

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-435
DA Number	LDA2023/0245
LGA	City of Ryde
Proposed Development	Stage 2 detailed design of the land-based portion of the site in accordance with LDA2018/0223, including tree removal on the site, construction of commercial and residential premises, including 18x3 storey townhouses and 2x3 storey RFB and adaptive reuse of the boatshed building to contain 19 dwellings (67 residential units across the site) and four commercial/retail tenancies, basement car parking and associated landscaping work.
Street Address	20 Waterview Street, Putney (Lot 1, DP 430647, Lot 1, DP 70489, Lot 2, DP 70488 and Lots 440–447, DP 15224)
Applicant/Owner	Applicant: Perifa Owner: PMAP Putney P/L
Date of DA lodgement	29 September 2023
Total number of unique submissions	First notification/advertising period: Three (3) submissions objecting to the development Second notification/advertising period: Nine (9) submissions objecting to the development
Recommendation	Approval
Regionally Significant Development (Schedule 6 of the SEPP (Planning Systems) 2021)	General development over \$30 million. Cost of works: \$105,299,000 excluding GST
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Water Management Act 2000 • Environmental Planning and Assessment Regulation 2021 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Sustainable Buildings) 2022 • Ryde Local Environmental Plan 2014 • Ryde Development Control Plan 2014 • Ryde Section 7.11 Development Contributions Plan 2020
List all documents submitted with this report for the Panel's consideration	Attachment 1: Proposed Architectural Plans Attachment 2: Proposed Landscape Plans Attachment 3: Applicant's Clause 4.6 Request Attachment 4: Assessment against ADG & Sydney Harbour Foreshore and Waterways DCP Attachment 5: Recommended Conditions of Consent
Clause 4.6 requests	Height of Buildings
Summary of key submission issues	<ul style="list-style-type: none"> • Increase of traffic in locality. • Development out of character with locality.

	<ul style="list-style-type: none"> • Impact on property values. • Noise generation from development. • Site is not in proximity to public transport. • Impacts on the foreshore. • Loss of green space/tree removal. • Setting a precedent for high density development. • Construction traffic & impacts • Overdevelopment • Waste collection • Light spill from development.
Report prepared by	Shannon Butler – Senior Town Planner
Report date	31 July 2024
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
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
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
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)?	Not applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes

1. EXECUTIVE SUMMARY

This report considers a development application under Section 4.15 of the *Environmental Planning and Assessment Act (EP&A) 1979* on land at 20 Waterview Street, Putney, which is legally described as Lot 1, DP 430647, Lot 1, DP 70489, Lot 2, DP 70488 and Lots 440–447, DP 15224. This application is classed as integrated development under the Water Management Act 2000 as the construction of the basement will involve dewatering therefore requiring referral to Water NSW.

The consent authority is the Sydney North Planning Panel under the EP&A 1979 as the capital investment value exceeds \$30 million.

The subject development application (LDA2023/0245) was lodged on 29 September 2023 and seeks consent for the detailed design of the land-based portion of the site in accordance with the Stage 1 consent granted by the NSW Land and Environment Court (LDA2018/223). Specifically, the application seeks consent for:

- The adaptive reuse of an existing boatshed for 19 dwellings and commercial / retail premises.

- Construction of 18 x 3-storey townhouses fronting Waterview Street.
- Construction of 2 x 3-storey residential flat building containing a total of 30 units and basement car park.
- Additional site preparation works, including demolition, tree removal and excavation.
- Provision of landscaping and public art.

This application is generally in accordance with the Stage 1 Concept DA (LDA 2018/223) consent. Where variation occurs from the Stage 1 consent, this has been resolved through an approved Section 4.56 modification (MOD2023/0201) which approved minor changes to the Stage 1 consent as a result of the general design development process.

The key details of the proposed development are outlined in the following table:

Component	Proposal
Site Area	15,870m ²
Gross Floor Area	<ul style="list-style-type: none"> • Total: 12,280m² • Residential: 10,704m² • Commercial/retail: 1,576m²
Floor space ratio	0.778:1
Maximum height	Boat shed: RL16.0, which represents the existing building height. Townhouses: Between RL11.6 and RL16.75 Residential flat building: RL18.36 top of wall and RL19.35 to the top of the lift overrun
Total dwellings	67
Boat shed dwellings	Total 19 units: <ul style="list-style-type: none"> • 17x3 bedroom units • 2x4 bedroom units
Townhouse dwellings	18x4 bedroom dwellings
Residential flat building dwellings	Total 30 units: <ul style="list-style-type: none"> • 6x2 bedroom units • 24x3 bedroom units
Car parking	Total 194 car parking spaces: <ul style="list-style-type: none"> • Residential (including visitors): 130 spaces • Commercial and retail: 47 spaces • Future marina (subject to LDA2023/0335): 17 spaces
Tree removal	<p>The conditions of consent for the demolition DA (LDA2019/172) nominated 77 trees to be retained with 20 trees to be removed.</p> <p>The subject DA has nominated that of the 77 to be retained; 59 of these trees now be removed. Reasons indicated for removal in the AIA include:</p> <ul style="list-style-type: none"> - Poor quality tree. - Low value tree - Weedy tree. (e.g., Grevillea robusta (Silky Oak)) - Within footprint of basement excavation or building. - Dead tree

Component	Proposal
	<p>There are 18 trees shown to be retained: 301, 311, 319, 320, 322, 323, 325, 328 (transplant), 329, 330, 335, 364, 365, 366, 378 (transplant), 381, 388 & 412.</p> <p>There are 87 trees shown to be removed: 50, 302-306, 312-318, 321, 326, 327, 331, 332, 334, 336-363, 367-377, 379, 380, 382-387, 389-411.</p> <p>Compensatory tree planting of 76 trees is required. This is exceeded in the submitted landscaping plans.</p>

Community notification and advertisement

The application was notified and advertised as lodged in accordance with Part 2.1 of *Ryde Community Participation Plan*. The applicant submitted amended plans and documentation which resulted in changes to through site links, changes to the design of the rooftop common open space areas on the residential flat buildings and changes to the presentation of the townhouses fronting Waterview Street. The amended plans were notified in accordance with Council's policy as a result of the amended plans and as a result of some residents reporting that they had not received a notification letter during the initial round of notification.

A total of three (3) unique submissions were received during the initial notification period raising the following key issues:

- Increase in traffic in the locality.
- The development is out of character for Putney.
- The development will result in an impact on property values.
- The development will result in noise generation during construction and during operation.
- The site is not in close proximity to public transport.
- The development will result in impacts on the foreshore.
- The development will result in a loss of green space.
- The proposal will set a precedent for high density development in Putney.
- The development will result in a number of construction impacts.

A total of nine (9) unique submissions were received during the second notification period raising the following key issues:

- The proposal will impact on view of the sunrise.
- There will be privacy impacts as a result of the townhouses.
- The proposal represents an overdevelopment of the site.
- The proposal breaches building heights in order to seek water views.
- The density of the townhouses fronting Waterview Street is excessive.
- Waste collection should be wholly within the site.
- Concern is raised in relation to the hours of operation of the businesses within the boatshed.
- The proposal will result in light spill impacts on Waterview Street.
- Parking and traffic during construction is of concern.

- The electrical substations should be relocated to the north-east corner of the site.
- The pedestrian access to the development from Waterview Street should be improved.

Section 4.15 Assessment Summary

The site benefits from a Stage 1 concept consent (LDA2018/0223) granted by the NSW Land and Environment Court which approved the landuses and building envelopes across the site. Concurrent with the approval of LDA2018/0223, an Early Works DA (LDA2019/0172) was approved for a series of early works on the site including part demolition of the existing boat shed, demolition of ancillary structures, removal of trees and remediation works. This consent has not been activated to date.

The subject development application seeks consent for the detailed design of the development which is proposed to be constructed in a single stage. The application has been assessed against the conditions of consent imposed in the Stage 1 consent and found to be compliant and consistent with the overall consent (as modified through MOD2021/0201 approved on 18 July 2024).

The subject application has been assessed against the relevant provisions of State Environmental Planning Policy (SEPP) (Sustainable Buildings) 2022, SEPP (Resilience and Hazards) 2021, SEPP (Biodiversity and Conservation) 2021 and SEPP (Housing) 2021 and has been found to be compliant. The application has been assessed against the Apartment Design Guide (ADG) and has also been found to be compliant.

The application has been assessed against the Ryde Local Environmental Plan 2014 and is compliant, with the exception of Clause 4.3 being the height of buildings development standard. Whilst the boatshed and townhouses achieve compliance, elements of the residential flat buildings exceed the height control, being the lift overruns, parapets, pergolas and car park exhausts. The applicant has submitted a Clause 4.6 request which adequately demonstrates that compliance is unreasonable and unnecessary and that there are sufficient environmental planning grounds for the variation.

The application has been assessed against the Ryde Development Control Plan 2014 and is found to be compliant with the relevant Parts of the DCP. Given that the applicant opted to lodge a Concept Development Application instead of preparing a site specific Development Control Plan, there is no applicable site specific DCP applying to the site.

The application was notified and advertised as lodged in accordance with Part 2.1 of *Ryde Community Participation Plan* to the owners and occupants of surrounding properties between 17 October and 23 November 2023. In response, three submissions were received objecting to the proposal.

Following the close of the initial notification period a number of residents reported that they had not received a notification and these residents lived within the scope of properties that Council's records indicate were notified.

As a result, the decision was made to re-notify and re-advertise the application upon the receipt of amended plans. Amended plans and additional information were submitted by the applicant on 4 March 2024. As a result, the application was re-notified and re-advertised from 4 March until 7 April 2024. As a result, a further nine submissions were received objecting to the development.

The issues raised in the submissions are addressed in the body of the report and do not warrant refusal of the application.

The application is recommended for approval subject to conditions.

2. APPLICATION DETAILS

Applicant & Owner: Applicant: Perifa
 Owner: PMAP Putney P/L

Capital Investment Value: \$105,299,000 excluding GST

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

3. THE SITE AND LOCALITY

The site is legally known as Lot 1, DP 430647, Lot 1, DP 70489, Lot 2, DP 70488 and Lots 440–447, DP 15224 and is commonly known as No. 20 Waterview Street, Putney.

The site is located on the northern foreshore of the Parramatta River and the south-western side of Waterview Street. The site is an irregular shaped parcel and has a combined area of 15,870m².

The site currently accommodates a large boatshed (approximately 13m in height). Additional structures include a large fibreglass shed to the north, storage, machine rooms and ancillary structures on the south-eastern and north-western sides. There are also detached service buildings within the south-eastern portion of the site. A fibro cottage is located within the north-eastern part of the site. A large portion of the site comprises car parking and access driveways. South-west of the boatshed (below MHWM) is a concrete hardstand area, jetties and slipway.

The site slopes from Waterview Street (north-east) to Parramatta River (south-west). From the north, the site slopes approximately 2m from the street alignment to the boatshed over a distance of 150m. At the southern end, the site falls approximately 8m at the street alignment to the southern corner over a distance of 150m.

A rock retaining wall extends along the northern boundary of the site.

The site is located within the W4 Working Waterfront zone, pursuant to the Ryde Local Environmental Plan 2014, located between RE1 Public Recreation foreshore land. An R2 Low Density Residential zone is located on the opposite side of Waterview Street to the north, east and south-east.

Surrounding development is low density residential, comprising detached dwellings 1 and 2 storeys in height. Bennelong Park adjoins the site to the south-east and an unnamed parcel of Crown land adjoins the site to the north-west.

Kissing Point Wharf is located to the south-east serviced by Sydney Ferries operating between Circular Quay and Parramatta. The site is located approximately 3.5km from Meadowbank Railway Station.

The site is located 15km from Sydney CBD, 3km from Ryde Town Centre and 11km from Parramatta Regional Centre.



Figure 1 – Aerial photograph of subject site and surrounds



Figure 2 – View of site from existing vehicle entry point



Figure 3 – View of boat shed from river side

SITE HISTORY

The site has heritage significance due to its:

- Association with James Squire, an early settler of Ryde and pioneer of Australia's brewing industry, and the establishment of the first hops brewery in Australia.
- Potential to yield archaeological information about early brewing practices.

- Former use as the Lars Halvorsen Sons boat building operation, which is a recognised forerunner in the development of Sydney's marine industry.

Accordingly, the site is listed as State heritage item No. 68 “Naval Refit Centre” under Schedule 5 of the BC SEPP but is not listed on the State Heritage Register under the *Heritage Act 1977*. The site is also listed as local heritage item No. 327 and local archaeology site No. A346 “Former Squire’s Brewery and Halversen’s Boat Yard” under the RLEP 2014. There are also several local heritage items and archaeological sites within proximity to the site including item No. 157 “Kissing Point Park (former boat slips)” at 24 Waterview Street.

4. THE PROPOSAL IN DETAIL (as amended)

This Development Application seeks approval for the detailed design of the land-based portion of the site in accordance with the Stage 1 consent granted by the NSW Land and Environment Court (LDA2018/223). Specifically, the application seeks consent for:

- Tree removal as detailed in this report.
- The adaptive reuse of an existing boatshed for 19 dwellings and commercial / retail premises.
- Construction of 18 x 3-storey townhouses fronting Waterview Street.
- Construction of 2 x 3-storey residential flat building containing a total of 30 units and basement car park.
- Additional site preparation works, including demolition, tree removal and excavation.
- Provision of landscaping and public art.

This application is generally in accordance with the Stage 1 Concept DA (LDA 2018/223) consent. Where variation occurs from the Stage 1 consent, Section 4.56 consent No. MOD2023/0201 was approved which facilitates minor changes to the Stage 1 consent as a result of the general design development process.

Table 2: Numeric overview of proposal:

Component	Proposed
Site Area	15,870m ²
Gross Floor Area	<ul style="list-style-type: none"> • Total: 12,280m² • Residential: 10,704m² • Retail/Commercial: 1,576m²
Floor space ratio	0.778:1
Maximum height	Boat shed: RL16.0, which represents the existing building height. Townhouses: Between RL11.6 and RL16.75 Residential flat building: RL18.36 top of wall and RL19.35 to the top of the lift overrun
Total dwellings	67
Boat shed dwellings	Total 19 units: <ul style="list-style-type: none"> • 17x3 bedroom units • 2x4 bedroom units
Townhouse dwellings	18x4 bedroom dwellings

Residential flat building dwellings	<p>Total 30 units:</p> <ul style="list-style-type: none"> • 6x2 bedroom units • 24x3 bedroom units
Car parking	<p>Total 194 car parking spaces:</p> <ul style="list-style-type: none"> • Residential (including visitors): 130 spaces • Commercial and retail: 47 spaces • Future marina (subject to LDA2023/0335): 17 spaces
Tree removal	<p>The conditions of consent for the demolition DA (LDA2019/172) nominated 77 trees to be retained with 20 trees to be removed.</p> <p>The subject DA has nominated that of the 77 to be retained that 59 of these trees now be removed. Reasons indicated for removal in the AIA include:</p> <ul style="list-style-type: none"> - Poor quality tree. - Low value tree - Weedy tree. (e.g., Grevillea robusta (Silky Oak)) - Within footprint of basement excavation or building. - Dead tree <p>There are 18 trees shown to be retained: 301, 311, 319, 320, 322, 323, 325, 328 (transplant), 329, 330, 335, 364, 365, 366, 378 (transplant), 381, 388 & 412.</p> <p>There are 87 trees shown to be removed: 50, 302-306, 312-318, 321, 326, 327, 331, 332, 334, 336-363, 367-377, 379, 380, 382-387, 389-411.</p> <p>Compensatory tree planting of 76 trees is required. This is exceeded in the submitted landscaping plans.</p>

