

Land and Environment Court

New South Wales

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Case Name: Ryde-Eastwood Leagues Club Ltd v Council of the City of Ryde

Medium Neutral Citation: [2024] NSWLEC 1256

Hearing Date(s): Conciliation conference 2 August 2023, and 8 April 2024

Date of Orders: 16 May 2024

Decision Date: 16 May 2024

Jurisdiction: Class 1

Before: Dickson C

Decision: The Court orders that:

- (1) The appeal is upheld.
- (2) Development Application LDA2022/0320 for the demolition of an existing building and construction of a seniors housing development under State Environmental Planning Policy (Housing) 2021 comprising of 12 independent living units in Building A and 32 independent living units in Building B, with associated landscaping and stormwater drainage works at 133 Ryedale Road and 4-14 Terry Road Denistone, NSW 2114 is determined by the grant of consent, subject to the conditions set out in Annexure A.
- (3) The applicant is to pay the Respondent's costs thrown away as a result of the amendment of the application for development consent pursuant to s 8.15(3) of the Environmental Planning and Assessment Act 1979 as agreed or assessed.

Catchwords: DEVELOPMENT APPLICATION – seniors housing development – amended development application and additional information – agreement between the parties – orders made

Legislation Cited:

Conveyancing Act 1919, s 88E  
Environmental Planning and Assessment Act 1979, ss  
4.15, 8.7, 8.15,  
Land and Environment Court Act 1979, s 34

Environmental Planning and Assessment Regulation  
2021, ss 23, 38, 288A  
Ryde Local Environmental Plan 2014, cl 4.3, 4.4, 4.6,  
6.4  
State Environmental Planning Policy (Biodiversity and  
Conservation) 2021, ss 6.6, 6.7, 6.9  
State Environmental Planning (Housing) 2021, Divs  
3, 4, 5, 6 ss 84, 89, 91, 92, 93, 98, 99, 100, 101, 102,  
103, 104, 105, 145, 147, 148, Sch 7A, s 8  
State Environmental Planning Policy No. 65 Design  
Quality of Residential Apartment Development  
State Environmental Planning Policy (Resilience and  
Hazards), s 4.6  
State Environmental Planning Policy (Transport and  
Infrastructure) 2021, s 2.48

Cases Cited:

Abret v Wingecarribee Shire Council (2011) 180  
LGERA 343; [2011] NSWCA 107  
Initial Action Pty Ltd v Woollahra Municipal Council  
(2018) 236 LGERA 256; [2018] NSWLEC 118  
RebelMH Neutral Bay Pty Ltd v North Sydney Council  
[2019] NSWCA 130

Texts Cited:

NSW Department of Planning and Environment  
Apartment Design Guide 2015  
Planning Circular PS 20-002, 5 May 2020  
Roads and Maritime Services Guide to Traffic  
Generating Developments 2002  
Ryde Development Control Plan 2014

Category:

Principal judgment

Parties:

Ryde- Eastwood Leagues Club Ltd (Applicant)  
Council of the City of Ryde (Respondent)

Representation:

Counsel:  
A Gadiel (Solicitor) (Applicant)  
M Chillari, (Solicitor) (Respondent)

Solicitors:

Mills Oakley (Applicant)  
Council of the City of Ryde (Respondent)

File Number(s): 2023/45628

Publication Restriction: No

## JUDGMENT

- 1 **COMMISSIONER:** This is an appeal pursuant to the provisions of s 8.7(1) of the *Environmental Planning and Assessment Act 1979* (EPA Act) against the deemed refusal of development LDA2022/0320. The development application seeks consent for the demolition of all existing structures, removal of trees, siteworks and construction of a seniors housing development , and over basement car parking. The development is proposed at 4-14 Terry Road and 133 Ryedale Road, Denistone (Lot 25 s 7 in DP 9350, Lot X in DP 393480, Lot Y in DP 383480, Lot 23 s 7 in DP 9350, Lot 22 s 7 in DP 9350, Lot 21 s 7 in DP 9350, and Lot C in DP 367067).
- 2 The Court arranged a conciliation conference under s 34 of the *Land and Environment Court Act 1979* (LEC Act) which was held on 2 August 2023. The conciliation conference was adjourned to allow the parties to continue discussions. That conciliation conference was ultimately terminated on 5 September 2023.
- 3 The parties have continued without prejudice discussions and have reached an agreement as to the resolution of the contentions in the proceedings. The parties' agreement is for the grant of consent to the application, as amended, subject to conditions. The parties advised the Court of their agreement, and the proceedings were listed for a further conciliation conference on 8 April 2024. I presided over the further conciliation conference.
- 4 As the presiding Commissioner, I am satisfied that the decision is one that the Court can make in the proper exercise of its functions (this being the test applied by s 34(3) of the LEC Act). I form this state of satisfaction on the basis that:
  - (1) Owner's consent has been obtained from each of the owner's of the site as required by s 23(1) of the Environmental Planning and Assessment Regulation 2021 (EPA Regulation).

