CPTED was a well prepared report. The applicant has amended the PoM to include what was suggested by NSW Police.

No objection is raised subject to conditions relating to the installation and management of CCTV, lighting to enhance safety and security, secure access to buildings and storage facilities, provision of a secure mail room or letterbox designs to reduce opportunities for theft. Relevant conditions relating to CCTV, lighting, security and letterbox design can be imposed in the event the application is approved.

Ausgrid

Clause 45(2) of the State Environmental planning Policy (Infrastructure) 2007.

Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.

Ausgrid consents to the above mentioned development subject to conditions.

Transport for NSW

TfNSW has reviewed the submitted application and provides the following comments for Council's consideration in the determination of this Application:

- 1. The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.*
- 2. Any public domain works within the vicinity of the signalised pedestrian crossing on Railway Road and modification to the existing Traffic Control Signal plan will need to be reviewed and approved by TfNSW.*

Comments:

As discussed earlier in this report, the proposal has failed to address traffic management and have failed to provide better permeability through the site, which would assist with pedestrian movements and safety within the vicinity of the site.

Sydney Trains

Sydney Trains now advises that the proposed development is being assessed in accordance with the requirements of Clause 86(4) of SEPP (Infrastructure) being:

- a) the potential effects of the development (whether alone or cumulatively with other development or proposed development) on:*
 - i) the safety or structural integrity of existing or proposed rail infrastructure facilities in the rail corridor, and*
 - ii) the safe and effective operation of existing or proposed rail infrastructure facilities in the rail corridor, and*
- b) what measures are proposed, or could reasonably be taken, to avoid or minimise those potential effects.*

In this regard, Sydney Trains has taken the above matters into consideration and has decided to grant its concurrence to the development proposed in development application LDA202010199 subject to Council imposing the deferred commencement condition provided in Attachment A and operational conditions listed in Attachment B that will need to be complied with upon satisfaction of the Deferred Commencement Condition.

Comments:

In the event approval is granted, these conditions could be imposed.

11. PUBLIC NOTIFICATION & SUBMISSIONS

The application was advertised and notified to owners of adjoining properties between 7 August 2020 and 11 September 2020. One hundred and thirty six submissions, including one petition containing 5 signatures were received during the renotification period. Four of the submissions were in support of the proposal.

The following concerns were raised in the submissions:

- Too much development – over development, already an over supply of residential development, need more commercial component. Area already overdeveloped and already large number of the newly developed properties along the Constitution Road remain vacant since their completion.

Planner's comments

The proposal is for a mixed use development which is permissible within the zoning.

- Bulk and scale – will be greater in scale to the adjoining properties.

Planner's comments

Agreed – the proposed does not comply with the height and the bonus floor space distribution resulting in additional bulk and scale.

- Overlooking across Faraday Lane to residents opposite.

Planner's comments

Sufficient building separation has been provided from Buildings facing Faraday Lane to residents opposite (separation of approximately 18.5m).

- No capacity for existing infrastructure to absorb the development with no upgrade to services or green space. Will there be increases in services? Trains already at full capacity. No community benefit provided by this development.

Planner's comments

Agreed. The impact of the development on the surrounding road network forms reason for refusal of the application.

- Development lacks consideration of the Meadowbank Education and Employment Precinct Masterplan prepared by the Greater Sydney Commission ie Traffic management and improve pedestrian/bicycle access along Railway Road and Constitution Road.

Planner's comments

Agreed.

- Traffic – Adverse traffic impacts, Traffic report flawed and outdated, roads infrastructure need upgrading - chronic traffic congestion, bottleneck at the corner of Railway and Constitution Road. The Bank Street/Railway Road intersection is also a key bottleneck for local traffic. The proposed development will make this worse. The safety of the students and community - this application does not address the impact of the development on the car and pedestrian traffic.

Planner's comments

Agreed. The impact of the development on the surrounding road network forms reason for refusal of the application.

- Boarding house: not a suitable location next to the education precinct and will bring anti-social behavior, increase in crime. No information as to proposed occupants of the boarding house, the rooms are densely packed and will be used as hotel/motel accommodation, short term stay. The common areas insufficient, will impact on the wellbeing of the tenants and potential for virus spreading among the occupants.