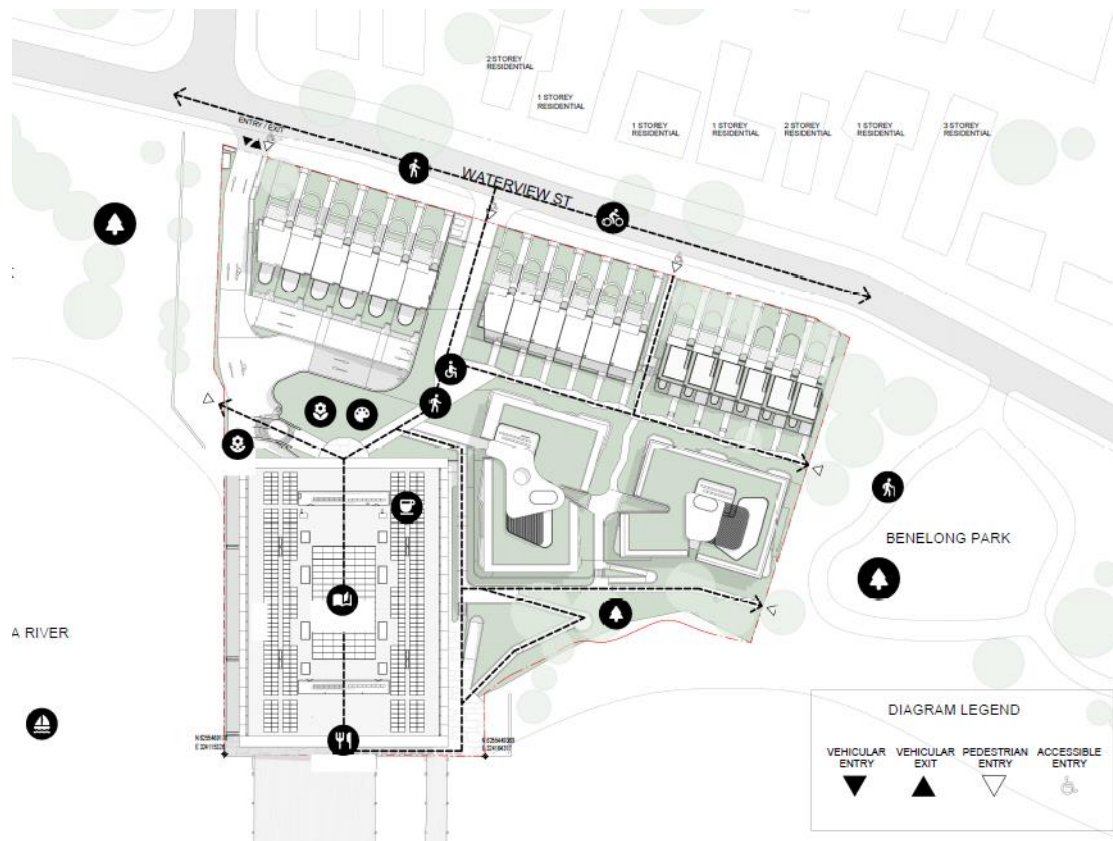


Figure 4 – Proposed site plan



Figure 5 – Perspective view from Parramatta River



Figure 6 – Perspective view from western side of site



Figure 7 – Perspective view from Waterview Street

Development Statistics

Use	Details
Residential	18 townhouses 30 residential flat building units 19 units within boat shed TOTAL: 67 dwellings
Apartment Mix Total	<ul style="list-style-type: none"> - 18 x 4 bedroom townhouses - 6x2 bedroom units and 24x3 bedroom units in residential flat buildings - 17x3 bedroom units and 2x4 bedroom units in boat shed
Adaptable apartments	7 (10.4%)

Liveable 'Silver' apartments	7 (10.4%)
Parking	<p>Total of 194 car spaces comprising:</p> <ul style="list-style-type: none"> - Townhouse parking: 36 spaces - Residential Flat Building residents: 47 spaces - Boatshed residential: 30 spaces - Residential visitor: 17 spaces - Boatshed retail/commercial: 47 spaces - Marina: 17 spaces
Tree Removal/Retention	<p>The conditions of consent for the demolition DA (LDA2019/172) nominated 77 trees to be retained with 20 trees to be removed.</p> <p>The subject DA has nominated that of the 77 to be retained that 59 of these trees now be removed. Reasons indicated for removal in the AIA include:</p> <ul style="list-style-type: none"> - Poor quality tree. - Low value tree - Weedy tree. (e.g., Grevillea robusta (Silky Oak)) - Within footprint of basement excavation or building. - Dead tree <p>There are 18 trees shown to be retained: 301, 311, 319, 320, 322, 323, 325, 328 (transplant), 329, 330, 335, 364, 365, 366, 378 (transplant), 381, 388 & 412.</p> <p>There are 87 trees shown to be removed: 50, 302-306, 312-318, 321, 326, 327, 331, 332, 334, 336-363, 367-377, 379, 380, 382-387, 389-411.</p> <p>Compensatory tree planting of 76 trees is required. This is exceeded in the submitted landscaping plans.</p> <p>Cinnamomum camphora (Camphor Laurel) trees have been included in the list of trees to be removed as they are considered by the Department of Primary Industries NSW to be a weed.</p>
Waste Management and Collection	<p>The townhouses, residential flat buildings and boat shed each have their own bulky waste and general waste storage rooms for each component of use.</p> <p>There is a central bulky waste storage room, commercial waste room and residential waste room located on the western side of the site at the end of the access driveway.</p> <p>The plans demonstrate that Council's waste vehicle (HRV) is capable of entering the site in a forward direction and turning within the driveway to face a forward direction for exiting the site.</p>
Infrastructure and Services	Existing services and connections (electricity, telecommunications, gas, water and sewage) will be extended, expanded, and augmented as required. All required services are currently available on the site.

5. HISTORY

5.1 Site History

The site and precinct have been subject to various approvals in recent years, which can be summarised in the following table:

Date	Application description
September 2013	A Planning Proposal was lodged with Council seeking additional permitted uses for the land-based portion of the site (including residential uses, business uses and marinas) under Schedule 1 of the <i>Ryde Local Environment Plan 2014</i> (RLEP 2014). It also sought to amend the maximum height and Floor Space Ratio (FSR) standards that applied to the site.
22 April 2016	<p>Amendment No 7 to the RLEP 2014 was published which provided a maximum FSR of 0.83:1 and a variable height control ranging from 9.5m to 14m. The amendment also included the following new provision under Schedule 1:</p> <p><i>1) This clause applies to land at 20 Waterview Street, Putney, being Lot 1, DP 430647, Lot 1, DP 70489, Lot 2, DP 70488 and Lots 440–447, DP 15224.</i></p> <p><i>2) Development for the purposes of attached dwellings, business premises, food and drink premises, kiosks, marinas, multi dwelling housing, residential flat buildings and shops is permitted with development consent if:</i></p> <p><i>a) no more than 70 dwellings will be erected on the land to which this clause applies, and</i></p> <p><i>b) no more than 19 dwellings will be erected on the land identified as “Area 1” on the Key sites Map, and</i></p> <p><i>c) site-specific development control plan is prepared and provides for the retention of trees on Waterview Street, the impact on, and improvements to, the public domain, including the foreshore, and appropriate building setbacks from the foreshore.</i></p> <p>In accordance with provision 2(c) of Schedule 1, a site-specific Development Control Plan (DCP) is required to unlock the additional uses at the site. The site is also identified as a Strategic Foreshore site in the <i>State Environmental Planning Policy (Biodiversity and Conservation) 2021</i> (BC SEPP) and consequently requires a masterplan to be prepared for the site prior to the granting of development consent for any significant works.</p> <p>Section 4.23(2) of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) states that a requirement for a DCP can be satisfied with the making and approval of a Concept DA. In other words, the requirements stated above can be satisfied through the making and approval of a Concept DA which contains the matters required to be included in any such DCP or masterplan.</p>
23 March 2021	<p>A Stage 1 Concept DA (LDA2018/0223) was approved by the Land and Environment Court (LEC) for the following development in concept form only:</p> <ul style="list-style-type: none"> • The adaptive reuse of the existing boat shed for a mixed-use development including: <ul style="list-style-type: none"> - Marine related businesses and services. - Food and drink premises. - 19 residential apartments. • Establishment of building envelopes to accommodate up to 70 dwellings at the site (inclusive of the proposed within the boat shed), including: <ul style="list-style-type: none"> - 18 x 3-storey town houses fronting Waterview Street. - 2 x 3-storey residential apartment building containing 33 units with basement carparking.

	<ul style="list-style-type: none"> • At grade car parking comprising a minimum of 116 car spaces to be allocated to residential uses and 63 car spaces to be allocated for non-residential uses • Indicative landscape design. • Demolition of ancillary structures. <p>Concurrent with the approval of LDA2018/0223, an Early Works DA (LDA2019/0172) was approved for a series of early works on the site including part demolition of the existing boat shed, demolition of ancillary structures, removal of trees and remediation works.</p> <p>A demolition plan for LDA2019/0172 is shown at Figure 8. At the time of writing this report, these works have not commenced.</p>
21 December 2023	Development Application No. LDA2023/0335 was lodged with Council seeking consent for the construction and use of a 36 berth marina including the extension of the wharf deck and ancillary features. The proposal also comprises improvements to the seawalls surrounding the boat shed. The activity is classed as 'Designated Development' pursuant to Schedule 3(32) of the EP&A Regulation 2021. The Sydney North Planning Panel will be the determining authority for this application.
3 May 2024	Development Consent No. LDA2023/0327 was granted by Council for the construction of a temporary display suite and associated car parking area along the Waterview Street frontage of the site. The consent permits the operation of the suite for an 18 month period following the issue of an Occupation Certificate.
18 July 2024	Section 4.56 modification application No. MOD2021/0201 was approved by Council which amended the Stage 1 consent to be consistent with what is proposed in the subject application in relation to the building heights and footprints of the residential flat buildings and in relation to the arrangement of the land uses within the boatshed building.



Figure 8 – Demolition plan approved in LDA2019/0172

4.2 Application History

29 September 2023	The subject Development Application was formally lodged with Council.
17 October 2023 to 23 November 2023	The subject application was notified and advertised in accordance with the Ryde Community Participation Plan. Three (3) submissions were received in response.
23 November 2023	A meeting was held between Council staff, Council's Urban Design Review Panel (UDRP) and the applicant to discuss the proposal. Written comments from the UDRP were provided in the weeks following the meeting.
11 January 2024	<p>A request for additional information letter was sent to the applicant via the NSW Planning Portal. The letter requested the following:</p> <ul style="list-style-type: none"> • Amendments to comply with various conditions of the Stage 1 consent. • Amendments to comply with the Apartment Design Guide. • Concern was raised in relation to the interaction between the public and private areas within the boatshed. • An acid sulfate soils management plan was requested. • A number of changes were requested to the proposal to address waste management, public domain, parks and environment team issues. • The Water NSW request for additional information was attached for the applicant to address.
19 January 2024	An email was sent to the applicant outlining the written comments from Council's Urban Design Review Panel.
31 January 2024	A briefing meeting was held between the Sydney North Planning Panel, the applicant and Council staff to discuss the proposal.
4 March 2024	Amended plans and additional information were submitted in response to Council's letter.
4 March 2023 to 7 April 2023	Following the receipt of amended plans the application was re-notified to those originally notified and to those who made submissions during the initial notification period. As a result, nine (9) further submissions were received.
3 April 2024	A second request for additional information letter was sent to the applicant in relation to outstanding matters raised by Council's City Spaces, Waste, Public Domain and Natural Areas teams. Further, the letter outlined a number of remaining concerns raised by Council's UDRP.
8 May 2024	Amended plans and additional information were submitted in response to Council's letter.
23 May 2024	An email was sent to the applicant requesting an updated Clause 4.6 variation request and outlining some remaining car parking and drainage issues.
24 June 2024	Amended plans and an amended Clause 4.6 variation request were submitted by the applicant in response to Council's email.

6. STATUTORY PROVISIONS

6.1 Environmental Planning & Assessment Act 1979

Section 1.3 Objects of Act

Section 1.3 of the EP&A Act 1979 contains the following relevant objects:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

The proposal is consistent with the relevant Objects of the Act. The proposed development provides for an appropriate built form which is consistent with the concept consent (as amended by MOD2023/0201). The general nature of the proposed built form was envisaged for the subject site in the approval of the Stage 1 consent by the NSW Land and Environment Court.

Section 4.24 of Act – Concept Development Applications

On 23 March 2021, a Stage 1 concept consent was granted by the NSW Land and Environment Court for the development in lieu of the preparation of a site specific DCP. Section 4.24 of the Environmental Planning and Assessment Act 1979 states the following in relation to the status of concept development applications and consents:

- (1) The provisions of or made under this or any other Act relating to development applications and development consents apply, except as otherwise provided by or under this or any other Act, to a concept development application and a development consent granted on the determination of any such application.*
- (2) While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site.*

The following table outlines the relevant conditions of consent of the concept consent and the subject proposal's compliance:

Condition	Stage 2 Compliance
<p>Condition No. 3</p> <p>Concept approval is granted to the following land uses, gross floor area, site layout, building heights and envelopes, access and parking:</p> <ul style="list-style-type: none"> - The adaptive reuse of an existing boatshed for marine related businesses and services, a food and drink premises and no more than 19 dwellings, located generally in accordance with the land uses depicted on the Shed Land Use Diagram, DA-407 (Issue 5); - 18 x three storey townhouses fronting Waterview Street; and - 2 x three storey residential flat buildings containing 33 units with basement parking. - A minimum of 116 car spaces to be allocated to residential uses. - A minimum of 63 car spaces to be allocated for non-residential uses. 	<p>The boatshed is proposed to be adaptively reused and is proposed to contain 19 residential units and 5 retail/commercial tenancies. The modification consent modified the location of the land uses within the shed.</p> <p>There are 2 x 3 storey RFB's proposed containing 30 units.</p> <p>There are 129 spaces proposed to be allocated to the residential uses.</p> <p>There are 63 spaces proposed to be allocated to the non-residential uses.</p>
<p>Condition No. 5</p> <p>Building envelopes, separation distances and horizontal building envelopes are to be generally consistent with the building envelopes depicted in approved plans DA 500, DA 501 and DA 502, (Issue 6).</p>	<p>The modification consent approved some minor departures from the building envelopes and separation distances for the residential flat buildings. Otherwise the proposal is compliant with the condition.</p>
<p>Condition No. 6</p> <p>The maximum height of buildings must not exceed the maximum heights of the building envelopes identified in the approved plans DA501 Issue 6, DA 502 Issue 6 and DA 503 Issue 6, described in greater detail at Condition 12.</p>	<p>There were some minor departures to these plans approved in the Section 4.56 consent which are detailed later in this report. The exceedances are necessitated as a result of further design refinement and due to the sloping topography of the site. A Clause 4.6 Variation Request has been prepared to support the proposed minor exceedance.</p>
<p>Condition No. 7</p> <p>Future development applications shall include a detailed design of the Plaza to the north of the boatshed and shall incorporate the following:</p> <ul style="list-style-type: none"> □ Interpretive material integrated into the space in accordance with the Interpretation Strategy by DFP Planning dated 1 July 2020; □ Structures in and bordering the Plaza shall be designed with industrial aesthetic; □ Landscaping shall be in an informal arrangement incorporating shade trees generally in accordance with the Concept Proposal Forecourt by Taylor Brammer dated 29 September 2020;' 	<p>The submitted landscaping plans outline a detailed design for the northern plaza.</p> <p>There are suitable opportunities for heritage interpretation.</p>

<div><div><div><div><div></div><div>Note: [if demolition of the rear sections of the Boatshed is approved, the location of the demolished structures North of the boatshed should be interpreted in the forecourt design to enable an ongoing understanding of the original and early layout and form of the building].</div></div><div><div></div><div>The design of the forecourt should incorporate the requirements for any Aboriginal heritage and historical archaeological protection and interpretation resulting from the further investigations required by Conditions 12 and 13.</div></div></div></div></div>	<div>Structures in and bordering the plaza have an industrial aesthetic.</div> <div>Landscaping is in an informal arrangement and incorporates shade trees.</div>																					
<div>Condition No. 8</div> <div>Future development applications shall include a detailed design of the internal stairs which shall be an open steel framed structure with an industrial aesthetic that complements the character of the space. The design shall incorporate open treads and lightweight balustrade and handrails to provide transparency when viewed from within the boatshed. An enclosed fire escape from the south- west stair is not required. If possible, internal stairs are to be located away from the central atrium in order to have reduced heritage impact.</div>	<div>Plan No. DA-2160 depicts a detailed design of the internal stairs which comprise an open steel framed structure with an industrial aesthetic. The balustrade is lightweight. The stairs are located away from the central atrium.</div>																					
<div>Condition No. 10</div> <div><div>(A) The following items are not approved and do not form part of this Stage 1 development consent:</div><div><div>a. Any demolition, excavation and/or construction;</div><div>b. The final layout of non-residential land uses, noting that residential uses are approved in the locations nominated on the approved Shed Land Use Diagram, DA-407, Issue 5;</div><div>c. The layout of dwellings within each building component of the development, ie townhouses, boatshed and residential flat building;</div><div>d. The number of bicycle spaces, car share or loading spaces/areas;</div><div>e. The design of the building exteriors including facades and roofs;</div><div>f. Public domain and final landscape design</div><div>g. The configuration of the basement car parking levels;</div><div>h. The precise quantum of floor space, noting that a minimum gross floor area of 10,208m2 for residential uses and 1,564m2 for non-residential uses is approved within the nominated envelopes.</div></div></div>	<div>Noted</div> <div>The modification consent amended the locations of the non-residential land uses within the shed.</div> <div>Noted</div> <div>Noted</div> <div>Noted</div> <div>Noted</div> <div>The plans provide for 1,564m² of non-residential floor space (excluding the central atrium of the boat shed) and 10,840m² of residential floor space.</div>																					
<div>Condition No. 11</div> <div>The maximum height of the residential flat building must not exceed the maximum height permitted under this concept approval as shown in approved Building Envelope Plans DA-501 (Issue 6) and DA-502 (Issue 6) and per the below table:</div> <div><table><tr><td>Building Envelope</td><td>Height</td><td>Variation</td></tr><tr><td>RFB West lift overrun</td><td>RL19.35</td><td>2.259m-2.432m</td></tr><tr><td>RFB West pergola shade structure</td><td>RL18.36</td><td>1.575m</td></tr><tr><td>RFB West Parapet</td><td>RL16.15</td><td>0.20m</td></tr><tr><td>RFB East lift overrun</td><td>RL19.35</td><td>1.160m – 1.385m</td></tr><tr><td>RFB East pergola shade structure</td><td>RL18.36</td><td>2.078m -2.400m</td></tr><tr><td>RFB East Parapet</td><td>RL16.15</td><td></td></tr></table></div>	Building Envelope	Height	Variation	RFB West lift overrun	RL19.35	2.259m-2.432m	RFB West pergola shade structure	RL18.36	1.575m	RFB West Parapet	RL16.15	0.20m	RFB East lift overrun	RL19.35	1.160m – 1.385m	RFB East pergola shade structure	RL18.36	2.078m -2.400m	RFB East Parapet	RL16.15		<div>The Section 4.56 consent approved some minor amendments to these heights, noting that the maximum height of both buildings approved in the Stage 1 consent was not exceeded. This matter is discussed in greater detail later in this report.</div>
Building Envelope	Height	Variation																				
RFB West lift overrun	RL19.35	2.259m-2.432m																				
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<div>Condition No. 12</div> <div>Future development applications shall include conditions to the following effect:</div>	<div>These conditions of consent are recommended in the attached set of conditions.</div>																					