- (2) The development application was notified by the Respondent between 25 October to 25 November 2022. Three submissions were received objecting to the proposal. The plans proposed for approval in this judgment have been amended and additional information provided, in part in response to the concerns raised by submissions. I am satisfied that the submissions have been considered in the determination of the development application by either amendment to the application or in the imposition of conditions of consent: s 4.15(1)(d) of the EPA Act.
- (3) State Environmental Planning (Housing) 2021 (SEPP Housing) , applies to the land as it stood immediately prior to 14 December 2023 as per the savings and transition provision in s 8 of sch 7A of SEPP Housing. Therefore, the following provisions apply:
- (a) Division 3 of Part 5 of SEPP Housing:
- (i) I am satisfied that the proposed development complies with the relevant general development standards under s 84(2) of the SEPP Housing as follows:
- 1 Section 84(2)(a): the site area of the development is at least 1,000m<sup>2</sup>, being 5,925m<sup>2</sup>.
  - 2 Section 84(2)(b): the frontage of the site area of the development is at least 20m measured at the building line, being a frontage of approximately 100m to Terry Road.
  - 3 Section 84(2)(c): this subsection does not apply to the proposed development as the site is within a zone where a type of residential flat building (seniors housing) is permitted. A development that falls within the definition of 'seniors housing' can also be characterised as a 'residential flat building' (*Abret v Wingecarribee Shire Council* (2011) 180 LGERA 343; [2011] NSWCA 107 (at [67] – [68])).
- (ii) Pursuant to s 85 'Development standards for hotels and independent living units' of SEPP Housing, consent cannot be granted for development for the purposes of an independent living unit unless it complies with the standards specified in Sch 4. The Statement of Environmental Effects (SEE) documents the compliance of the amended development application against the standards in Sch 4. The parties agree, and I accept after reviewing the SEE that I can be satisfied that the development complies with the relevant standards specified in Sche 4.
- (iii) Pursuant to s 88 'Restrictions on occupation of seniors housing' of SEPP Housing, development consent must not be granted unless the consent authority is satisfied



that the development will only be occupied by people specified at s 88 (1). A restriction as to user will be registered against the title of the property on which development is to be carried out in accordance with s 88E of the *Conveyancing Act 1919*, limiting the use of any occupation to people specified at s 88 (1) of SEPP Housing. This is reflected at condition 20 of the annexed conditions of consent.

- (iv) Pursuant to s 91 'Fire sprinkler systems in residential care facilities', a consent authority must not grant consent for development for the purposes of a residential care facility unless the facility will include a fire sprinkler system. The development application includes a Design Capability Statement which confirms that the development application includes the installation a system of sprinklers to provide fire suppression to the development. Compliance with the Design Capability Statement is required by the Condition 1 of the annexed conditions of consent. On this basis I find I can be satisfied that the development will include a fire sprinkler system as required by s 91 of SEPP Housing.
- (b) Division 4 of SEPP Housing site related requirements.
  - (i) Pursuant to s 93 'Location and access to facilities and services—independent living units' of SEPP Housing, consent cannot be granted unless the proposed development will have adequate access to facilities and services either on the site or via a complying transport service. The development application includes a report and a Disability Access Statement prepared by Morris Goding Access Consultant. The report addresses each of the provisions at s 93 of SEPP Housing. Relying on these documents, I am satisfied the provisions of the section are met.
  - (ii) Pursuant to s 95 'Water and Sewer' of SEPP Housing, consent cannot be granted unless the consent authority is satisfied that the proposed development will be connected to reticulated water and have adequate facilities for the disposal of sewer. I am satisfied that these requirements are met on the basis of the sewer and water review report prepared by ADP Consulting which forms part of the development application.
- (c) Division 5 and 6 of SEPP Housing:
  - (i) Pursuant to s 98 of SEPP Housing a consent authority must not grant consent unless it is satisfied that the design of the seniors housing demonstrates that adequate regard has been given to the principles set out in Division 6. Those principles are:

- s 99 Neighbourhood amenity and streetscape
- s 100 Visual and acoustic privacy
- s 101 Solar access and design for climate
- s 102 Stormwater
- s 103 Crime prevention
- s 104 Accessibility
- s 105 Waste management

The architects for the development have prepared a detailed assessment of the proposed development and its design against each of these principles. Having reviewed this assessment and the design plans of the proposed development, I accept the agreement of the parties that I can be satisfied that adequate regard to the principles in Division 6 is evident in the design of the development.

- (4) The provisions of State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development (SEPP 65) applied at the time of the lodgement of the development application. The development application is accompanied by a design verification statement, fulfilling the requirements of s 29 of the Environmental Planning and Assessment Regulation 2021.
- (5) SEPP 65 was repealed on 13 December 2023. The provisions of s 8(2A) of Sch 7A of SEPP Housing has the effect of inserting Chapter 4 of SEPP Housing and making the provisions apply to the development application. Chapter 4 SEPP Housing:
  - (i) Section 145: Referral to design review panel for development applications.
  - (ii) The development application was referred to the Respondent's Urban Design Review Panel on 24 November 2022. However, this panel is not a 'design review panel' within the meaning of SEPP Housing as it was not constituted under s 288A of the EPA Regulation for the Ryde local government area. Therefore, section 145(2) of the Housing SEPP does not strictly apply (see section 145(3)(a)).
  - (iii) Section 147: Determination of development applications and modification applications for residential apartment development.
  - (iv) Section 147 requires the consent authority, or the Court on appeal, to have regard to the quality of the proposed

development when evaluated against the design quality principles, the provisions of the NSW Department of Planning and Environment Apartment Design Guide 2015 (ADG) and any advice from the design review panel. With the assistance of the design verification statement which demonstrates how the objectives the ADG and the design quality principles have been achieved, I have had regard to these provisions.

- (v) Section 148: Non-discretionary development standards for residential apartment development—the Act, s 4.15.

*(a) the car parking for the building must be equal to, or greater than, the recommended minimum amount of car parking specified in Part 3J of the Apartment Design Guide*

- (vi) The recommended minimum amount of car parking for objective 3J-1 of the ADG is set out in design criterion 1. As the site is within 800 metres of West Ryde Station, minimum car parking requirement for residents and visitors is set out in the Roads and Maritime Services Guide to Traffic Generating Developments 2002, or the car parking requirement prescribed by the relevant council, whichever is less. The parties agree that the proposed development, as amended, complies with the recommended minimum amount of car parking for both residents and visitor spaces specified in Part 3J of the ADG. Therefore, the proposal complies with the non-discretionary development standard set out in s 148(2)(a) of the SEPP Housing.

*(b) the internal area for each apartment must be equal to, or greater than, the recommended minimum internal area for the apartment type specified in Part 4D of the Apartment Design Guide*

The Applicant has provided a table which demonstrates that the amended development application meets the minimum internal area requirements of the ADG. I am satisfied that the proposed development (as amended) complies with the non-discretionary development standard set out in s 148(2)(b) of the SEPP Housing.

*(c) the ceiling heights for the building must be equal to, or greater than, the recommended minimum ceiling heights specified in Part 4C of the Apartment Design Guide.”*