Planner's comments

Boarding houses are permissible use within the B4 Mixed use zone and is appropriate next to an education precinct to cater for student accommodation. No empirical evidence that this type of boarding house will bring anti social behavior and NSW Police has reviewed the proposal and the PoM required for the boarding house. No objections have been raised by NSW Police.

It is agreed that the boarding house is deficient in communal living area for future lodgers.

- Insufficient parking for the proposal.

Planner's comments

The proposal complies with the numerical requirement for car parking spaces for the nominated use.

- Height should not be breached - should be less than the block on corner of Underdale and Railway. The height is higher than the development opposite in Faraday Lane and towers above the heritage buildings.

Planner's comments

Agreed – the variation to the building height is not supported and forms reason for refusal of the application.

- Should provide proper and safe access to the rail station – should provide a pedestrian overpass to rail platforms on the southern end of Meadowbank station.

Planner's comments

This is a matter for consideration by the State Government.

- Out of touch with the character of Meadowbank and will demolish historic shopfronts.

Planner's comments

The shops along 1-20 Railway Road are not heritage listed and Council's Heritage Officer has not raised any objections to the demolition of buildings on the site. Meadowbank has been undergoing a transition from industrial to mixed use developments. Redevelopment of the site for a mixed use development would not be out of character of the area. It is noted the current proposal has fundamental design flaws that prevent it from being sympathetic with the character of the area.

- Overshadowing to apartments in Blocks 1, 5 & 6 of The Bay. Faraday Lane itself will be in shade from 1pm creating an uninviting streetscape for pedestrians.

Planner's comments

The apartment opposite in Faraday Lane will receive the morning sun, as shown in the diagram below. The proposed development will not start to cast a shadow to the apartments opposite until 1pm onwards, thereby receiving the morning sun.

Due to the orientation of the land, there will be overshadowing impact to Faraday Lane, which is avoidable. This forms reason for refusal of the application.