<p>a) An AHIP will be required for the whole of the site prior to any action (demolition and construction) commencing. The AHIP application (to Heritage NSW) should be supported by the demolition DA, being cognisant of the construction DA.</p> <p>b) Once the AHIP is in place, Aboriginal salvage excavation will need to occur around Test Unit (TU) 8. Salvage should occur prior to demolition commencing. If certain 'areas' require demolition prior to Aboriginal salvage being able to be completed, adequate protection for Aboriginal archaeological deposits should be put in place, and demolition can occur, as needed.</p> <p>c) Once salvage excavation is complete, Aboriginal heritage interpretation needs to be prepared in collaboration with the project's Registered Aboriginal Parties (RAPs). This interpretation must be developed with consideration of adjacent interpretation connected with Bennelong Park. The interpretation needs to be complimentary, and cover both the Aboriginal site identified at TU 8, and the post 1788 connections. Interpretation planning needs to commence following on site salvage excavations, with interpretation devices proposed as part of the construction. The interpretation content (devices, their content, and locations to be installed on site) needs to be finalised and implemented before an occupation certificate is issued. Extensions for development of specific Aboriginal interpretation devices (eg an art work by an Aboriginal artist) can be made, on the basis of demonstration to Council that the works have commenced, or the artist has been engaged.</p> <p>d) Following Aboriginal salvage excavations, a determination of the future of the Aboriginal objects recovered from the site must be made. The decision should be made in collaboration with the project RAPs. Ideally, this should involve reburial on Country. It may be suitable for interpretation of the Aboriginal objects to be part of the site's interpretation—this would be determined by the project archaeologist and project RAPs.</p>	
<p>Condition No. 13</p> <p>Future development applications shall include conditions to the following effect:</p> <p>a) Further historical archaeological investigations, of areas both internal and external to the extant boat shed building, is to be undertaken in order to identify and record any remnant historical archaeological remains, foundations, and relics that may be present, as part of a Section 140 process under the NSW Heritage Act 1977. NB the preservation, conservation and insitu retention of the boat shed building's heritage fabric is of a higher priority than its removal to test for possible remnant archaeology.</p> <p>The S140, accompanied by a research design, is to be submitted to NSW Heritage for approval, prior to the commencement of any ground disturbing works on site. The research design should primarily focus on areas identified as having been occupied by the former Squires Brewery that were unable to be accessed during the initial test excavation program, once access to previously built up areas become possible during the demolition process.</p> <p>b) If during the approved archaeological investigation, substantially intact relics of State Significance related to the former Squires Brewery are found, works are to cease immediately in the relevant area and the</p>	<p>These conditions of consent are recommended in the attached set of conditions.</p>

<p>NSW Heritage archaeologists are to be contacted for advice regarding whether further investigation, recording and interpretation is required, or if there may be the requirement for any onsite insitu retention, as part of the redevelopment proposal for the site.</p> <p>c) An interpretation strategy for historical archaeology must be prepared, as part of the holistic interpretation for the site. If historical archaeology is present, the interpretation strategy must include relevant place specific interpretation. The history and connection with James Squires should be recognised. This interpretation must interface with that for Aboriginal heritage with reference to the 'contact' phase and Bennelong's association with James Squires. The interpretation content (devices, their content and locations to be installed on site) needs to be finalised and implemented before an occupation certificate is issued.</p> <p>d) The December 2020 Conservation Management Plan (CMP) should be updated within 24 months upon the completion of site works to ensure that all relevant Archaeological sub-sections of the CMP accurately reflect any archaeological outcomes achieved throughout the development process, including any future potential archaeological management requirements.</p>	
<p>Condition No. 14</p> <p>Future development applications should include acceptance of a condition requiring that before any works commence on site, an Archival Photographic Recording in accordance with the NSW Heritage Council's 'Guide to Archival Photographic Recording' shall be submitted to the satisfaction of Council's Heritage Advisor. The archival recording is to include all buildings, structures and landscape elements on the site, and the site as a whole.</p>	<p>A condition to this effect is recommended which has been accepted by the applicant.</p>
<p>Condition No. 15</p> <p>Future development applications for works adjacent to the Crown Land adjoin Settlers Park and the site are to use all reasonable endeavours to obtain Owner's Consent and to include in the application the removal of the layback and restoration of the kerb and gutter currently being used as the current vehicular access from Waterview Street to the boat shed (fronting the unformed part of Princes Street and adjacent to Settlers Park). The bitumen and all structures within this area are to be removed and the area restored with turf and returned as parkland.</p>	<p>The plans submitted with the application depict works within the unformed part of Princes Street comprising the removal of bitumen and structures in the area and restoration with turf, removal of the kerb layback and restoration of the kerb and gutter. At the time of lodgement of the subject application, the unformed part of Princes Street was owned by Crown Lands NSW. The application included details of consultation with Crown Lands but no formal owner's consent was provided.</p> <p>During the assessment phase of the application a land transfer has undertaken which resulted in the unformed part of Princes Street being handed over from Crown</p>

	Lands NSW to Council. Council subsequently granted landowner's consent for the lodgement of the application on 10 May 2024.
<p>Condition No. 16</p> <p>A noise impact assessment report may be required by Council to be submitted with any future development application/s for work at the site. The Council may require the report to be prepared by a suitably qualified acoustical consultant and demonstrate that the noise levels emitted from the premises will comply with the noise criteria specified in the <i>New South Wales Industrial Noise Policy</i> (EPA, 2000). The Council may require the report to include the following information:</p> <ul style="list-style-type: none"> a. details of the site and the surrounding locality; b. a description of the proposed use; c. the proposed times of operation; d. the existing background noise and ambient industrial noise levels; e. the project-specific noise levels for the proposed use; f. details of all potential noise sources associated with the proposed use; g. details of any measures proposed to control or mitigate noise; h. sound pressure levels at a preferred measurement distance or sound power levels, in dBA, for all major noise sources; i. the predicted cumulative noise levels at all nearby affected residential premises; and j. an assessment of the noise impact. 	<p>A Noise Impact Assessment has been prepared by Acoustic Logic. It is noted that the fit out and use of the retail and commercial tenancies will be subject to separate approval. Notwithstanding this, based on a preliminary understanding of future uses on the site, the assessment confirms that the proposed development is capable of achieving compliance with the relevant noise emission objectives during operation. Should any non-compliance occur, this can be appropriately mitigated through acoustic treatments or management controls.</p>
<p>Condition No. 17</p> <p>A Construction Noise Management Plan may be prepared and submitted with any subsequent future development application/s for construction work at the site. This Council may require that the Plan be prepared by a suitably qualified acoustic consultant and must detail, the following:</p> <ul style="list-style-type: none"> a. The equipment to be used during the construction on site, the quantity of all equipment' and a plan of how equipment will be operated on site cumulatively; b. The type of work that will be conducted during the construction process; c. Details of any respite periods and any noise mitigation measures required; d. Details of any work proposed to occur outside of Council's standard construction hours; e. Details of any community consultation to be undertaken. 	<p>The Noise Impact Assessment confirms that the proposed construction noise and vibration impacts will be acceptable subject to the successful implementation of all relevant mitigation measures. A condition of consent is recommended requiring the preparation of a detailed construction noise management plan once the final construction methodology is known.</p>
<p>Condition No. 18</p> <p>Prior to submission of any subsequent development application, the landowner must at no cost to Viva Energy Australia Pty Ltd, (whether or not within the pipeline easement) complete and submit as part of the application/s:</p> <ul style="list-style-type: none"> - a Safety Management Study as required by AS2885 & - Viva Energy Recoverable works Agreement –Signed 	<p>The applicant has formally contacted Viva Energy Australia in relation to these requirements on numerous occasions but is yet to receive a response. The subject application was referred to Viva Energy and comments were received, dated 7 December 2023 raising no objections</p>

<p>- The Proposed Development will be built in consultation with Viva Energy and to Viva Energy requirements to safeguard the integrity of Pipeline.</p>	<p>subject to recommended conditions.</p>
<p>Condition No. 19</p> <p>As part of any subsequent development application/s for detailed work at the site, the land owner must at no cost to Viva Energy Australia Pty Ltd, carry out the works (whether or not within the pipeline easement) for the development and works to meet the requirements of:</p> <p>(a) Australian Standard AS2885 Pipelines – Gas and Liquid Petroleum; (b) Pipelines Act 1967; and (c) Pipeline Regulations 2013 (d) Any actions from the completed Safety Management Study (SMS)</p>	<p>The subject application was referred to Viva Energy and comments were received, dated 7 December 2023 raising no objections subject to recommended conditions.</p>
<p>Condition No. 20</p> <p>Future development application/s for works at the site shall be accompanied by a copy of written correspondence from the Heritage Council of NSW or its delegate confirming that any relevant requirements under any <i>Heritage Act 1977</i> approval have been satisfied, if such statutory requirements are in force at the time of the future development application.</p>	<p>A copy of written correspondence from the Heritage Council of NSW has been provided. A Section 140 approval has been granted under the Heritage Act 1977.</p>
<p>Condition No. 21</p> <p>Future development applications shall include a waste management plan consistent with the Waste Management Plan prepared by MRA Consulting dated 1 April 2020. Future development applications should include provisions for bulk household waste clean-up to be presented without impeding on pedestrian access along Waterview Street.</p>	<p>An updated Waste Management Plan has been submitted with the application which addresses bulk waste collection. The proposal was amended during the assessment phase to result in all bulky waste being stored and collected wholly on site.</p>
<p>Condition No. 22</p> <p>Future development applications shall provide evidence to Council to the extent that relevant authority has no objection to relocating the substation as proposed in the Concept approval.</p>	<p>The application includes correspondence from Ausgrid detailing their agreement to relocate the substation along the Waterview Street frontage. To facilitate the ongoing use of this substation, the applicant has entered into a deed of agreement for the creation of an easement to allow Ausgrid to access the substation. The new substation location is depicted on the plans.</p>
<p>Condition No. 23</p> <p>Future development applications shall include a traffic impact assessment which addresses the recommendations in the traffic assessment completed by Traffix Pty Ltd, reference 17.181r02v02, dated 15th May 2019.</p>	<p>An updated traffic impact assessment prepared by Traffix has been submitted with the application which is considered satisfactory by Council's Traffic officers.</p>

<p>Condition No. 24</p> <p>Future development applications shall include the design details of the measures to protect the development site from Harbour flooding, as recommended by Northrop letter, reference 170924, dated 15th May 2019.</p>	<p>A Harbour Flooding Report has been submitted, prepared by Royal Haskoning DHV.</p>
<p>Condition No. 25</p> <p>Future development applications shall demonstrate compliance with the recommendations and mitigation measures to protect the development site from flooding as provided in the Harbour Flooding Report prepared by Royal Haskoning DHV dated 14/05/18.</p>	<p>An updated Harbour Flooding Report by Royal Haskoning DHV has been submitted with the application and the mitigation measures are reflected in the plans.</p>
<p>Condition No. 26</p> <p>Future development applications shall include a stormwater management plan to be generally in accordance with the plans completed by Northrop Pty Ltd, drawing number 170924 DAC01.01, DAC02.01, DAC02.11, DAC03.01, DAC04.01, and DAC06.01, revision 1, dated 7th May 2019. The direct discharge to Sydney Harbour must be in accordance with any requirements of NSW Maritime.</p>	<p>The applicant has submitted stormwater management plans, prepared by TTW. Discharge to Sydney Harbour is proposed in accordance with the requirements of NSW Maritime.</p>
<p>Condition No. 27</p> <p>To ensure that the development's stormwater management system integrates the principles of water sustainable urban design (WSUD) as required by Council's DCP and policies, as well as best practise design approach to urban stormwater management, a Water Sustainable Urban Design Strategic Plan (WSUDSP) must be prepared detailing WSUD components to be implemented throughout each stage of the development.</p> <p>The WSUDSP must be prepared by a suitably qualified drainage engineer, in collaboration with a landscape architect, to implement WSUD components in the stormwater management system for the development. The plan must generally be in accordance Councils DCP Part 8.2 (Stormwater and Floodplain Management) and comply with the following:</p> <ul style="list-style-type: none"> a) Development that does not require a BASIX certificate, must provide a rainwater tank to meet greater than the 50% of non- potable water demand. b) Water use within open space areas of the development (for uses such as irrigation, ponds and water features, etc) must be supplied from sources other than potable water. This may include rainwater storage tanks or treated grey-water, to meet 80% of the water use demand. c) To demonstrate this, the WSUDSP will be required to present a water balance model analysing such uses respective of rainfall statistics. d) Satisfy the requirements of a WSUD management plan as specified in the DCP Part 8.2 (Stormwater and Floodplain Management) <p>The WSUDSP must be submitted with any subsequent development application/s for any above ground development works. The approved WSUDSP is to be implemented for every following development application.</p>	<p>The stormwater management plans note that the development is capable of meeting the WSUD targets subject to the provision of pit inserts in all new pits and cartridges within dedicated water treatment chambers.</p>
<p>Condition No. 28</p>	

<p>Future development applications shall include (where relevant to the type of use) a Loading Bay / Service Delivery Management Plan. The Plan must specify the location of service bay areas / loading bay docks, analyse the number and frequency of service vehicle movements for the proposed commercial floor area and demonstrate that such service requirements can be satisfied on the site.</p>	<p>The applicant has submitted a Loading Bay/Service Delivery Management Plan prepared by Traffix which addresses these matters. A condition of consent is recommended requiring compliance with the report.</p>
<p>Condition No. 29</p> <p>Future development applications that involve subsurface structures and excavation must be accompanied by a Geotechnical Report, completed by a suitably qualified and practicing Engineer having experience in the geotechnical and hydrogeological fields.</p>	<p>The applicant has submitted a Geotechnical Investigation Report prepared by Foundation Earth Sciences. A condition of consent is recommended requiring compliance with the report.</p>
<p>Condition No. 30</p> <p>Future development applications for works which relate to use of buildings shall include an access report to demonstrate that the buildings have been designed and are capable of being constructed to provide access and facilities for people with a disability in accordance with the Disability Discrimination Act and Access to Premises Standards.</p>	<p>The applicant has submitted an access report prepared by Vista Access Architects which addresses the accessibility of the various components of the development. Conditions of consent are recommended in relation to accessibility.</p>
<p>Condition No. 31</p> <p>Future development applications shall include a detailed landscape plan consistent with the approved landscape package. The landscaping plan should also demonstrate rainwater capture and include details on where/how and for what purpose the water will be used. Consideration should also be given to the use of green walls. The landscape plan is to demonstrate planting for all rooftop and podium levels. Landscaping on the roof terraces should be limited to low shrubs at the perimeter. Any trees higher than 3 metres should be located towards the northern side of the roof terraces in order to limit the impact on the landmark qualities of the Boatshed.</p>	<p>The applicant has submitted detailed landscaping plans prepared by Dangar Barin Smith. The plans address rainwater capture. No green walls are proposed but the plans include details for the landscaping of all rooftop areas. The taller planting is proposed on the northern side of the rooftops.</p>
<p>Condition No. 32</p> <p>Any future detailed development application for the site is to be accompanied by a Public Domain and Landscape Plan that demonstrates how the public domain along Waterview Street frontage is to be upgraded in accordance with City of Ryde DCP 2014 Part 8.3 driveways, Part 8.5 - Public Civil Works, and DCP 2014 Part 8.2 - Stormwater Management. The plan is to show works that will be undertaken including road and footpath paving, improvements to street lights, installation of public furniture, landscaping and the undergrounding of telecommunications and utilities along the development frontage of the site 20 Waterview Street.</p>	<p>Suitable public domain and landscaping plans have been submitted which demonstrate compliance with this condition.</p>
<p>Condition No. 33</p> <p>With the exception of the link between the residential flat buildings (which is not public), all pedestrian links within the site shall incorporate a minimum of 2.0m wide accessible paved footpath or (where</p>	<p>These matters are addressed in the submitted plans and conditions of consent are recommended to mirror the requirements</p>