- (6) The proposed development complies with the non-discretionary development standard set out in s 148(2)(c) of the Housing SEPP. This is confirmed at page 8 ('Ceiling Heights') of the design statement at tab 5 of Exhibit JA-2 and also the section drawings showing the ceiling heights on drawing 293-DA30, 293-DA31 and 293-DA41. I am satisfied that the mandatory preconditions in SEPP Housing relevant to the development type are satisfied.
- (7) Pursuant to s 4.6 of State Environmental Planning Policy (Resilience and Hazards) (SEPP RH), the consent authority must not grant consent to a development unless it has considered whether a site is contaminated, and if it is, that it is satisfied that the site is suitable (or will be suitable after undergoing remediation) for the proposed use. As part of the development application a Stage 1 Environmental Assessment has been prepared. That assessment confirms that the land is suitable for the proposed purpose of seniors housing. The parties agree and I accept that s 4.6 of SEPP RH is satisfied.
- (8) The proposed development is 'BASIX development' under the EPA Regulation and a BASIX certificate is required for the development application. An updated BASIX certificate has been provided as part of the amended development application satisfying these requirements.
- (9) Pursuant to State Environmental Planning Policy (Biodiversity and Conservation) 2021 (SEPP BC) the site is identified as being within the Sydney Harbour Catchment.
- (10) Pursuant to s 6.6 of SEPP BC the consent authority must consider the following matters in determining whether to grant consent.
  - (a) whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,
  - (b) whether the development will have an adverse impact on water flow in a natural waterbody,
  - (c) whether the development will increase the amount of stormwater run-off from a site,
  - (d) whether the development will incorporate on-site stormwater retention, infiltration or reuse,
  - (e) the impact of the development on the level and quality of the water table,
  - (f) the cumulative environmental impact of the development on the regulated catchment,
  - (g) whether the development makes adequate provision to protect the quality and quantity of ground water.
- (11) Further, pursuant to s 6.6(2) of SEPP BC development consent must not be granted unless the consent authority is satisfied that:
  - (a) the effect on the quality of water entering a natural waterbody will be as close as possible to neutral or beneficial, and
  - (b) the impact on water flow in a natural waterbody will be minimised.



- (12) The development application is accompanied by a Civil Design Report which includes water quality analysis. This analysis confirms that gross pollutants, total suspended solids, total phosphorus and total nitrogen levels in stormwater leaving the site will be improved by the proposed stormwater system design. Further, the report concludes that the proposed on-site stormwater detention will manage volumes of stormwater and overland flow to below the volume prior to development. On this basis I find I can be satisfied that the requirements and considerations detailed in s 6.6 are met. On the same basis, having considered the matters at s 6.7 in relation to Aquatic Ecology, I find I can be satisfied of the matters at s 6.7(2) of SEPP BC as the controls proposed on the volume and quality of water egressing the site will minimise any impacts on aquatic ecology.
- (13) Pursuant to s 6.9 'Recreation and public access' of SEPP BC, the site is not in a location or area where the development will have an impact on recreational land uses in the regulated catchment or access to natural waterbodies, watercourses, wetlands or riparian vegetation.
- (14) Section 2.48 of State Environmental Planning Policy (Transport and Infrastructure) 2021 (SEPP TI) applies as the proposed development involves the penetration of ground within two metres of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower. As required by s 2.48(2) of SEPP TI, the development application has been referred to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks. In determining the development application, I have taken into account their response.
- (15) The Ryde Local Environmental Plan 2014 (LEP 2014) applies to the land. The site is located within zone R2 Low Density Residential. The site is also benefited by cl 2.5 and 19(2) of Sch1 of LEP 2014 which permit additional uses on the site. The proposed development for the purposes of seniors housing is permitted with consent pursuant to cl 2.5 and 19(2) of Sch1 of LEP 2014. As required by cl 2.3(2) of LEP 2014 I have had regard to the objectives of the R2 Low Density Residential zone in determining the development application.
- (16) Pursuant to cl 4.3 'Height of Buildings' the site is mapped with a maximum building height of 52m. The proposed development does not comply with this standard and relies on cl 4.6 of LEP 2014 to vary the height standard to permit a height of 53m. The variation to the height standard is centred on an area of noncompliance containing the overrun of the car park exhaust. The Applicant relies on a written request prepared by Ethos Urban dated November 2023 in support of the variation to the standard. The written request addresses the matters set out at cl 4.6(3) of LEP 2014 including having regard to the tests set out in *Initial Action Pty Ltd v Woollahra Municipal Council* (2018) 236 LGERA 256; [2018] NSWLEC 118 (Initial Action).