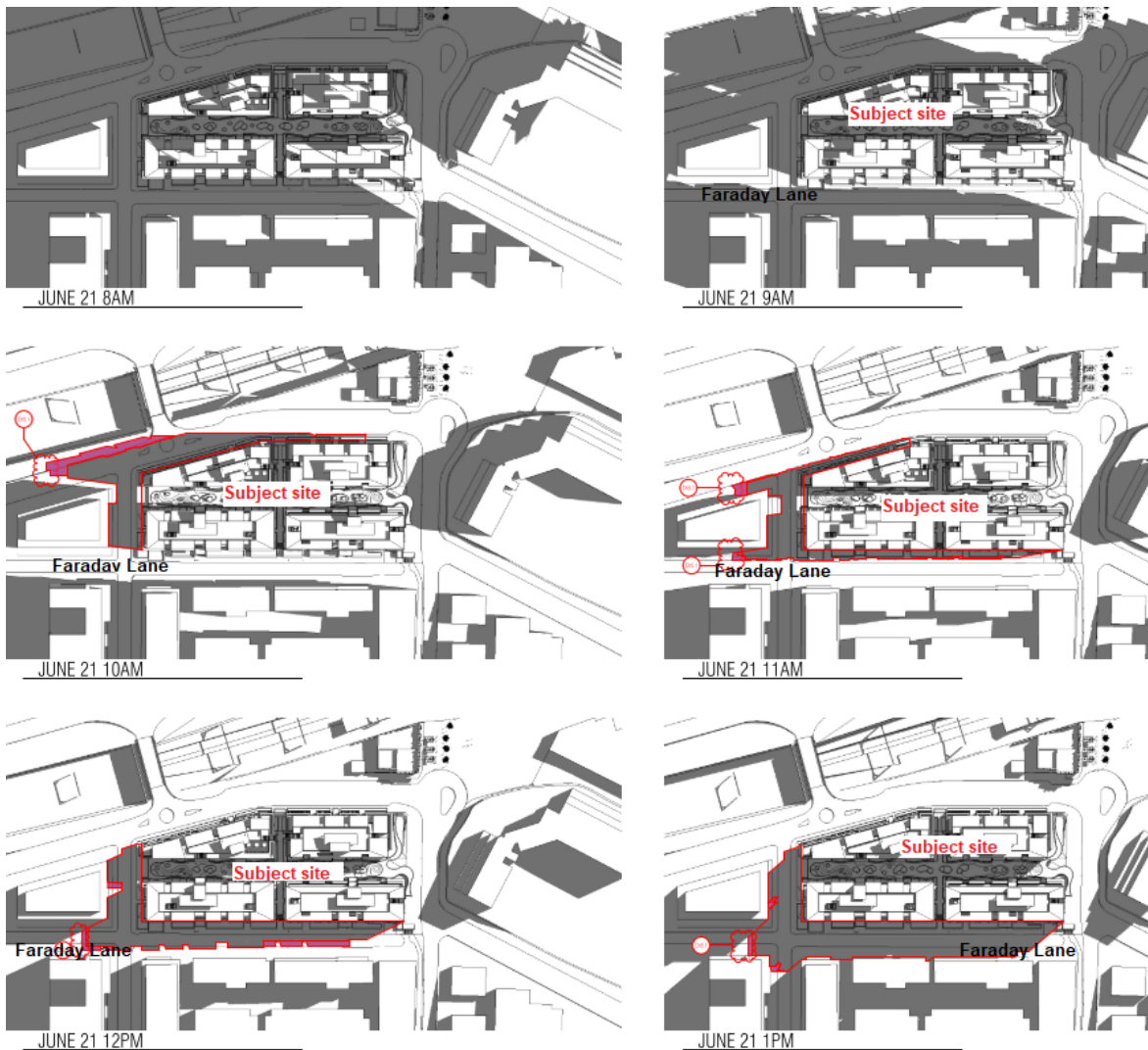


Figure 34: Shadow diagrams of the proposed development to the development opposite in Faraday Lane.

- Loss of views from Blocks 1,5 & 6 of The Bay (Faraday Lane) – devaluation of properties.

Planner's comments

The site is currently occupied by a mixture of industrial and retail buildings of 2 storey in height and an open car parking area as illustrated in **Figures 2 to 5** earlier in the report. Any redevelopment of the site complying with the height controls of 21.5m and 18.5m will restrict 3-13 Angas Street (The Bay) current views to the west and south west. Accordingly, any compliant development will have impact to their current outlook to the west.

- Noise from the vehicle access in Faraday Lane and the loading load in Constitution Road, carpark exhaust fans, air-conditioning compressors, supermarket customers, and residents using rooftop communal areas – impact residents of “The Bay” development in Faraday Lane.

Planner's comments

An Acoustic Report prepared by Acoustic, Vibration & Noise P/L has been submitted with the proposal. The report looked at the noise level from the proposed development and have provided recommendations (such as all new external air conditioning units to be acoustically enclosed or set away by more than 3m from any boundary and mechanical plant and roll door noise controls such as maintenance and lubrication of motor bearings, door tracks and joints). The report states that subject to compliance with the recommendations contained in the report, the proposed development meet the requirements for acceptable Noise Level.

- Excessive number of carparking spaces – site suited for public transport, number of parking spaces should reflect this.

Planner's comments

The proposal complies with the numerical requirement for car parking spaces for the nominated use. Any approval will be condition for the development to comply with the maximum number of residential parking spaces allowed and the required spaces for the boarding house and the commercial component.

- There are currently 6 parking spots along the street outside the proposed development and the current and future commercial ventures will be affected. No park no business. The development will worsen the street parking problem along Railway and surrounding streets.

Planner's comments

The street parking along Railway Road will not be impacted on.

- Continuous construction activity for the last 10+ years.

Planner's comments

Construction for the redevelopment of this site is temporary and any approval will have conditions for construction management such as hours of works, in the event approval is granted.