<p>necessary or appropriate) raised boardwalk providing connectivity to Waterview Street, Bennelong Park, Crown land adjacent to Settlers Park, and any future Marina. The pedestrian links shall be constructed by the Developer at no cost to Council. Public pedestrian access shall be available at all times over all public pedestrian links through the site, other than the link through the boatshed which shall be required only between 8am and 10pm. The paving of all pedestrian links is to be in accordance with Council's standards and specifications.</p> <p>Full construction details demonstrating compliance with the BCA and NCC specifications shall be submitted to Council's City Works Directorate with the lodgement of the public domain design submission for any subsequent development application/s for detailed work at the site.</p> <p>The submission shall include the following details:</p> <p>(a) Dimensions and specifications for all elements (footpath, kerb & gutter, grass verge, street lights, fence, etc.) including the width of the pedestrian links, landscaping areas and transitions to adjacent areas;</p> <p>(b) Lighting for illumination of the footpath and adjacent internal roads to ensure safety and security of the users during the night time. The lighting shall achieve vehicular luminance category V5 and pedestrian luminance category P2 according to Australian Standards AS/NZS 1158 Set: 2010 Lighting for Roads and Public Spaces.</p> <p>(c) Certification demonstrating compliance with the Disability Discrimination Act and the relevant Disability Standards and Guidelines.</p>	<p>of Condition No. 33 of the Stage 1 consent.</p>
<p>Condition No. 34</p> <p>Future development applications which propose any staging of the public domain works, shall be submitted with a detailed construction management and staging plan.</p>	<p>The applicant has advised that all works will be undertaken in a single stage.</p>
<p>Condition No. 35</p> <p>Future development applications which propose any staging of the public domain works, shall be submitted with a detailed construction management and staging plan.</p>	<p>The applicant has advised that all works will be undertaken in a single stage.</p>
<p>Condition No. 36</p> <p>Future development applications shall demonstrate consultation with Ausgrid to ensure that technical and statutory requirements in regard to the safe and reliable operation and maintenance of the Ausgrid's network is maintained.</p>	<p>The applicant has provided correspondence between themselves and Ausgrid prior to lodgement.</p>
<p>Condition No. 36</p> <p>Any subsequent development application/s for detailed works at the site are to comply with the principles of Crime Prevention Through Environmental Design.</p>	<p>The application addresses CPTED principles in an effective manner. The application was referred to NSW Police and no comments were received. Therefore it is assumed that the Police have no objections to the proposal.</p>
<p>Condition No. 37</p> <p>Future development applications for detailed works at the site, shall include a draft Construction Pedestrian and Traffic Management Plan (CPTMP). The CPTMP needs to specify, but not be limited to the following:</p>	<p>The applicant has advised that a detailed Construction Pedestrian and Traffic Management Plan will be prepared prior to the issue of the relevant construction</p>

<ul style="list-style-type: none"> • Location of all proposed work zones. • Proposed crane locations and methods of erection and dismantling. • Haulage routes. • Construction vehicle access arrangements. • Proposed construction hours. • Details of any required hoardings. • Estimated number and type of construction vehicle movements including morning and afternoon peak and off peak movements. 	<p>certificate, once further details regarding the construction methodology are known. A Preliminary Construction Management Plan has been prepared by Perifa and submitted with the application.</p>
<p>Condition No. 38</p> <p>To facilitate public access a 2m wide Right of Way (ROW) for the pedestrian links through the site, providing connectivity between Waterview Street, Bennelong Park, Settlers Park, and any future Marina, and the foreshore walkway shall be created and registered on the titles of the subject property over the 2m wide footpath. The terms of the ROW shall be to Council's satisfaction and shall provide for, but not be limited to the following:</p> <p>a) To be publicly accessible at all times, with the exception of the link through the boatshed which shall be required to allow public access only between 8am and 10pm;</p> <p>b) Maintenance of the R.O.W to ensure safe, unobstructed access to the public at all times with all costs of maintenance being borne by the registered proprietor of the land; and</p> <p>c) The registered proprietor of the land shall maintain public liability insurance in a sum of \$20,000,000 in respect of or in relation to the use of the ROW by the users.</p> <p>The terms of the R.O.W shall be submitted to Council for assessment and approval and will need to be registered at the Lands and Property Management Authority, prior to issue of Occupation Certificate.</p>	<p>The applicant has agreed to the terms of the ROW and suitable conditions of consent are recommended in this regard.</p>

Water Management Act 2000

The application is classed as Integrated Development as the development requires approval by Water NSW under Section 90 of the Water Management Act 2000 due to the proximity of the proposed basement to the groundwater table and the extent of excavation that is proposed. Water NSW provided concurrence and General Terms of Approval (GTA) on 9 July 2024 based on a tanked basement design. **Condition No. 6** of the recommended conditions of consent requires compliance with the Water NSW GTA's.

6.2 Section 4.15 Matters for Considerations - General

(a) The provisions of

(i) Any environmental planning instrument:

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

- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022;

- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Housing) 2021;
- Ryde Local Environmental Plan 2014;

State Environmental Planning Policy (Planning Systems) 2021 – Chapter 2 State and Regional Development

This SEPP categorises this proposal as a ‘General Development over \$30 million’ under Schedule 6 Regionally Significant Development. The proposal is required to be determined by the Sydney North Planning Panel in accordance with section 4.7 of the EP&A Act 1979.

State Environmental Planning Policy (Sustainable Buildings) 2022

The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP, including BASIX certification. BASIX Certificates have been submitted with the Development Application in accordance with the provisions of this SEPP. The BASIX certificates demonstrate that the development complies with the relevant sustainability targets, and the plans show relevant BASIX commitments as required.

State Environmental Planning Policy (Resilience and Hazards) 2021 - Chapter 4 Remediation of Land

This SEPP aims to *‘provide a State-wide planning approach to the remediation of contamination of land.’* Clause 4.6 of this SEPP requires Council to consider whether the site is contaminated, and if so whether it is suitable for the proposed development purpose.

A remediation action plan (RAP) prepared by eiaustralia submitted with the application details previous site investigations that have been carried out and previous remedial action plans prepared. This RAP follows on from a previous one that was revised by the Land and Environment Court and reviewed by a site auditor. It concludes that the site can be made suitable for the proposed use if remediated in accordance with the plan.

Following the remediation work it will be necessary for the site to be validated. Being a more complicated remediation process and nature of the contamination, it would be advisable that the remediation and validation carried out is reviewed by a site auditor. Conditions of consent are recommended in this regard.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural areas

Chapter 2 of this 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. The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation. According to Council’s Environmentally

Sensitive Areas map the site is not mapped as containing any vegetation of significance.

Chapter 6 Water Catchments:

Chapter 6 of the BC SEPP applies to all waterways within the Sydney Harbour Catchment and the land within its foreshores, and more generally all land within the catchment. This includes the site, which is located on the Parramatta River Foreshore. The site is mapped as being within the boundaries of the Sydney Harbour Foreshores and Waterways Area and is also identified as ADI Site, which is a mapped Strategic Foreshore Site.

The BC SEPP includes general provisions relating to the Sydney Harbour Catchment and more specific provisions with respect to the Foreshores and Waterways Area and Strategic Foreshore Sites. An assessment against the relevant provisions of the BC SEPP is outlined in **Attachment 4** to this report.

State Environmental Planning Policy (Housing) 2021

Schedule 7A, Section 8 of State Environmental Planning Policy (SEPP) (Housing) 2021 clarifies that Chapter 4 of the SEPP applies to a development application made, but not determined, on or before 14 December 2023. The subject application was lodged on 29 September 2023, therefore, Chapter 4 of the SEPP is applicable.

Clause 144 outlines that the chapter is applicable to development for the purpose of residential flat buildings or mixed use development with a residential accommodation component. The subject proposal comprises both of these components.

Clause 145 outlines that before determining the development application, the consent authority must refer the application to the design review panel for the local government area in which the development will be carried out for advice on the quality of the design of the development. The following table addresses the consideration of the application by Council's Urban Design Review Panel and commentary on the amendments made by the applicant in response to the comments:

Comments of UDRP	Amendments in response
<p><i>Context and Neighbourhood Character</i></p> <p><i>The site is located at 20 Waterview Street, Putney within the City of Ryde Council Local Government Area. The site is located on the northern foreshore of the Parramatta River, approximately 15km northwest of the Sydney CBD and approximately 11km east of the Parramatta CBD.</i></p> <p><i>The site currently accommodates a large, high clearance 13m high industrial shed which is a dominant element on the site and within the local landscape. The shed was historically used for boat sales, repairs, upholstery and storage with an ancillary office but is currently in a state of disrepair and in need of renewal. It has large doors opening in a southerly direction onto a concrete hardstand and the waterfront.</i></p> <p><i>The site slopes from the street boundary to the water – which is most pronounced at the southern end where there is an 8m fall.</i></p> <p><i>The side is surrounded to the north by Settlers Park and south by Bennelong Park. To the north-east on the opposite side of</i></p>	<p>The proposal has been amended by the applicant as follows:</p> <ul style="list-style-type: none"> - New pedestrian connection to Settlers Park. - Better integration with the neighbouring sites. - More pronounced public stair from Settlers Park to the plaza. - Rationalised vehicle entry points to minimise visual impact. - Improved visual connection between the lower ground to the plaza, shed and beyond.

<p><i>Waterview Street is low scale residential comprising a mix of single- and two-storey houses.</i></p> <p><i>The proposal is generally consistent with the building envelopes and uses approved in the concept development application. The selection of terrace style dwellings that face Waterview Street provide an appropriate transition to the apartment buildings located in the middle of the site.</i></p> <p><i>Overall, the buildings are well designed, with appropriate articulation that enhances the identity of the area. Further comments are made below where the built form could be further refined to enable a skyline with more visual interest.</i></p> <p>Pedestrian Access along foreshore</p> <p><i>There remains some concern about the ability for pedestrians and the public to traverse the site – in particular the access around the boatshed and Bennelong Park along the northern boundary.</i></p> <p><i>The proposed development is essentially located within a waterfront park. Clear and continuous pedestrian access along the waterfront should be provided without the need to walk back up to Waterview Street.</i></p> <p><i>Proposed development at the boundary to Settlers Park presents as an over-scaled 'back of house' area, with very narrow pathways around the back of the boatshed that present potential security problems.</i></p> <p><i>Part of the discussion at the meeting included potential reconfiguration of the driveway, loading areas and vehicle entrances, reducing circulation areas – enabling the car park to be set back further from the boat shed, and / or providing a wider stair that leads from podium landscape area down to the driveway – creating a stronger visual and physical connection between Settlers Park and the main pedestrian pathways on the podium.</i></p>	
<p>Built Form and Scale</p> <p><i>The Panel generally supports the overall built form and scale of the proposal.</i></p> <p>Roof form for terraces</p> <p><i>The Panel notes that the terraces to Waterview Street appear 'capped' and provide limited variety with respect to their roof form. Consider providing some variety in the roof forms that could integrate highlight windows / higher ceilings with the overall façade treatment. This will create greater emphasis between the projecting bays of each terrace.</i></p> <p>Roof-top to Apartments</p> <p><i>Further refinement could be carried out to resolve the form and shape of the access to the roof terraces on apartment buildings, considering how the curves are applied to the roofs, the location and shape of the plant room etc.</i></p> <p>Boatshed</p> <p><i>The pathway around the boatshed should be increased in width to provide increased safety, desirability of this pathway and outlook from the commercial tenancy.</i></p>	<p>The proposal has been amended by the applicant as follows:</p> <p>Roof form for terraces</p> <ul style="list-style-type: none"> - Roof form lifted by 500mm, still sitting under the height plane. - More variation and definition towards the skyline. - Greater emphasis between the projecting bays of each terrace. - Lifted facade creates secondary ventilation opportunities. <p>Rooftop to Apartments</p> <ul style="list-style-type: none"> - Shape, layout and services associated with the rooftop communal open space areas have been amended. <p>Boatshed</p> <ul style="list-style-type: none"> - The circulations around the boatshed have been rationalised, creating a simpler

	pathway/stairway and wider circulation path.
Density <i>The proposal appears to be within the maximum permissible GFA. Subject to positively addressing the comments and recommendations set out in this report, the Panel offers in principle support for the accommodation of the proposed building density.</i>	There were no changes made to specifically respond to density.
Sustainability <i>Sustainability was not specifically discussed during the meeting, however the application appears to demonstrate a mix of explicit passive design elements such as balancing winter solar access and summer shade and cross ventilation, along with active measures.</i> <i>The Panel supports the adoption of ambitious sustainability strategies and ratings.</i>	There were no changes made to specifically respond to sustainability.
Landscape Area at rear of terraces 1-6 and Boat shed <i>The Panel does not consider that the laneway provided to the rear of the terraces provides any benefit to the overall accessibility or site planning. It is sunken into the ground and duplicates vehicle circulation space that could otherwise be used for landscape. A better outcome would be to provide below-podium access to the car parking for these terraces and continue the pedestrian path (at the rear of the other terraces) to connect with Settlers Park – with a wide staircase where the path crosses the driveway.</i> <i>As discussed earlier rationalisation of the parking and pedestrian paths in this area could enable an improved physical connection to Settlers Park and better integrate the driveway with the overall landscape concept.</i> Roof terraces <i>Provide consideration as to how the roof terraces will be utilised – there is already significant open space provided at ground level around the buildings. The roof terraces can be best utilised by the residents for more private activities – small BBQ gatherings, or a space to sit in the sun. Consider how the space can be divided to enhance this. There could be greater opportunity for more landscape and less ‘active’ spaces.</i>	The proposal has been amended by the applicant as follows: Area at rear of Terraces 1-6 and Boatshed - The laneway behind the terraces has been rationalised to a simpler and more unified vehicle access route. - The main pedestrian access to the terraces is from Waterview Street. - A more generous stair and lift configuration has been created to improve connection to Settler's Park. Roof Terraces - The roof terraces have been amended to improve their function and provision has been made for barbecue facilities for each terrace area.
Amenity <i>The Panel commends the rational apartment layouts that provide good amenity for future residents.</i> <i>Dwellings are provided with good daylight, cross ventilation and solar access.</i> <i>Areas for further refinement:</i> <ul style="list-style-type: none"> - <i>Building East: the gap between R5 and R6 needs to be increased to provide an appropriate outlook from the corridor.</i> - <i>Entry to Lower Basement Apartments in Boatshed. The central area is likely to be utilised by the commercial and residential occupants of the building as a central gathering / activity area. The front doors of the apartments currently open directly to this space (albeit</i> 	Building East - The UDRP comment was reviewed by the architect who was of the opinion that there was a suitable outlook between R5 and R6. Lower Floor of Boatshed - Privacy zones have been allocated to improve the separation between public and private zones. These zones are proposed to be provided by way of perforated screens dividing the areas.

<p><i>separated by a planter) it is considered that to better define the residential area and provide greater privacy and security a screen / glazed wall should be provided – defining a corridor against the apartments' entry.</i></p> <ul style="list-style-type: none"> <i>- Reconsider the access to the upper level retail space at level 1 (northern space) and ground level (southern). Access to these spaces should not be through the residential areas – but be provided with their own discrete access.</i> <i>- Provide an increased width to the entry of the Boat Shed at 'Ground level' from the podium. The Panel queries whether this is the best location for the bike store which may be better placed on the Lower Basement level with direct access to the driveway.</i> 	<p>Upper Level Retail</p> <ul style="list-style-type: none"> - Access to this floorspace is now provided by way of a staircase that is separated from the residential units. <p>Entry to Boatshed</p> <ul style="list-style-type: none"> - The bike storage area has been relocated to basement level 1 and the entry passage increased.
<p>Safety</p> <p><i>The Panel considers the proposal generally optimises safety and security within the development. The proposal - by virtue of its layout - provides for good passive surveillance of public areas.</i></p> <p><i>As noted earlier:</i></p> <ul style="list-style-type: none"> <i>- There is a concern about the narrow sunken pathway along the edge of the Boat Shed – this should be increased in width to provide improved amenity and safety.</i> <i>- The driveway at the rear of terraces 1-7 is sunken into the ground and has limited surveillance.</i> <p><i>Apart from the interface with Settlers Park, there is a strong legibility of the pedestrian network clear identification for access to the front doors of the buildings.</i></p>	<p>Narrow Pathway along edge of Boatshed</p> <ul style="list-style-type: none"> - The circulations around the boatshed have been rationalised, creating a simpler pathway/stairway and wider circulation path. <p>Driveway</p> <ul style="list-style-type: none"> - The driveway referred to by the Panel has now been deleted.
<p>Housing Diversity and Social Interaction</p> <p><i>The proposal provides a varied mix of dwelling types appropriate for the location.</i></p> <p><i>Different communal spaces are provided for social interaction.</i></p>	<p>There were no amendments made to specifically address housing diversity and social interaction.</p>
<p>Aesthetics</p> <p><i>The Panel supports the architectural strategies for articulating building forms, subject to comments made above.</i></p> <p><i>Further detail should be provided to clarify the material, character and expression of each of the buildings – in particular the boat shed and the design detail of the perforated screens. Provide large scale elevation, sections / or annotated 3D views to demonstrate the design intent and anticipated level of quality.</i></p>	<p>The applicant has submitted more detailed sections through each of the building categories.</p>

UDRP Comments following amendment of proposal

The amended plans were referred back to the UDRP for a desktop review and the following remaining issues were identified. Following each remaining issue are comments on how the proposal was further amended in response. The UDRP was generally satisfied that other elements originally identified were addressed by the amended plans.