- (a) Pursuant to cl 4.6(4)(a) of LEP 2014, the Court, in exercising the functions of the consent authority, must be satisfied of both of the matters in cl 4.6(4)(a)(i) and (ii), being:
  - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
  - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out ...
- (b) Only if the requirements in subcl 4.6(3) and (4) are met will the power in cl 4.6(2), to grant consent to development that contravenes the development standard, be enlivened: *Rebel MH Neutral Bay Pty Ltd v North Sydney Council* [2019] NSWCA 130 per Preston CJ at [23] (Rebel MH).
- (c) I am satisfied, for the reasons outlined in the written request, that it is unreasonable and unnecessary to comply with the height control in the circumstances of this case as the objectives of the standard are met, notwithstanding the non-compliance. Further, I am satisfied that the grounds advanced in the written request are sufficient environmental planning grounds to justify contravening the development standard.
- (d) I am also satisfied that the proposed development will be in the public interest because it is consistent with the relevant objectives of the development standard and the objectives for development within the R2 Low Density Residential Zone in which the development is proposed to be carried out.
- (e) Finally, I accept, after a consideration of the matters identified in cl 4.6(5) of LEP 2014, that the concurrence of the Planning Secretary is not required having regard to Planning Circular PS 20-002 dated 5 May 2020.
- (f) Having regard to all of the above matters I am satisfied that I should uphold the cl 4.6 variation request in relation to the maximum height standard in LEP 2014.
- (17) Pursuant to cl 4.4 'Floor Space Ratio' the northern portion of the site has a maximum floor space ratio (FSR) of 1:1 and the southern portion of the site has a maximum FSR of 1.57:1 No gross floor area is proposed in the southern portion of the site in this development application, subject to the 1.57:1 development standard. The amended development application has a FSR of 0.97:1 and is compliant with the development standard.
- (18) Pursuant to cl 6.4 Stormwater Design of LEP 2014, the proposed development includes stormwater management systems including the provision of one rainwater tank and one on site detention (OSD) tank and connection to Council's stormwater system to the east of the site on Terry Road. Stormwater management plans have been prepared by

Enstruct. As required by cl 6.4(3), I am satisfied that the proposed development:

- (a) is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water;
- (b) includes on-site stormwater retention for use as an alternative supply to mains water; and
- (c) avoids any significant impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

(19) Ryde Development Control Plan 2014 (DCP 2014) applies to the site. The statement of environmental impacts filed with the application details the compliance of the proposed development with DCP 2014. In determining the development application, I have considered the provisions of the development control plan: s 4.15(1) of the EPA Act.

5 Having reached the state of satisfaction that the decision is one that the Court could make in the exercise of its functions, s 34(3)(a) of the LEC Act requires me to “dispose of the proceedings in accordance with the decision”. The LEC Act also requires me to “set out in writing the terms of the decision” (s 34(3)(b)).

6 In making the orders to give effect to the agreement between the parties, the parties have not raised, and I am not aware of any jurisdictional impediment to the making of these orders. Further, I was not required to make, and have not made, any assessment of the merits of the development application against the discretionary matters that arise pursuant to an assessment under s 4.15 of the EPA Act.

7 The Court notes that:

(1) The Respondent as the relevant consent authority has agreed, under s 38(1) and (4) of the Environmental Planning and Assessment Regulation 2021, to the Applicant amending the development application LDA2022/0320 in accordance with the documents below:

Tab 1. Architectural plans				
Drawing Number	Plan name	Date	Revision	Prepared By
293 DA1 N	Cover Page	19/12/23	N	Turner Hughes

				Archite ct
293 DA2 F	Precinct Analysis	01/07/22	F	Turner Hughes Archite ct
293 DA3 F	Locality Plan	01/07/22	F	Turner Hughes Archite ct
293 DA4 H	Site Analysis	03/10/23	H	Turner Hughes Archite ct
293 DA5 L	Demolition Plan	03/10/23	L	Turner Hughes Archite ct
293 DA6 L	Aerial Perspectiv e	3/10/23	L	Turner Hughes Archite ct
293 DA7 G	Street Perspectiv e Terry Street Lower	3/10/23	G	Turner Hughes Archite ct