12. CONCLUSION

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979, the development application is recommended for refusal for the following reasons:

1. The proposal is not in accordance with the aims of the State Environmental Planning Policy (Affordable Rental Housing) 2009 in that the proposal has allocated a portion of the bonus floor space allowed under Clause 29 (c)(ii) for use other than for affordable rental housing. A portion of the bonus floor space has been allocated to the residential and retail component of the development which is contrary to the aims of the ARH SEPP.
2. The proposal has a maximum building height of 25.8m (Building A), 26.4m (Building B), 24.5 (Building C) and 25.8m (Building D), and exceeds the building height development standard of 21.5m and 18.5m under Clause 4.3 of the Ryde Local Environmental Plan 2014. The applicant has failed to provide an adequate Clause 4.6 written justification demonstrating that compliance with the development standard is unreasonable and unnecessary, and that the variation will not result in any adverse environmental impacts on surrounding properties. The proposed exceedance in building height and as a result of the additional floor space presents excessive building bulk and scale and is inconsistent with the desired future character of the local area and will detract from the streetscape.
3. A bonus 448.7m² of floor space, of which has been added in accordance with the ARH SEPP, has been incorrectly allocated to the non affordable housing component of the development. The bonus floor space can only be added for the purpose of affordable housing, and as such, the proposal will exceed the maximum floor space allowed under Clause 4.4 of Ryde Local Environmental Plan 2014 by 7.3%. No written request pursuant to Clause 4.6 has been submitted to justify the variation.
4. The proposed development has not satisfactorily demonstrated that the traffic generated by the proposed development will not have any adverse impact on the surrounding street networks.
5. The proposed development fails to comply with a number of design criteria and objectives under the Apartment Design Guide for the residential apartments and Council's DCP – Boarding House for the boarding house.
6. The proposed development will result in poor amenity for future occupants due to the design of the development.
7. The proposed development has not provided sufficient information to enable full assessment of the public domain requirements, stormwater and landscaping maintenance and requirements.

13. RECOMMENDATION

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

- A. That the Sydney North Planning Panel refuse the Development Application LDA2020/199 for the demolition of existing structures and construction of a mixed use development comprising four buildings ranging in height between 6 and 7 storeys with 3 basement levels for 419 car parking spaces, for the reasons as follows:
1. The proposal is unacceptable pursuant to Section 4.15 (1) (a) (i) of the *Environmental Planning and Assessment Act 1979*, because the development does not comply with *Clause 4.3 of the Ryde Local Environmental Plan 2014*, and the Clause 4.6 variation written request does not satisfy *Clause 4.6(3) and (4) of the Ryde Local Environmental Plan 2014* as it has not adequately demonstrated that compliance with the development is unreasonable or unnecessary and there are sufficient environmental planning grounds to justify contravening the development standard. The proposed exceedance in building height is a direct result of excess floor space and the proportions of the built form are out of character with the desired future character along Railway Road.
 2. The proposal is unacceptable pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, because the development is not in accordance with the aims of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* in that the proposed development does not utilise the full amount of the incentive floor space bonus for the propose of affordable rental housing. A portion of bonus floor space is used elsewhere on site which does not satisfy the provision of providing for affordable rental housing.
 3. The proposal is unacceptable pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, because the development is not in accordance with the standards of the *State Environmental Planning Policy (Affordable Rental Housing) 2009* as follows:
 - *Clause 29(2)(a) – Building Height*, in that the proposed development exceeds the maximum permitted height under Clause 4.3 of the *Ryde Local Environmental Plan 2014*. The bonus floor space has been applied elsewhere on site, resulting in height exceedance and overdevelopment and out of character with the streetscape and desired future character along Railway Road.
 - *Clause 29(2)(d) – Private Open Space*, the proposal does not provide sufficient private open space for the manager on site. The proposal provides 4m² of POS, half of what is required which is insufficient amenity for the manager on site.

4. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the Environmental Planning and Assessment Act, 1979 because it is contrary to the provisions of Clause 4.4 Floor Space Ratio of Local Environmental Plan 2014. Specifically, only 530.6m² of the 979m² bonus floor area has been used for Building D (affordable housing) with the remaining 448.7m² being over the permitted floor space (or 7.3%). No written request pursuant to Clause 4.6 has been submitted to justify the variation.
5. Pursuant to Sections 4.15 (a)(i) and (b) of the *Environmental Planning and Assessment Act 1979*, the proposed development is projected to generate significant traffic demands that will contribute to the future deterioration in the operational performance of the surrounding public road network to unacceptable service levels, resulting in excessive delays and congestion, poor amenity as well as raises traffic safety concerns due to the narrow width of the affected roads primarily Underdale Lane and Faraday Lane and the close proximity of the intersections of Railway Road/Bay Drive/Bank Street and Bay Drive/Underdale lane. This is not in keeping with the vision of the Meadowbank Education and Employment Precinct Master Plan and will result in a poor outcome for residents and visitors travelling within the Meadowbank Precinct and within the vicinity of the site. The adverse environmental impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979.
6. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) to the Environmental Planning and Assessment Act, 1979 because pursuant to Clause 28(2)(c) of SEPP No. 65 – Design Quality of Residential Apartment Development, the proposed development is contrary to the various parts of the Apartment Design Guide, as follows:
 - 3C Public Domain: it has not been satisfactory demonstrated that the transition between private and public domain is achieved.
 - 3E Deep Soil Zones: no deep soil area is proposed for the development and insufficient information has been submitted to demonstrate that 7% of the site area can support planting on structure for medium trees. Furthermore, stormwater plans have implemented onsite detention however the design strategy has not provided sufficient information as to its design and suitability.
 - 3F Visual Privacy: as building separation between buildings proposed on the site is not compliant with the numerical requirements under 3F, and it has not been demonstrated that proposed apartments will achieve acceptable levels of visual privacy.
 - 3H Vehicle Access: the close proximity of the basement car park access to the intersection of Faraday Lane/Underdale Lane and the traffic demands generated at the basement car park access could affect the safe and efficient operations of the intersection of Faraday Lane/Underdale Lane.
 - 3J Bicycle: insufficient bicycle spaces for the residential component have been provided.

- 4A Solar access: it has not been adequately demonstrated that 70% of the apartment can achieve the minimum 2 hours of sunlight.
- 4D apartment size – 5 of the residents' apartments are under size by 1m². Whilst relatively minor, there is no reasons why the apartments should not comply with the minimum apartment size.

7. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) to the Environmental Planning and Assessment Act, 1979 because it is considered to be inconsistent with the provisions of Part 4.2 of Development Control Plan 2014. In this regard, the proposal is inconsistent with the objectives and controls in the following sections:

- 4.1.2 Public Domain, Access and pedestrian/cyclist amenity – permeability within the site is inadequate.
- 4.1.3 Implementation, Infrastructure, Facilities and Public Domain Improvements – no details an any cycle way shown on the plans.
- 4.2.1 Height – the proposal exceeds the height and maximum number of storeys for all of the buildings.
- 5.0 Precinct 1 – Station. Direct access from Railway Road through to Faraday Lane and Underdale Lane has not been provided.

8. The proposal is unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) to the Environmental Planning and Assessment Act, 1979 because it is considered to be inconsistent with the provisions of Part 3.5 of Development Control Plan 2014. In this regard, the proposal is inconsistent with the objectives and controls in the following sections:

- 2.3 - Parking and Traffic – The submitted Traffic & Parking Impact Assessment Report has not addressed Council's concerns regarding the traffic impact the proposal will have on surrounding street system.
- 3.6 Communal Living Room – The communal living area does not satisfy the minimum required area to service 308 lodgers so as to provide facilities to meet the needs of the occupants.
- 3.6 Laundry and Drying Facilities - proposed communal laundry does not satisfy the minimum required outdoor area to facilitate the needs of the occupants.

9. The proposal has not adequately addressed outstanding planning, public domain, engineering and landscaping matters (Section 4.15(1)(a)(iii), 1(b) and 1(c) of the Environmental Planning and Assessment Act, 1979).

10. The grounds of objection raised in public submissions are valid and approval of this application is considered contrary to the public interest due to the adverse impacts, pursuant to Section 4.15 (1)(d) and (e) of the Environmental Planning and Assessment Act 1979.

B. That Transport for NSW and Sydney Trains be advised of the decision.

C. That those persons making a submission be advised of the decision.

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