- *The pedestrian footpath provided along the main driveway access towards the western site boundary, should be extended to connect with the base of the pedestrian stair near the entry to the boatshed. This would meaningfully extend*

the pedestrian network across the site and eliminate the current pedestrian 'dead-end' along the rear of the terraces.

Comment: The plans have been amended to provide for a pedestrian pathway along the western side of the driveway to connect to the pedestrian stairs.

- *There should be adequate cues in the selected pavement surfaces to differentiate between pedestrian priority areas (near the stairs linking to Settlers Park) and the areas nominated for vehicle movement (nearer to the basement entries).*

Comment: Cobblestone paving is proposed for both the pedestrian and vehicle movement areas. Pedestrian areas will be in a sandstone finish while vehicle movement areas will be in a grey/slate finish.

- *There is some minor misalignment evident in the plans near the basement entry between DA-1001, DA-1002 and DA-1003, which should be corrected.*

Comment: The plans have been amended to ensure consistency in this regard.

- *The sustainability commitments embodied in the Concept DA should not be diminished by the DA or modification application. The Panel continues to support the adoption of ambitious sustainability and ratings. It is recommended that the buildings be 'all electric' and that provision for EV charging is made within the basements.*

Comment: It is proposed that EV charging infrastructure will be provisioned for all residential spaces for future charger installation by the lot owner if/when required. Common EV charging (including for public use) will be provisioned for the commercial basement parking spaces. Rooftop solar panels are proposed using the SolShare system which facilitates it being apportioned to each unit rather than just to common power. All plant and cooktops, including within the rooftop common open space will be electric.

- *Some discrepancies exist between the 'Response to UDRP' document and the location of proposed bike storage. Clarification is sought that the provision and distribution of bike parking and end of trip facilities is appropriate.*

Comment: Bicycle parking is proposed to be located in the following areas:

- Lower basement
End of trip – 10 spaces (lockers and wall racks)
- Upper basement/shed lower ground
Shed – 14 spaces (lockers and wall racks)
RFB – 32 spaces (lockers)
Terraces – 2 spaces per terrace (wall racks in garage)
- *The level of detailed design intent provided by the Applicant within the 'Response to UDRP' document appears appropriate for the terrace houses and*

residential apartment buildings, but the document is silent on the anticipated architectural character and expression for the boatshed. In any case, the drawings provided are not included within the DA drawing set. Instead, drawings DA-5001, DA-5002 and DA-5003 are the only drawings that will form part of the consent and describe anticipated materials and architectural character. The Panel consistently seeks a more complete description of the design intent at the point of DA consent. Any DA consent is to appropriately define the design intent so as to minimise the diminution of design quality after DA and in the lead up to CC.

Comment: Additional sections through the boat shed building have been submitted being plan No. DA-2602. These plans depict suitable details of the boat shed building.

- *Building elements such as balcony drainage, downpipes, planter beds, privacy screens and AC enclosures are to be integrated into facades. Additionally, design intent drawings and/or 1:50 sections should demonstrate that 2.7m ceiling heights are able to be achieved in the residential apartment buildings where floor-to-floor dimensions at ground and level 1 allow for 3,130mm.*

Comment: Additional sections have been submitted for the terraces, boat shed and residential flat buildings which include details on balcony drainage, downpipes, planter beds and AC enclosures. The plans also demonstrate that the ceiling height requirements are achieved for the three forms of residential units proposed.

Apartment Design Guide

Detailed consideration of the proposal against the Apartment Design Guide (ADG) is provided within **Attachment 4**, as required by Clause 147(1)(b) of SEPP (Housing) 2021. The assessment against the ADG has not revealed any non-compliances in the amended plans and the proposal is fully compliant with the ADG controls.

Ryde Local Environmental Plan (LEP) 2014

The site is zoned W4 Working Waterfront under the provisions of the Ryde Local Environmental Plan 2014. The proposed use of the site for the purpose of residential flat buildings, multi-dwelling housing and commercial premises is permitted with consent in accordance with Schedule 1 (Additional Permitted Uses). Part 17 of Schedule 1 states the following:

(1) This clause applies to land at 20 Waterview Street, Putney, being Lot 1, DP 430647, Lot 1, DP 70489, Lot 2, DP 70488 and Lots 440–447, DP 15224.

(2) Development for the purposes of attached dwellings, business premises, food and drink premises, kiosks, marinas, multi dwelling housing, residential flat buildings and shops is permitted with development consent if—

(a) no more than 70 dwellings will be erected on the land to which this clause applies, and

(b) no more than 19 dwellings will be erected on the land identified as “Area 1” on the Key Sites Map, and

(c) a site-specific development control plan is prepared and provides for the retention of trees on Waterview Street, the impact on, and improvements to, the

public domain, including the foreshore, and appropriate building setbacks from the foreshore.


The application seeks consent for 67 dwellings to be erected on the land comprising 19 dwellings within the existing boatshed, 18 multi-dwelling housing units on the Waterview Street frontage of the site and two residential flat buildings containing a total of 30 units. The land identified as Area 1 on the Key Sites Map comprises the boatshed where a total of 19 dwellings are proposed. Pursuant to Section 4.23 of the Environmental Planning and Assessment Act 1979, the requirement for the preparation of a development control plan may be satisfied by the making and approval of a concept development application in respect of that land.

The following table addresses compliance with the objectives of the W4 Working Waterfront zone.

Objectives of the W4 Working Waterfront zone	Comment
To retain and encourage industrial and maritime activities on foreshores.	The proposed development will facilitate the construction of a marina which is proposed in LDA2023/0335 being a maritime related land use.
To identify sites for maritime purposes and for activities requiring direct foreshore access.	The proposed development improves access to the foreshore for the general public and facilitates the construction of a marina which is subject to LDA2023/0335.
To ensure that development does not have an adverse impact on the environment and visual qualities of the foreshore.	The proposed development will not result in an adverse impact on the environment or the visual qualities of the foreshore as demonstrated in the submitted Visual Impact Assessment.
To encourage employment opportunities.	The proposal includes four retail/commercial tenancies which will encourage employment opportunities.
To minimise any adverse effect of development on land uses in other zones.	It is considered that the proposal will result in a positive impact on land uses in other zones. The site is adjoined to the east and west by public reserves and the proposal will open up this part of the foreshore for public use and enjoyment.

The following table addresses the relevant Clauses of the Ryde Local Environmental Plan 2014:

Clause	Proposal	Compliance
4.3(2) Height of Buildings		
The subject site has a maximum height of building control of part 14m, part 11.5m and part 9.5m.	The proposed development will result in some minor exceedance of the maximum height of building control for the residential flat building component only. Notwithstanding this, the proposed development is generally consistent with the approved height in the Stage 1 Concept DA (LDA2018/0223) with	No – Clause 4.6 request submitted

Clause	Proposal	Compliance
	<p>marginal additional exceedances to localised parts of the RFB as a result of the detailed design. The applicant has submitted a Clause 4.6 request.</p> <p>The portions of the building that encroach are the lift overruns, parapets, rooftop pergolas and car park exhausts. The extent of variation to the control ranges from 7% to 14%.</p>	
4.4(2) Floor Space Ratio		
0.83:1 (13,172.1m ²)	0.778:1 (12,280m ²)	Yes
4.6 Exceptions to development standards		
<p>(1) The objectives of this clause are as follows—</p> <p>(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,</p> <p>(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.</p>	<p>The proposal is supported by a Clause 4.6 Variation Request which seeks to exceed the height of building control. It is noted that the exceedance of the height control was previously approved as part of LDA/2018/0223 and that this Clause 4.6 Variation Request has been prepared to reflect the current detailed design which incorporates a similar degree of variation. The Clause 4.6 request is considered to be acceptable.</p>	<p>Yes – Clause 4.6 request submitted.</p>
5.7 Development Below Mean High Water Mark		
<p>(1) The objective of this clause is to ensure appropriate environmental assessment for development carried out on land covered by tidal waters.</p>	<p>All proposed works will be undertaken above the mean high water mark.</p>	<p>Yes</p>
5.10 Heritage Conservation		
<p>The objectives of this clause are as follows—</p> <p>(a) to conserve the environmental heritage of Ryde,</p> <p>(b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,</p> <p>(c) to conserve archaeological sites,</p> <p>(d) to conserve Aboriginal objects and Aboriginal places of heritage significance.</p>	<p>Under RLEP 2014, the site is identified as local heritage item No. 327 and local archaeology site No. A346 “Former Squire’s Brewery and Halversen’s Boat Yard”.</p> <p>The site is listed as State heritage item No. 68 “Naval Refit Centre” under Schedule 5 of the BC SEPP but is not listed on the State Heritage Register under the <i>Heritage Act 1977</i>, hence the application does not require integrated referral to the NSW Department of Environment and Heritage.</p> <p>The application has been assessed by Council’s Heritage Officer who raised no objections with the exception of concerns being raised in relation to the proportion of residential vs commercial/retail floorspace within the boatshed building (full comments outlined later in this report).</p>	<p>Yes</p>

Clause	Proposal	Compliance
	<p>The original Stage 1 consent did not approve an exact amount of commercial and residential floorspace within the boat shed building, rather the areas were indicative only. It is noted that Condition No. 10 of the Stage 1 consent outlines that the consent does not approve the precise quantum of floor space, but notes that a minimum GFA of 10,208m² for residential uses and 1,564m² for non-residential uses is approved. The application results in compliance with the 1,564m² of commercial floorspace by providing for 1,576m².</p> <p>Whilst it is noted that there is a decreased extent of commercial GFA on the ground floor, this is partly compensated by an increase in commercial GFA on the basement level and Level 1. Further, it is noted that the central atrium is wholly publicly accessible and can be used by the general public to enjoy and experience the heritage boat shed.</p> <p>It is considered that the application, in relation to the orientation of the uses within the boat shed is satisfactory as it complies with the parameters set by the Stage 1 consent and allows for an appropriate mix of residential and commercial floorspace.</p>	
6.1 Acid Sulfate Soils		
(1) 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 mapped as being affected by Class 5 acid sulfate soils and the land is located within 500 metres of class 2 acid sulfate soils. The applicant has submitted an acid sulfate soils management plan, prepared by eiaustralia, dated 4 November 2020. This management plan has been reviewed by Council's Environmental Health Officer and is considered satisfactory subject to recommended conditions of consent regarding its implementation.	Yes
6.5 Limited Development on Foreshore Area		
(1) The objective of this clause is to ensure that development in the foreshore area will not impact on natural foreshore processes or affect the significance and amenity of the area.	The subject site is not mapped as being subject to a Foreshore Building Line.	N/A

Clause 4.6 Exceptions to Development Standards

Under the provisions of Clause 4.3 of the Ryde Local Environmental Plan 2014, the subject site is mapped as having a maximum permitted building heights of 14 metres, 11.5 metres and 9.5 metres. The proposal complies with the 14 metre and 9.5 metre height limits, however a variation is proposed in relation to the residential flat buildings and the 11.5 metre height limit.

The following table outlines the extents of variation for the residential flat building component of the development which is subject to the 11.5 metre height control:

Component	Approved Height in LDA2018/0223	Proposed Height	LEP Maximum Height	Proposed Variation
Residential Flat Building (East)				
Parapet	RL16.15	RL16.35	RL16.35	Compliant
Lift Overrun	RL19.35	RL19.35	RL16.93 to RL17.13	2.22m to 2.42m variation or 12% to 14%.
Pergola	RL18.36	RL18.75	RL16.89 to RL17.45	1.3m to 1.86m variation or 7% to 11%.
Car Park Exhaust	-	RL18.75	RL16.82 to RL16.92	1.83m to 1.93m variation or 10% to 11%.
Residential Flat Building (West)				
Parapet	RL16.15	RL16.35	RL16.22	0.13m variation or 0.8%.
Lift Overrun	RL19.35	RL19.35	RL16.98 to RL17.04	2.31m to 2.37m variation or 13%.
Stair Overrun	RL19.35	RL18.75	RL17.00	1.75m variation or 10%.
Pergola	RL18.36	RL18.75	RL16.70 to RL17.35	1.4m to 2.05m variation or 8% to 12%.

As shown in the table above, the application results in reduced heights (compared to the Stage 1 consent) relating to some elements of the buildings and increased heights in other building elements. Critically, it is noted that the maximum building heights of RL19.35 for both buildings, approved in the Stage 1 application are not sought to be increased in the subject modification application. **Figure 9** is a building height plane diagram which visually depicts the components of the buildings not complying.

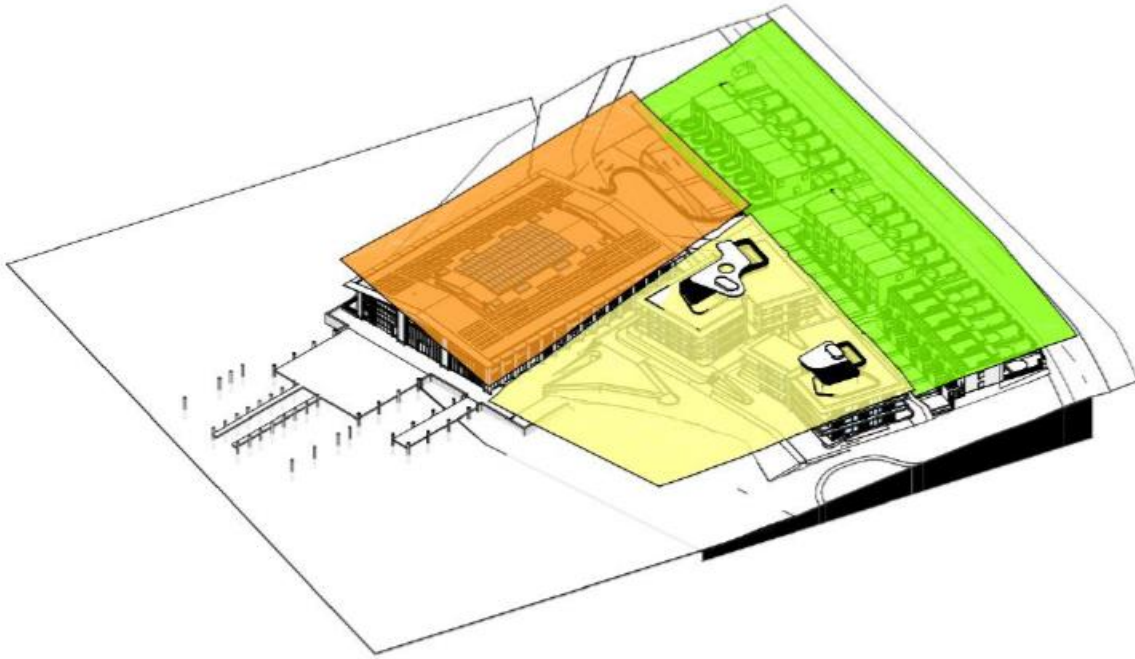


Figure 9 – Building height plane diagram showing the elements of the residential flat buildings which exceed the height limit (green represents the 9.5m height control, orange represents the 14m height control and green represents the 11.5m height control)

It is noted that Clause 4.6 was amended on 1 November in the Standard Instrument to remove the requirement for the consent authority to consider whether the variation was in the public interest and whether concurrence from the Planning Secretary was required. However, the subject application was lodged on 29 September 2023 and under the savings and transitional arrangements, the application is to be determined using the previous Clause 4.6 provisions.

Several key Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion.

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure's Guidelines for varying development standards was formulated.

These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard?
- What is the underlying object or purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?

- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?; and
- Is the objection well founded?

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* expanded on the above and established the five part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard unnecessary?
- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable?
- Is the “*zoning of particular land*” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land? Consequently, compliance with that development standard is unnecessary and unreasonable.

In the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater [2007] NSW LEC 827* and demonstrate the following:

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity);

- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

An assessment of the relevant provisions of Clause 4.6 is as follows:

- Clause 4.6(3)(a) - Is compliance unreasonable or unnecessary in the circumstances of the case?
- Clause 4.6(3)(b) - Are there sufficient environmental planning grounds to justify the proposed contravention of the development standard?