293 DA8 G	Street Perspectiv e Terry Street Upper	3/10/23	G	Turner Hughes Archite ct
293 DA9 N	Entry Perspectiv e	19/12/23	N	Turner Hughes Archite ct
293 DA10 E	Basement Plan	19/12/23	E	Turner Hughes Archite ct
293 DA11 P	Ground Level Plan	19/12/23	P	Turner Hughes Archite ct
293 DA12 P	Podium Level Plan	19/12/23	P	Turner Hughes Archite ct
293 DA13 P	First Level Plan	19/12/23	P	Turner Hughes Archite ct
293 DA14 P	Second Level Plan	19/12/23	P	Turner Hughes Archite

				ct
293 DA15 N	Roof Plan	19/12/23	N	Turner Hughes Archite ct
293 DA16 M	Site North East & South East Elevations	03/10/23	M	Turner Hughes Archite ct
293 DA17 N	Site South West & North West Elevations	19/12/20 23	N	Turner Hughes Archite ct
293 DA18 L	Site Section AA	03/10/23	L	Turner Hughes Archite ct
293 DA19 M	Site Section BB	19/12/23	M	Turner Hughes Archite ct
293 DA20 M	Site Section CC	19/12/23	M	Turner Hughes Archite ct
293 DA21	Site Section	03/10/23	L	Turner Hughes

L	DD			Archite ct
293 DA22 M	Site Section EE	19/12/23	M	Turner Hughes Archite ct
293 DA23 O	Building A Plan – Podium	19/12/23	O	Turner Hughes Archite ct
293 DA24 N	Building A Plan – First	31/10/23	N	Turner Hughes Archite ct
293 DA25 N	Building A Plan – Second	31/10/23	N	Turner Hughes Archite ct
293 DA26 L	Detail Elevation – Building A – North East	03/10/23	L	Turner Hughes Archite ct
293 DA27 L	Detail Elevation – Building A – South East	03/10/23	L	Turner Hughes Archite ct

293 DA 28 M	Detail Elevation – Building A – South West	19/12/20 23	M	Turner Hughes Archite ct
293 DA29 L	Detail Elevation – Building A – North West	03/10/23	L	Turner Hughes Archite ct
293 DA30 L	Building A – Detail Section 1	03/10/23	L	Turner Hughes Archite ct
293 DA31 L	Building A – Detail Section 2	03/10/23	L	Turner Hughes Archite ct
293 DA32 O	Building B Plan – Ground	19/12/23	O	Turner Hughes Archite ct
293 DA33 O	Building B Plan – First	19/12/23	O	Turner Hughes Archite ct
293 DA34 N	Building B Plan –	31/10/23	N	Turner Hughes



	Second			Archite ct
293 DA35 O	Building B Plan – Third	19/12/23	O	Turner Hughes Archite ct
293 DA36 M	Detail Elevation – Building B – North East	19/12/23	M	Turner Hughes Archite ct
293 DA37 M	Detail Elevation – Building B – South East	19/12/23	M	Turner Hughes Archite ct
293 DA38 M	Detail Elevation – Building B – South West	19/12/23	M	Turner Hughes Archite ct
293 DA39 M	Detail Elevation – Building B – North West	19/12/23	M	Turner Hughes Archite ct
293 DA40 L	Building B – Detail	03/10/23	L	Turner Hughes Archite

	Section 1			ct
293 DA41 M	Building B – Detail Section 2	19/12/23	M	Turner Hughes Archite ct
293 DA42 O	Developm ent & Areas Summary	19/12/23	O	Turner Hughes Archite ct
293 DA43 O	GFA Diagrams	19/12/23	O	Turner Hughes Archite ct
293 DA44 M	Shadow Diagram – Winter 9am	19/12/23	M	Turner Hughes Archite ct
293 DA45 M	Shadow Diagram – Winter 10am	19/12/23	M	Turner Hughes Archite ct
293 DA46 M	Shadow Diagram – Winter 11am	19/12/23	M	Turner Hughes Archite ct
293 DA47 M	Shadow Diagram – Winter	19/12/23	M	Turner Hughes Archite

	noon			ct
293 DA48 M	Shadow Diagram – Winter 1pm	19/12/23	M	Turner Hughes Archite ct
293 DA49 M	Shadow Diagram – Winter 2pm	19/12/23	M	Turner Hughes Archite ct
293 DA50 M	Shadow Diagram – Winter 3pm	19/12/23	M	Turner Hughes Archite ct
293 DA54 L	Materials Board	03/10/23	L	Turner Hughes Archite ct
293 DA55 L	Building A – Fenestrati on Details	03/10/23	L	Turner Hughes Archite ct
293 DA56 L	Building B – Fenestrati on Details	03/10/23	L	Turner Hughes Archite ct
293 DA57 B	Solar Access & Cross	19/12/23	B	Turner Hughes Archite