The applicant's written request provides the reasons why compliance with the standard is unreasonable and/or unnecessary, with selected excerpts shown below:

Unreasonable and unnecessary

- *The RFBs are not proposed along the Waterview Street frontage. They will be significantly set back from the street frontage and located in the central portion of the site. The distance from Waterview Street and the naturally lower ground level, will ensure the amenity and character of the street front is not reduced. Specifically, significant trees along the site's eastern boundary at the Waterview Street frontage, are proposed to be retained. New landscaping is also proposed to ensure the retention of the existing street front character.*
- *The trees will provide a natural screening element of the site from Waterview Street and ensure the site's frontage will remain proportionate with the trees and grass covered street frontages provided to nearby residential development along Waterview Street. The retention of the existing streetscape will continue to ensure the site's frontage provides a seamless transition to the recreational space at its northern and eastern boundaries which also contains large trees lined along Waterview Street. An exceedance of the height plane within the central portion of the site will not detract from this. The existing tree frontage of the site will be maintained by protecting the existing trees and their root system. In addition to the generous landscaped setback, the site's natural fall from east to west will ensure that development on the site is perceived to have a reduced height and scale when viewed from Waterview Street, ensuring an appropriate height transition when compared to the single and double storey development along Waterview Street.*
- *Exceedances to the Height of Buildings development standard are limited to upper elements of the RFBs which are not of a bulk and scale capable of significantly increasing the overshadowing impacts of the proposal. The portions of the RFBs designed to accommodate lift overruns of the future building, are centrally positioned. Their shadow will not extend beyond the buildings. No portions of the RFBs which exceed the height plane generate any additional overshadowing to the public recreational space south of the site. The lift overruns are centrally positioned and do not generate a shadow which exceeds the proposed buildings. The south and west corners of the RFBs which*

exceed the height plane do not cause additional overshadowing to the foreshore.

- The Stage 1 application was approved with a variation to the Height of Building development standard and this DA does not seek any further increases to the overall maximum height that was approved. Therefore, the proposed variation been deemed suitable to accommodate the scale and type of development proposed. The minor exceedances to the Height of Buildings development standard will not impact or result in a greater intensification of the land use on the site, nor will it result in a development that is of a larger scale than that envisioned for the site by the planning proposal. The site is not located around key public transport infrastructure. Notwithstanding, the proposal seeks to integrate several land uses including residential typologies of different densities. These uses are suitable to the site's public transport options. Minor departures from the Height of Building development standard for upper storey building components and lift overruns does not change this.*
- The site adjoins recreational land north and south along the waterfront. It does not contain any buildings that would potentially be affected by the proposal. The overshadowing impacts of the proposal are generally consistent with that approved in the Stage 1 consent. As demonstrated by the overshadowing analysis diagrams prepared by SJB, the proposal will not overshadow the recreational land to the north. There will be some overshadowing to the recreational land to the south (Bennelong Park), however it is noted that this overshadowing is at its least between 9:00am and 12:00pm, a time where solar access is desirable for passive users. RFBs which are fully compliant would still generate a similar shadow to the recreational land south of the site. The retention and provision of landscaping throughout the site will ensure adequate separation from properties along Waterview Street. It will also provide a suitable transition from development along Waterview Street, ensuring the existing amenity, in the form of street character is retained. The east-west fall of the site reduces the visual impacts of the proposal to development along Waterview Street. The proposed development on the site will have a naturally lower ground level, ensuring its perceived height and scale from Waterview Street is reduced.*

Assessment Officer's Comments: The proposal achieves the objectives of Clause 4.3 despite the building height variation. The residential flat buildings are significantly set back from the Waterview Street frontage and are located behind the proposed townhouses. Further, the site falls from Waterview Street towards the river and this will decrease the view of the residential flat buildings from the street.

The overshadowing created by the additional building height predominately falls wholly within the subject site and only impacts on Bennelong Park in the late afternoon hours. The elements that encroach above the height limit are narrow or lightweight elements that do not comprise gross floor area and provide benefit to the future building occupants by providing valuable rooftop common open space.

The Stage 1 application was approved with a variation to the Height of Building development standard and this application does not seek any further increases to the overall maximum heights that were approved.

The applicant has demonstrated that the compliance with the development standard would be unreasonable and unnecessary.

Environmental planning grounds

The justification in the applicant's request and Assessment Officer's comments are below:

- ***The site has an uneven topography which falls from east to west towards the waterfront.*** from the natural ground level. This is the case for the upper portions of the RFB's, which will protrude the 11.5m height plane. The RFBs are primarily compliant with the control, yet become non-compliant as the severity of the slope to the water front increases. Importantly, this portion of the site, due to its proximity to the waterfront and morphology, has limited excavation potential. Further excavation to reduce the height of the buildings and ensure full compliance with the height plane would not be viable. It is considered that without the topographic constraints, the lift overruns and other roof elements would only marginally exceed the 11.5m height plane. Although still technically non-compliant, the departure from the development standard would be nominal in nature, incapable of generating any adverse environmental impacts. Full compliance with the 11.5m height plane would not allow elevator access to the rooftop, reducing accessibility to the rooftop open space envisioned under the development scheme. This is considered a sub-optimal outcome for residential amenity and accessibility, as detailed further below.
- ***Rooftop communal open space provides positive residential amenity and public benefit.*** The development scheme for the site incorporates a rooftop communal open space for the RFBs, which will significantly enhance residential amenity and help improve the overall environmental performance of any future scheme. Importantly, a rooftop communal open space will ensure the ground plane can be utilised for public access thus creating the opportunity for significant community benefit. Without a rooftop communal open space, ground floor open space would need to be restricted to the public, to meet communal open space requirements for residents. To maintain equitable access to this rooftop communal open space, and contribute to its amenity, the lift overruns will protrude the 11.5m height plane within the central portion of the RFBs. This will not impact significant views to or from the site and will not generate any additional overshadowing on the surrounding locality. The lift overruns and balustrades have been integrated into the architectural form of the development. Full adherence to the development standard would require the lift overruns and balustrades to be either reduced and or removed. This would result in:
 - Unequitable access to the rooftop open space for residents. A reduction to the lift overruns can only be achieved by removing elevator access and introducing stair access to the rooftop communal open space. This does not ensure equitable access to the space particularly for those in wheelchairs and or with prams and would generate a building design unable to meet BCA/DDA requirements.
 - A reduced amount, type and diversity of communal open space available to the site. If the lift overruns were to be removed, the rooftop communal open space would not be possible in the development scheme. Alternative areas of

communal open would have to be found at ground level which would reduce the area of site open to the public. Additionally, and alternatively, an entire floor would need to be removed from the RFBs to enable a scheme which provides a rooftop communal open space and compliant lift overruns. This would not allow the site to achieve the scale of development envisioned for the site and would result in the site not reaching its full capacity in terms of delivering much needed housing supply. Maintaining this development standard would therefore result in a sub-optimal design and amenity outcome for residents and visitors. It would reduce the diversity and type of communal open space available to the site and impacts its ability to provide a high-quality through site pedestrian link, or generate an undue reduction to residential floor space and housing supply. Rooftop communal open space improves the availability of open space for future residents within the residential flat building, reducing demand, and improving the permeability of other communal spaces across the site.

- ***A place making opportunity is provided to the site via adaptive reuse and urban renewal.*** *The site is currently occupied by a boat shed and ancillary structures suitable for adaptive reuse, and a significant portion of the site is asphalted car park and driveways that have fallen into disrepair, suitable for urban renewal (much of which has already been approved for removal or demolition). Redevelopment of the site presents a unique opportunity to provide a new high-quality development which activates the waterfront yet remains sympathetic to the site's existing heritage features. The proposed RFBs offer appropriate interfaces and excellent amenity to ensure the character of the development is appropriate to its waterfront location. Upper portions of the buildings which exceed the height planes across the site, including lift overruns, are minor and localised in nature, which do not alter the appropriateness of development to the site. Additional planning grounds which support the contravention of the Height of Buildings development standard in this instance include:*
 - *The uses proposed were considered appropriate for the site, its proximity to the Parramatta River and surrounding locality, following a site-specific planning proposal and subsequent Stage 1 Concept DA (LDA/2018/0223).*
 - *The scheme proposed is consistent with the Schedule 1 provisions of the RLEP 2014 applicable to the site, ensuring development is appropriate to the area, yet remains sympathetic to existing vegetation and the foreshore.*

Assessment Officer's Comments: The applicant has identified sufficient environmental planning grounds to vary the building height standard. The site has an uneven topography which falls from east to west towards the waterfront. This gives rise to an irregular height plane across the site which results in the proposed residential flat buildings partially breaching the height plane as they fall across the site, in turn causing a technical non-compliance with the Height of Buildings development standard.

The development scheme for the site incorporates a rooftop communal open space for the RFBs, which will significantly enhance residential amenity and help improve the overall environmental performance of any future scheme. Importantly, the rooftop communal open space areas will ensure the ground plane can be utilised for public access thus creating the opportunity for significant community benefit.

The Stage 1 DA approval found the variation to the Height of Building development standard acceptable and this application does not seek any further increases to the overall maximum height that was approved. The proposed variation is considered suitable to accommodate the scale and type of development proposed.

Is the proposal in the public interest?

Pursuant to clause 4.6(4)(ii), a development will be in the public's interest if it is consistent with the objectives of the development standard and also the zone objectives in which the particular development is carried out. The objectives of Clause 4.3 are as follows:

4.3 Height of buildings

- (1) *The objectives of this clause are as follows—*
- (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.*

The proposal is in keeping with the character of nearby development, minimises overshadowing and is compatible with and improves the appearance of the significant foreshore site. The proposal does not result in any significant adverse amenity impacts upon surrounding properties.

The proposal is consistent with the public interest as required by Clause 4.6(4)(a)(ii) for the following reasons:

- The development is consistent with the objectives of the standard and zone as required by Clause 4.6(4)(a)(i).
- The proposal achieves the objectives of the standard as required by Clause 4.6(3)(a).
- The development provides for a suitable residential use in an accessible location.

Summary

The applicant has submitted a Clause 4.6 written request that seeks to justify contravention of the development standard Clause 4.3(2) Height of Buildings. Pursuant to Clause 4.6(3)(a) of RLEP 2014, the written request has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case. The written request has demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard, as required by Clause 4.6(3)(b).

Pursuant to Clause 4.6(4)(a)(i) of RLEP 2014, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3). Council is of the opinion that the proposed development will not be contrary to the public interest because of consistency with the objectives of the development standard for height of buildings.

The concurrence of the Planning Secretary is not required. Circular PS 20-002 issued on 5 May 2020 informed Council that it may assume the Director-General's concurrence for exceptions to development standards.

Accordingly, the proposed variation is supported.

(ii) Any proposed instrument (Draft SEPP, Planning Proposal)

There are no proposed or draft instruments for consideration as part of the assessment.

(iii) Any development control plan

Sydney Harbour Foreshore and Waterways Development Control Plan

The Sydney Harbour Foreshore and Waterways Area Development Control Plan (Sydney Harbour DCP) compliments the BC SEPP and provides more detailed design parameters for development within the foreshore area of Sydney Harbour.

The Sydney Harbour DCP includes provisions and maps that describe the landscape character and ecological characteristics of sites around the harbour. **Figure 10** is an extract of the Sydney Harbour DCP's Ecological Communities and Landscape Characters Map. The Sydney Harbour DCP states that the below map was produced from aerial photographs and is somewhat generalised. According to the map, there are no aquatic ecological communities within the site, with the only ecological community that occurs on the land-based site being 'open forest', which is identified as being of 'high' value. This area will be protected by a 14m setback to Waterview Street. A detailed assessment against the DCP is included as **Attachment 4** to this report.



Figure 10 – Sydney Harbour Foreshores and Waterways Area DCP Map

Ryde Development Control Plan (DCP) 2014

The proposal is subject to the provisions of the following parts of RDGP 2014:

- Part 7.2: Waste Minimisation and Management;
- Part 8.2: Stormwater & Floodplain Management;
- Part 8.3: Driveways;
- Part 9.2: Access for People with Disabilities
- Part 9.3: Parking Controls

Given that the applicant opted to lodge a Concept Development Application instead of preparing a site specific Development Control Plan, there is no applicable site specific DCP applying to the site.

Part 9.3 – Parking Controls

The car parking for the development has been assessed as follows:

Development Component	Parking Required	Parking Proposed
Townhouses 2 spaces per three or more bedroom dwelling	36 spaces	36 spaces
Residential Flat Building <ul style="list-style-type: none"> - 0.6 to 1 space per one bedroom dwelling. - 0.9 to 1.2 spaces per three bedroom dwelling - 1.4 to 1.6 spaces per three bedroom dwelling 	39 to 46 spaces	47 spaces
Shed Residential <ul style="list-style-type: none"> - 0.6 to 1 space per one bedroom dwelling. - 0.9 to 1.2 spaces per three bedroom dwelling - 1.4 to 1.6 spaces per three bedroom dwelling 	27 to 31 spaces	30 spaces
Residential Visitor <ul style="list-style-type: none"> - 1 space per 4 dwellings for Townhouses - 1 space per 5 dwellings for residential flat buildings 	15 spaces	17 spaces
Shed retail/commercial <ul style="list-style-type: none"> - 1 space per 40m² for Office and business premises 	40 spaces	47 spaces

Marina - There is no DCP rate for marinas so the rate has been derived from the traffic and parking assessment as being 17 spaces required.	17 spaces	17 spaces but the surplus retail and residential visitor spaces can be used.
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Other DCP Chapters

An assessment has been undertaken under Parts 7.2, 8.2, 8.3 and 9.2 and there were no non-compliances identified or issues warranting further discussion.

City of Ryde Section 7.11 Development Contributions Plan 2020

Council's current Section 7.11 Development Contributions Plan 2020 effective 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 additional dwellings within the development proposal. The contributions payable with respect to the increase housing density on the subject site (being for residential development outside the Macquarie Park Area) are as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$404,847.25
Open Space & Recreation Facilities	\$697,127.22
Roads & Traffic Management Facilities	\$214,016.10
Plan Administration	\$19,740.07
The total contribution is	\$1,335,730.64

Condition No. 26 on the payment of Section 7.11 Contribution of \$1,335,730.64 has been included in the draft notice of determination attached to this report.

(iia) Any planning agreement

No Planning Agreement is required or has been offered to be entered into with Council.

(iv) The regulations

Environmental Planning and Assessment Regulation 2021

The Regulation underpins the day-to-day operation of the NSW planning system. The Regulation guides the processes, plans, public consultation, impact assessment and decisions made by local councils, the Department of Planning and others. Standard conditions are recommended relating to compliance with BCA and AS.

The proposal is consistent with the Regulation. Clause 69 requires the consent authority to consider the provisions of the Building Code of Australia (BCA). These matters have been addressed via standard conditions of consent regarding compliance with the BCA and Australian Standards.

The proposal is consistent with Clause 61 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2001. A standard condition is imposed requiring the person having the benefit of this consent to notify the Principal Certifying Authority during construction to ensure that the critical stage

inspections are undertaken.

(c) The likely impacts of the development

The assessment demonstrates that the proposal will not have any significant adverse impacts upon any adjoining properties or the environment in general due to the nature of the development. All relevant issues regarding environmental impacts of the development are discussed within this report.

The development is considered satisfactory in terms of environmental impacts.

(d) Suitability of the site for the development

The site is zoned W4 Working Waterfront and benefits from a Stage 1 concept consent. During the Land and Environment Court proceedings for the Stage 1 application, it was established that the site is suitable for the development. The proposed development has remained substantially the same as the concept approved by the Court. It has been established in this report that the proposal complies with the Stage 1 consent and the relevant planning instruments and controls.

The proposed site is therefore considered to be suitable for the development.

(e) Any submissions made in accordance with this Act or the regulations

The application was notified and advertised as lodged in accordance with Part 2.1 of *Ryde Community Participation Plan* to the owners and occupants of surrounding properties between 17 October and 23 November 2023. In response, three submissions were received objecting to the proposal.

Following the close of the initial notification period a number of residents reported that they had not received a notification and these residents lived within the scope of properties that Council's records indicate were notified.

As a result, the decision was made to re-notify and re-advertise the application upon the receipt of amended plans. Amended plans and additional information were submitted by the applicant on 4 March 2024. As a result, the application was re-notified and re-advertised from 4 March until 7 April 2024. As a result, a further nine submissions were received objecting to the development.

The issues raised in the initial and second notification periods are addressed below:

- **Traffic.** *The development will increase traffic in the neighbourhood and surrounding streets. Access to/from Church Street has previously been blocked to try to prevent the area being used as a thoroughfare. The traffic generated cannot be safely and conveniently accommodated by the existing street network.*

Comment: The Stage 1 concept consent allowed for a total of 70 dwellings and the subject application seeks to reduce this to 67 dwellings given a reduction of three units within the residential flat building component. Council's Traffic Officer has advised that

in terms of the reduced intensity of proposed development, less vehicle trips are estimated to be generated and hence less impacts on surrounding road network are expected in comparison to the Stage 1 consent. Further, the Traffic Officer has advised that the traffic generated by the development will be within the environmental capacity of the surrounding road network.