	Ventilation Schedules			ct
293 DA58 B	Views from Sun 9 to 10:30am	19/12/23	B	Turner Hughes Archite ct
293 DA59 B	Views From Sun 11am to 12pm	19/12/23	B	Turner Hughes Archite ct
293 DA60 B	Views from Sun 12:30 to 1:30pm	19/12/23	B	Turner Hughes Archite ct
293 DA61 B	Views from Sun 2 to 3pm	19/12/23	B	Turner Hughes Archite ct
293 DA62 B	Driveway & Footpath Levels Plan	19/12/23	B	Turner Hughes Archite ct
293 DA63 A	Driveway Sections – Drop Off Area	03/10/23	A	Turner Hughes Archite ct
293 DA64	Driveway Sections –	03/10/23	A	Turner Hughes



A	Basement Access			Architect
293 DA65 A	Video Walks Through of COS	03/10/23	A	Turner Hughes Architect
293 DA66 B	Deep Soil Area Diagram	19/12/23	B	Turner Hughes Architect
293 DA67 B	Landscape & Communal Open Space Diagram	19/12/23	B	Turner Hughes Architect

Tab 2. Architectural Sketches

Drawing Number	Plan name	Date	Revision	Prepared By
293 SK230912 -1	Key Plan For Sections Re A103	12/9/23	-	Turner Hughes Architect
293 SK230912 -2	Sections Re A103	12/9/23	-	Turner Hughes Architect

SK230912-3	Sketch – Unit A303 Reduced Balcony Layout	-	-	Turner Hughes Architect
293 SK230913-6	Section South West Boundary 1 & B103	13/9/23	-	Turner Hughes Architect
293 SK230913-7	Section South West Boundary	13/9/23	-	Turner Hughes Architect
293 SK230914-5	Section Re B106	3/10/23	-	Turner Hughes Architect

Tab 3. Landscape Plans

Drawing Number	Plan name	Date	Revision	Prepared By
Cover sheet	000	19.12.2023	K	Site Image
Existing Tree Management Plan	001	19.12.2023	K	Site Image

Soil Depth Diagram	002	19.12.2023	E	Site Image
Landscape Plan	101	19.12.2023	L	Site Image
Hardscape Plan	301	19.12.2023	E	Site Image
Landscape Planting Plan	401	19.12.2023	L	Site Image
Landscape Specification / Indicative Plant Schedule	501	19.12.2023	L	Site Image
Landscape Details	502	19.12.2023	K	Site Image
Other documents				
Description		Date		
Arboricultural Development Impact Assessment Report prepared by Birds Tree Consultancy		22 December 2023		
Design Statement for amended DA submission prepared by Turner Hughes Architects		19 December 2023		

Planning response prepared by Ethos Urban	21 December 2023
<p>BASIX Assessment Report regarding ELC Senior housing project prepared by ADP Consulting</p> <p>a. Appendix A – NatHER'S Certificate dated 20 February 2024</p> <p>b. Appendix B – Stamped Drawings dated 20 February 2024</p> <p>c. Appendix C – BASIX Certificate dated 20 February 2024</p>	20 February 2024
Sewer and Water Infrastructure Review prepared by ADP Consulting	16 August 2023

- (2) The Applicant filed the amended plans and documents listed in the above with the Court on 3 April 2024.

8 The Court orders that:

- (1) The appeal is upheld.
- (2) Development Application LDA2022/0320 for the demolition of an existing building and construction of a seniors housing development under State Environmental Planning Policy (Housing) 2021 comprising of 12 independent living units in Building A and 32 independent living units in Building B, with associated landscaping and stormwater drainage works at 133 Ryedale Road and 4-14 Terry Road Denistone, NSW 2114 is determined by the grant of consent, subject to the conditions set out in Annexure A.
- (3) The applicant is to pay the Respondent's costs thrown away as a result of the amendment of the application for development consent pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979* as agreed or assessed.



**D Dickson**

**Commissioner of the Court**

**2023.45628 Annexure**

**A**<http://www.caselaw.nsw.gov.au/asset/18f7ff29d29c0da7502b081d.pdf>

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