- **Character.** *The site is currently an eyesore, however, the proposed development does not fit in and is out of character. The development does not respect and reflect the character of the locality.*

Comment: It should be noted that a Stage 1 concept consent was granted by the NSW Land and Environment Court which set the land uses and building envelopes for the site. The subject application is consistent with the Stage 1 consent (as modified). The impacts of the development on character cannot be revisited given that the overall development intent for the site is within the confines of the Stage 1 consent.

- **Property Values.** *The proposed development will decrease property values. Putney is evolving into an affluent, sought after area but this development will impede the suburb's growth.*

Comment: The impact of the development on property values is not a matter for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. Further, no evidence has been submitted to substantiate the objector's claim.

- **Noise generation.** *Noise generation will cause a significant loss of amenity.*

Comment: The application is accompanied by an acoustic report which contains a number of recommendations for the construction and operational phases of the development. The report has been reviewed by Council's Environmental Health Officer and is considered satisfactory. A number of conditions of consent have been recommended in order to control acoustic impact. See Condition Nos. 43, 110, 128 and 157.

- **Public Transport.** *The proximity to public transport to accommodate an increase in residents is lacking.*

Comment: It is noted that the site is not located in close proximity to train or bus transport. However, the site is located approximately 500 metres from the Kissing Point Ferry Wharf, which is serviced by the Parramatta to Darling Harbour Rivercat ferry which has regular services in both directions.

- **Impacts on Foreshore.** *The proposal will destroy the unique attraction and beauty of the current foreshore which is a key feature of Putney.*

Comment: The application is accompanied by a visual impact assessment which provides images of the development superimposed on photographs from a number of aspects of the site. The assessment demonstrates that the proposal will not have a detrimental impact on the foreshore and it's appearance will be softened by a number of established trees that will be retained.

- **Loss of Green Space.** *The proposal will result in a further loss of already dwindling green space, which includes trees and the mangroves which have proven to be an important ecological mechanism to reduce/prevent erosion, especially from tidal and boat wash.*

Comment: It is acknowledged that the proposal will result in the removal of a number of trees within the site. The subject site does not contain any mangrove vegetation. The application has been assessed by Council's Landscape Architect who advised that many of the trees had the following characteristics:

- Poor quality tree.
- Low value tree
- Weedy tree (e.g., Grevillea robusta (Silky Oak))
- Within footprint of basement excavation or building.
- Dead tree

The submitted landscaping plan depicts 96 tree plantings which have a mature exceeding five metres. It is considered that the proposal strikes a balance between achieving development potential and the provision of green space.

- **Precedent.** *The proposal will set a precedent for future approvals for high density dwellings in Putney which would be undesirable for local residents.*

Comment: It is noted that the land to the east and west of the site is zoned RE1 Public Recreation which does not permit any form of residential accommodation. Further, the land located on the opposite side of Waterview Street is zoned R2 Low Density Residential and the highest form of residential development permitted in this zone currently is Dual Occupancy (Attached). As a result, under the current environmental planning instruments, it would not be possible to construct high density residential development in the surrounding locality.

- **Use of Site.** *A compromise needs to be reached so the heritage structures are restored (perhaps even made into a restaurant) but the surrounding land should be landscaped and preserved for future generations to be able to enjoy.*

Comment: A Stage 1 concept consent has been granted for the site by the NSW Land and Environment Court which set the landuses and building envelopes for the site. The subject application is consistent with the Stage 1 consent in terms of the landuses and building envelopes and represents a reduction of three dwellings from the 70 dwellings permitted under the Stage 1 consent.

- **Construction Impacts.** *The construction poses many issues that range from congestion within the street, disruption to the long-term residents that live here (the objector has already endured full days without power) because of this and road closures without any notice which has made it inconvenient and stressful to live here.*

Comment: It is acknowledged that there will be some impacts arising from the construction period of the development. A number of conditions of consent are

recommended to seek to address the construction impacts covering aspects including acoustic impact, construction traffic and dust and other air pollution.

Second Notification Period

- ***Sunrise views.*** *The objector's property will no longer have the sunrise views that they look forward to every morning.*

Comment: The objector's property is located on the corner of Waterview Street and Princes Street, opposite the subject site. The view from this property through the subject site is in a south-western direction. Given that the sun rises from the east, there will be no impact from the development on the objector's view of the sunrise.

- ***Privacy Impact from Townhouses.*** *The proposal includes three storey townhouses directly opposite the objector's bedroom window, hence due to the privacy issue they will no longer be able to leave their blinds open.*

Comment: The objector's bedrooms and the closest proposed townhouse have a separation of approximately 38 metres and it is noted that there is an established street tree located to the front of the objector's property which will screen the views between their bedroom and the townhouses. Given the separation distance and the intervening vegetation it is considered that there will be a negligible impact on the objector's privacy from the townhouses.

- ***Overdevelopment.*** *The proposal involving the construction of townhouses, and residential flat buildings will destroy the low density housing that characterises Putney.*

Comment: The landuses and building envelopes were approved in the Stage 1 consent. The Stage 1 consent allowed for 70 dwellings across the site, however, the subject application reduces this to 67 dwellings. Further, as noted previously, the land to the east and west of the site is zoned RE1 Public Recreation which does not permit any form of residential accommodation. Further, the land located on the opposite side of Waterview Street is zoned R2 Low Density Residential and the highest form of residential development permitted in this zone currently is Dual Occupancy (Attached). As a result, under the current environmental planning instruments, it would not be possible to construct high density residential development in the surrounding locality.

- ***Building Heights.*** *The applicant is breaching building heights just to try to get water views at the expense of those who have lived here for decades.*

Comment: It is noted that the Townhouses and Boat Shed building comply with the Ryde Local Environmental Plan 2014 in relation to building height. The only element that breaches the height limit is some components of the residential flat buildings. The applicant has submitted a Clause 4.6 request which has been discussed earlier in this report and is considered to be well founded. Further, it is noted that there was a building height variation approved as part of the Stage 1 consent in relation to the residential flat buildings and the subject application involves minor adjustments to the portions of the buildings that exceeded the height control without exceeding the maximum heights that were approved.

- **Traffic.** *The streets leading to this site are narrow from all sides and will cause congestion issues as cars won't be able to pass each other with the street filled with parked cars that want to access the site.*

Comment: The Stage 1 concept consent allowed for a total of 70 dwellings and the subject application seeks to reduce this to 67 dwellings given a reduction of three units within the residential flat building component. Council's Traffic Officer has advised that in terms of the reduced intensity of proposed development, less vehicle trips are estimated to be generated and hence less impacts on surrounding road network are expected in comparison to the Stage 1 consent. Further, the Traffic Officer has advised that the traffic generated by the development will be within the environmental capacity of the surrounding road network.

- **Townhouses.** *The density of proposed townhouses along Waterview Street is excessive and the artist renderings submitted are misleading, depicting a lower density than what is proposed.*

Comment: The density of townhouses along the Waterview Street frontage is consistent with the density approved in the Stage 1 consent (as modified). The 3D renderings are for indicative purposes and the floor plans and elevations take precedence over the renderings. Further, it should be noted that the 3D renderings will not be stamped and will not form part of the approved plan set should the Panel resolve to approve the application.

- **Waste Collection.** *The bin and bulk waste collections from the development should be contained within the site and not visible from the street and stipulated in the waste management plan.*

Comment: The application has been amended during the assessment phase to propose all bin and bulk waste collection being undertaken wholly within the site. The waste vehicle parking area is proposed adjacent to the western boundary and is capable of accommodating Council's waste vehicle entering and exiting the site in a forward direction.

- **Entry and Exit Mirrors.** *Entry and exit mirrors must be documented in the DA for construction and final site access roads are to ensure the safety of pedestrians, cyclists and motorists.*

Comment: The application has been assessed by Council's Traffic Officers and Senior Development Engineer and neither specified the need for entry and exit mirrors. At the single vehicle access point proposed for the development, there is sufficient sight distance in both directions for motorists and a suitable line of sight of pedestrians and cyclists using the shared path on the southern side of Waterview Street.

- **Operational Hours for Businesses.** *Operational hours for businesses need to be established to prevent disruptions to local residents, particularly during evenings and weekends, with special considerations for licensed venues.*

Comment: The tenants or exact uses for the retail/commercial tenancies are not known at this stage. A condition of consent is recommended requiring that separate Development Applications be lodged with Council for the first use of the

retail/commercial tenancies within the building. When these applications are assessed by Council, consideration will be given to the hours of operation and acoustic impacts surrounding the proposed uses. Given the W4 Working Waterfront zoning of site and the heritage status, it will not be possible for the uses within the retail/commercial tenancies to be

- **Light Spill.** *Measures must be taken to minimise light spillage/pollution from the proposed residences and businesses, including directing light away from the Waterview Street area. There should be no emergency lighting facing Waterview Street.*

Comment: Lighting details are not required to be submitted at development application stage. A number of conditions of consent are recommended to reduce the impacts of any lighting required for the development. See Condition Nos. 35, 56 and 120.

- **Noise Levels.** *Noise levels especially from mechanical exhaust systems must be minimised and no such systems should face Waterview Street.*

Comment: There are no mechanical exhaust systems or ducting proposed along the Waterview Street frontage of the site. An acoustic report was submitted with the application, prepared by Acoustic Logic, which makes a number of recommendations in relation to noise levels from mechanical exhaust. A condition of consent is recommended requiring that the recommendations of the report be implemented in full.

- **Contact Details.** *Council and the contractor should provide contact details to all residents in the Waterview Street area for direct communication during the construction process.*

Comment: The contractor and principal certifying authority for the development are legally required to be displayed on a sign in a prominent position on the site to allow residents to make contact if required. Council does not have a process in place to notify residents of a contact during the construction phase and is not legally required to do so.

- **Traffic Management.** *The construction traffic management plan (CTMP) should ensure uninterrupted access to 62 Regent Street, 163 Princes Street and 45 Waterview Street, Putney with no detours or restrictions. Please provide access to the CTMP.*

Comment: The applicant will be required to submit a detailed Construction Traffic Management Plan (CTMP) for the construction phase and a condition of consent is recommended outlining the measures that are required to be addressed in the CTMP. See condition No. 68.

- **Parking During Construction.** *No contractor parking, construction zones, or loading zones should be granted outside the site to avoid impeding residents, pedestrians and local traffic. Construction vehicles should not be staged on Waterview Street or surrounding streets to prevent congestion, with access managed to minimise disruption.*

Comment: The applicant will be required to submit a detailed Construction Traffic Management Plan (CTMP) for the construction phase and a condition of consent is recommended outlining the measures that are required to be addressed in the CTMP. See Condition No. 68.

- **Noise During Construction.** *Effective noise reduction/management measures must be implemented throughout the construction period, with noise levels monitored and kept within recognised EPA requirements. Please provide the relevant noise management plan.*

Comment: An acoustic report was submitted with the application, prepared by Acoustic Logic. The report makes a number of recommendations to address noise impacts during the construction phase of the development. A condition of consent is recommended requiring that the recommendations of the report are to be implemented in full. The acoustic report is able to be downloaded on Council's DA Tracking website.

- **Construction Waste.** *Construction waste especially asbestos is to be managed and disposed of under strict EPA guidance. Please provide the construction waste management plan.*

Comment: With regard to asbestos removal, the site benefits from Development Consent No. LDA2019/0172 (granted by the NSW Land and Environment Court) which permits the partial demolition of the boatshed and ancillary structures, the removal of trees and remediation works. This consent contains a number of conditions relating to the safe removal and disposal of asbestos encountered during demolition works. The submitted waste management plan details the recycling and disposal of construction waste and is able to be downloaded on Council DA Tracking website.

- **Removal of Silky Oak Trees.** *In the north-eastern corner of this site is a pocket of 10 to 12 moderately mature specimens of Silky Oak (*Grevillia robusta*). About half of the trees run in a straight line abutting Waterview St, and the other half run in a straight line abutting the western perimeter of Kissing Point Park. These are a species of native tree which is in general decline in the Sydney basin, including in the City of Ryde and Putney in particular. The species has an unusual and attractive foliage from which sprout beautiful yellow flowers during spring and summer. The species is an important attractor for wattle bird, currawong, galah, corella and cockatoo. Galah, corella and cockatoo are relatively plentiful in urban Sydney but this is not so for wattle bird and currawong whose habitat is diminishing. For this reason, it is important that the cluster of Silky Oaks at 20 Waterview Street be isolated from the tree removal plan.*

Comment: Council's Landscape Architect has assessed the application and considers that the removal of the Silky Oak trees is suitable as these trees have been identified as being an invasive species in the local area. Whilst these trees will be removed, a suitable quantity and variety of replacement trees will be planted across the site.

- **Relocation of Townhouse.** *Relocation of the first townhouse from adjacent to the proposed driveway access to the site should be considered. This would create a much nicer entry to the development and create a more user friendly*

access walkway for local residents and visitors to enter and exit the Halverson Shed Facilities and proposed retail amenities.

Comment: The Stage 1 concept consent approved the location of Townhouse 1 next to the main vehicle entrance/exit to the site. Relocating this Townhouse would result in a departure from the Stage 1 consent. The approved location of this townhouse is considered satisfactory as there are suitable pedestrian entrances along the western side of the driveway, to the centre of the site and in two locations on the eastern boundary. The proposal results in improved pedestrian connectivity through the site compared to the Stage 1 consent and the current situation.

- ***Main Entry to Site.*** *Entry to the main driveway nearing Townhouse 1 of great concern. It would be a better outcome to have the main pedestrian access widened and have it from front boundary to the Halverson Shed.*

Comment: The Stage 1 concept consent approved the main vehicle entrance/exit to the site adjacent to the western boundary. Relocating the entrance/exit to an alternative location would be departing from the Stage 1 consent. It should be noted that the main pedestrian entrance to the site from Waterview Street (between Townhouse 6 and 7) was widened during the assessment phase of the subject application and significantly improves the pedestrian outcome for the development.

- ***Alarms.*** *There should be no alarm sirens facing Waterview Street. Any alarms are to be facing the rear of the properties.*

Comment: The subject application does not provide any detail on alarms that will be installed on the site and this is not an aspect that is generally addressed as part of Development Applications. However, a condition of consent is recommended requiring that any alarms be directed to the rear of the Townhouses and away from Waterview Street. See Condition No. 25.

- ***Construction Noise and Asbestos.*** *Noise reduction measures are to be in place during construction. Vibration metres decibel readings and air quality measures need to be undertaken. Water mist spraying along Waterview side fence of development should have a water line mist sprayer to manage dust and asbestos fibres in the air.*

Comment: An acoustic report was submitted with the application, prepared by Acoustic Logic. The report makes a number of recommendations to address noise impacts during the construction phase of the development. A condition of consent is recommended requiring that the recommendations of the report are to be implemented in full. With regard to asbestos removal, the site benefits from Development Consent No. LDA2019/0172 (granted by the NSW Land and Environment Court) which permits the partial demolition of the boatshed and ancillary structures, the removal of trees and remediation works. This consent contains a number of conditions relating to the safe removal and disposal of asbestos encountered during demolition works.

- ***Electricity Substations.*** *Relocation of the substations to the Townhouse 18 side should be considered as there is much more reserve there and will allow for the driveway/substation area to be reduced. This reduction will allow units 1- 6 to be repositioned further up the street creating a much nicer entry to the*

development and create a more user friendly access walkway for local residents and visitors to enter and exit the Halverson Shed Facilities and retail.

Comment: The proposed location of the electricity substations between Townhouses 6 and 7 has been the subject of consultation between the applicant and Ausgrid (being the responsible utility company) prior to the lodgement of the subject development application. Ausgrid have deemed the proposed location of the substations to be the most appropriate on the site considering their requirements and the current substation location. Ausgrid will be required to acquire an easement over the site and have entered into a Deed of Agreement with the site owner.

- **Pedestrian Access.** *It is suggested that the main pedestrian access be widened and have it from front boundary to the Halverson Shed not in a Maze like Fashion. The community want to enjoy this and the businesses need to thrive.*

Comment: The application was amended during the assessment phase to widen the central pedestrian entrance to the site from Waterview Street. There is a separation of 12.665 metres between Townhouse 6 and Townhouse 7 which will provide a direct line of sight from Waterview Street to the Boat Shed building where the retail/commercial tenancies are located (**Figure 11**).

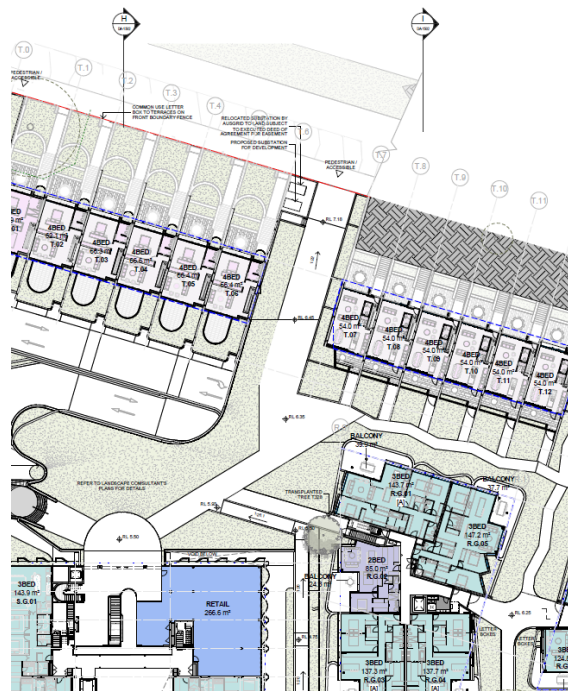


Figure 11 – Extract of ground floor plan showing primary pedestrian entry to the site

- **Development Contributions.** *All Council Section 7.11 contributions to be collected from the development are to be dedicated to and allocated to this particular area of Putney.*

Comment: The development will be subject to development contributions in accordance with Council's Section 7.11 Contributions Plan 2020. The Plan applies to the whole local government area (LGA), outside Macquarie Park. As a result, the contributions collected under the Plan may be used on any part of the LGA outside

Macquarie Park. There is no way to guarantee that the funds collected for the subject development will be apportioned to Putney.

(f) The public interest

Having regard to the characteristics of the site and its location, the proposed development is considered appropriate in that:

- The site is zoned to accommodate the proposal and has undergone an extensive planning process (including rezoning and Stage 1 DA) which this Stage 2 DA will now realise the longstanding vision developed through this process.
- The size and dimensions of the land are appropriate for accommodating the proposed buildings and uses.
- The proposed development will positively respond to the streetscape and be compatible in size and siting with surrounding (existing and future) development.
- The site will have access to all utility services to accommodate the demand generated by the proposed development.
- A remediation strategy has been proposed and will be carried out to ensure the land is made safe for the proposed uses.
- The local road network and key intersections have been assessed to be able to accommodate the traffic volumes generated by the proposal, without adversely impacting on performance or safety.
- The proposal forms the next step in the long-term vision of redeveloping the important foreshore site for a range of maritime, residential and commercial uses.

7. REFERRALS

External Referrals

WaterNSW: The application was referred to WaterNSW under Section 90 of the Water Management Act 2000 given that the proposal requires a dewatering licence. Water NSW provided General Terms of Approval (GTA's) dated 9 July 2024. A condition of consent has been recommended requiring compliance with the GTA's. See **Condition No. 6**.

NSW Department of Planning and Environment - Water: The application was referred to the NSW Department of Planning and Environment – Water under the provisions of Section 91 of the Water Management Act 2000. Comments from DPE – Water were provided on 15 January 2024 advising that the proposed works are exempt from the need to obtain a Controlled Activity Approval under the Water Management (General) Regulation 2018, Schedule 4, Item 36.

Viva Energy: The application was referred to Viva Energy under the provisions of Clause 2.77 of SEPP (Transport and Infrastructure) 2021. Viva Energy provided a response dated 7 December 2023 raising no objections subject to recommended conditions of consent. See **Condition Nos 83 and 155**.

Internal Referrals

Senior Development Engineer: Council's Senior Development Engineer reviewed the proposal and raised no objection. The following comments were provided:

Vehicle Access and Parking Issues

The initial review identified a number of modifications to the parking area so as to address vehicle access concerns and appropriate allocation of visitor parking spaces.

In short, it was advised the development is short 4 visitor parking spaces and the residential RFB resident parking allocation presented a considerable parking surplus of 22 spaces (max. of 46 spaces required). With some issues relating to vehicle access, a recommendation was made to reconfigure the basement parking configuration to address these matters.

The applicant has presented revised plans which allocate the parking as follows;

<i>Development Type</i>	<i>Parking Required</i>	<i>Parking Proposed</i>
<i>Terrace Units</i>	<i>36</i>	<i>36</i>
<i>RFB (High density)</i>	<i>39 – 46</i>	<i>47</i>
<i>Shed Residential (High density)</i>	<i>27 – 31</i>	<i>30</i>
<i>Residential Visitor</i>	<i>15</i>	<i>17</i>
<i>Shed Retail / Commercial</i>	<i>47</i>	<i>47</i>
<i>Marina</i>	<i>17</i>	<i>17</i>

The proposal presents a surplus of 1 space for the RFB component though there is a 1 parking space short of the maximum for the shed residential component. Accordingly this non-compliance presents a very negligible difference and does not draw concern.

Stormwater Management Summary

The initial review of the proposed stormwater management system noted the plans lack a rainwater tank which was required by the BASIX certificate (10,000L). The Architectural plans note a rainwater tank in the lower basement level however this would not be supported given that it lacks a failure mode (a means to safely direct surcharge flow away from internal areas should the downstream pipe system block).

The rainwater tank could readily be relocated to the upper basement level and must have an open grate in an open communal area at ground level so as to ensure any surcharge flows are dealt with, as well as assist in the maintenance of the tank. This is addressed by condition of consent.

A second review of the proposal notes that the courtyard areas of terraces present “trapped” areas where stormwater can be trapped and flood units in the event that the piped drainage system blocks. It will therefore be essential that an overland flowpath be

catered for by having openings in the sidewalls of terraces, allowing stormwater to be conveyed back to open space areas, away from entryways to habitable areas, in the event that the piped system blocks or surcharges. This is additionally addressed by condition.

Recommendation

Assessment of the engineering components of the proposed development notes the proposal is generally acceptable subject to the application of the recommended conditions of consent.

See Condition Nos. 16, 17, 18, 19, 20, 23, 44, 45, 46, 47, 48, 50, 51, 52, 53, 100, 101, 102, 103, 104, 121, 122, 123, 124, 126, 159 and 160.

City Works – Public Domain: Council's Activation and Compliance Officer reviewed the proposal and raised no objection subject to recommended conditions of consent. See **Condition Nos. 49, 54, 55, 56, 57, 58, 59, 60, 79, 80, 81, 82, 106, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141 and 142.**

City Works – Traffic: Council's Traffic Engineer reviewed the proposal and raised no objection. The following comments were provided:

External Traffic Impact

Comparing with the approved LDA2018/0223 for the site Concept Plan, this development yield has been changed including:

- *3 residential dwellings are reduced;*
- *The overall GFA of commercial/retail/marina uses is also reduced from 1,750m² to around 1,566m² (excluding 729m² open plaza space);*

In terms of reduced intensity of proposed land use developments, less vehicle trips are estimated to be generated and hence less impacts on surrounding road network are expected as well, comparing with approved Concept Plan of LDA2018/0223.

Parking Compliance

In view of reduced yield of this development, comparing with approved LDA2018/0223, the required car parking spaces by DCP and Australian Standard are also reduced and less than 178 car parking spaces, as proposed by the approved LDA2018/0223. The subject development providing 207 car parking spaces is compliant with Ryde DCP 2014 and AS 3962:2020.

Mitigations

Consent Condition 23 of approved LDA2018/223 requires a TIA report is submitted and all recommendations in the traffic assessment completed by TRAFFIX Pty Ltd. Reference 17.181r02v02, dated 15th May 2019. This condition 23 is also addressed in the submitted architectural plans.

Conclusion

In conclusion, based on the above discussion, Traffic Services Department has no objection to the approval of this application subject to the recommended conditions of consent.

See Condition Nos. 21, 22, 23, 68, 100, 143, 144, 145, 146, 164 and 165.

City Works – Waste: Council's Waste Officer reviewed the proposal and raised no objections subject to recommended conditions of consent.

See Condition Nos. 61, 62, 63, 64, 65, 66, 67, 108, 109, 147, 148, 149, 150, 151, 152, 154, 161, 165, 166, 167, 168, 169, 170 and 171.

Heritage Officer: The following comments were provided by Council's Heritage Officer:

- *European heritage:*
 - local heritage item identified in Ryde LEP 2014 - # No. 327, Former Squire's Brewery and Halvorsen's Boat Yard
 - local archaeological site identified in Ryde LEP 2014 - #A346, Former Squire's Brewery and Halvorsen's Boat Yard
 - State heritage item No. 68 "Naval Refit Centre", Schedule 5 of BC SEPP
 - (not listed on the State Heritage Register, Heritage Act 1977).
- *Aboriginal heritage:*
 - AHIMS Register - Aboriginal Site #45-6-3746 - Isolated Artefact ISF1; TBC – TU8: both require AHIP to harm and TU8 also requires salvage excavation (NPWS Act).

Statement of Significance:

The complex at 20 Waterview Street, Putney, has cultural heritage significance at a local level for its remnant archaeological evidence of early colonial occupation, as well as its ongoing use as a boat building, servicing and repair facility from the 1930s to the present day. It is associated with James Squire, an emancipist convict and prominent early landholder in the Ryde area who established the Malting Shovel Inn and brewery on the site c.1798; the archaeological remains of Squire's c.1804 wharf can be seen on the site today. The complex is associated with Halvorsen Sons Pty Ltd, a prominent family company who constructed a boat building shed and associated structures on the site in the 1930s, and it is of historical significance for its continuous and ongoing use as a maritime complex for pleasure craft as well as wartime production. It has archaeological potential particularly for the remnant deposits associated with Squire's Wharf, which may yield information relating to early colonial maritime construction methods. The site also has archaeological potential as the site of James Squire's house and brewery, the first commercial brewery in Australia. The wharf remains are rare, with one other from this period listed on the NSW Maritime Heritage and Conservation Register at Windsor, and two others in the Ryde area which date from a later period.

Heritage assessment

Boat Shed. While the submitted documents describe the subject application as a small increase to residential FSR and reconfiguration of commercial FSR for commercial functionality, there is actually significant change to the residential FSR and layout in the proposal:

- *New layout of the Basement (former ground floor) - minor residential increase and minor decrease in commercial*

- *New layout of Ground floor (former Level 1) – substantial residential increase and substantial decrease in commercial*
- *New layout of Level 1 (former Level 2) – minor decrease in residential and minor increase in commercial*

Condition No. 3 of the Stage 1 consent allows the Boatshed to have up to 19 residential units but it is silent on the amount of FSR layout and location in the Boatshed. Hence the modification proposes the new ground floor would be residential - from about 35% to 80% (and commercial from about 65% to 20%). Heritage concern is raised about the upsizing of the residential units FSR and takeover of the new ground floor at the loss of commercial FSR, which provides the public access to the heritage building. The scope of the mixed-use development is lost to more residential FSR, and this is not considered to be fair adaptive reuse:

- a) curtails public access and enjoyment of the Boatshed as local and State heritage items, historical archaeological sites and Aboriginal heritage site – which likely fundamental to the LEC approved development, section 5.10 Heritage Conservation,*
- b) undermines the viability of the F&B commercial FSR across any floors and curtail public access to the Boatshed – F&B and Mariana commercial FSR not nominated ,*
- c) privatises the majority of ownership and access to the Boatshed, and curtails public access and enjoyment of the site, as less opportunity to use F&B commercial FSR.*

The LEC consent has mixed-use of the Boatshed to ensure the heritage building is accessible and available to the public on a regular basis through balanced commercial FSR and residential FSR. The increased residential FSR and privatisation of the residential FSR/ layout of the Boatshed is detrimental to public access to the heritage building, and potentially the commercial viability of the future food and beverage commercial FSR – which could lead to further requests for full residential FSR in the Boatshed.

The proposed changes to the Boatshed will have an adverse impact on the significance of the heritage building, while works elsewhere on the site will not have an adverse impact from reviewing the application.

Assessment Officer's Comments: The original Stage 1 consent did not approve an exact amount of commercial and residential floorspace within the boat shed building, rather the areas were indicative only. It is noted that Condition No. 10 of the Stage 1 consent outlines that the consent does not approve the precise quantum of floor space, but notes that a minimum GFA of 10,208m² for residential uses and 1,564m² for non-residential uses is approved. The proposed modification results in compliance with the 1,564m² of commercial floorspace by providing for 1,576m².

Whilst it is noted that there is a decreased extent of commercial GFA on the ground floor, this is partly compensated by an increase in commercial GFA on the basement level and Level 1. Further, it is noted that the central atrium is wholly publicly accessible and can be used by the general public to enjoy and experience the heritage boat shed.

It is considered that the application in relation to the orientation of the uses within the boat shed is satisfactory as it complies with the parameters set by the Stage 1 consent and allows for an appropriate mix of residential and commercial floorspace. See **Condition Nos. 7 and 8.**

Environmental Health Officer: Council's Environmental Health Officer has reviewed the proposal and provided the following comments:

The site is situated on the banks of the Parramatta River. The boatshed and associated land have been used for industrial and commercial uses for many years for uses often related to boat building, sales and repairs.

Many of the buildings on the site including the boatshed on the wharf are in poor state of repair. The use of the site over the years would mean that soil contamination will be likely to be encountered. Some of the buildings will also likely to contain hazardous materials.

The site is bounded on either side by public space and river foreshore. The other side of Waterview Street, opposite the site is a residential area comprising single dwelling lots.

A remediation action plan (RAP) prepared by eiaustralia submitted with the application details previous site investigations that have been carried out and previous remedial action plans prepared. This RAP follows on from a previous one that was revised by the Land and Environment Court reviewed by a site auditor. It concludes that the site can be made suitable for the proposed use if remediated in accordance with the plan.

Following the remediation work it will be necessary for the site to be validated. Being a more complicated remediation process and nature of the contamination, it would be advisable that the remediation and validation carried out is reviewed by a site auditor.

The noise assessment prepared by Acoustic Logic assessed both noise intrusion to the proposed residential units and noise emission to the existing environment. The emission was based on an intrusion criteria of 5dB(A) above the background. The main time of concern would be at night after 10pm. The project trigger for this time is 42 dB(A) based on an assessed background of 37dB(A). This level would be considered to be quiet and as such the assessment would appear to reflect what would be expected in this area.

It has not yet been determined what type of commercial tenancies will occupy the site. However, it is expected that some food and drink premises will be likely. As such a condition for separate application for these premises being submitted has been recommended.

Acid sulphate soils have been assessed and a management plan has been prepared by eiaustralia. A condition of consent is recommended regarding the implementation of this plan.

See **Condition Nos. 12, 13, 14, 15, 69, 86, 110, 128, 157 and 158.**

Landscape Architect: Council's Landscape Architect has reviewed the proposal and provided the following comments:

An Arboricultural Impact Assessment (AIA) has been submitted with the application prepared by Arterra dated 12/05/2018 updated 8/07/2023.

The Demolition Conditions of Consent (LDA2019/172) nominated 77 trees to be retained with 20 trees to be removed. The subject DA has nominated that of the 77 to be retained that 59 of these trees now be removed. Reasons indicated for removal in the AIA include:

- Poor quality tree.*
- Low value tree*
- Weedy tree. (e.g., Grevillea robusta (Silky Oak))*
- Within footprint of basement excavation or building.*
- Dead tree*

There are 19 trees shown to be retained: 301, 311, 319, 320, 322, 323, 325, 328 (transplant), 329, 330, 335, 364, 365, 366, 378 (transplant), 381, 388 & 412.

There are 87 trees shown to be removed: 50, 302-306, 312-318, 321, 326, 327, 331, 332, 334, 336-363, 367-377, 379, 380, 382-387, 389-411.

Compensatory tree planting of 76 trees is required.

Cinnamomum camphora (Camphor Laurel) trees have been included in the list of trees to be removed as they are considered by the Department of Primary Industries NSW to be a weed.

See Condition Nos. 73, 74, 75, 76, 77, 96, 97, 98, 99, 125, 126 and 127.

City Spaces: The application was referred to Council's City Spaces (Parks) team for comment and the following comments were provided:

City Places acknowledges and appreciates the work done to resolve Condition 33 of the Stage 1 consent relating to pedestrian connectivity through the site and the provision of an at grade route. The intention is that this is accessible for the public at high demand times of use and provides a foreshore connection along the Parramatta River consistent with the Ryde Riverwalk Master Plan. To improve the outcome, it should be required that clearly delineated pedestrian access is provided, adjacent to the driveway on the western edge property from Waterview Street. This is inferred in the response to Council, however is not shown on the plans provided. This should be a minimum of 1.2m in width and provide safe access clearly identifying pedestrian and vehicle areas. We suggest that a condition of consent be included to require the 2 security gates on the northern side of the 'shed' building detailed in plan DA-1001 (dated 1/03/2024) to remain open from 6am – 10pm Mon – Sat and 7am – 8.00pm on Sunday.

The reposition of the indicative pedestrian connection into Settler's park on the western boundary linking the park with the entry stair near the shed, is supported. As there is a proposed pedestrian connection up to Waterview Street the path in the park can be constructed at a later date.

It is recommended that a condition of consent be imposed requiring the construction of a connection for the two footpaths on the eastern side of the property, to the existing pedestrian path in Bennelong Park on Council land. This will then ensure this work is done in conjunction with the development and is not reliant on Council undertaking the works. These would not be significant.

See Condition Nos. 56 and 172.

Natural Areas: The application was reviewed by Council's Natural Areas team and no objections were raised subject to the amendment of the landscaping plans to substitute some of the species to be planted in raised beds. The plans were subsequently amended to address the concerns. No conditions of consent were recommended.

8. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the likely impacts identified in this report, it is considered that the application can be supported, subject to conditions.

The likely impacts as outlined in this report have been resolved satisfactorily through amendments to the proposal and in the recommended draft conditions at **Attachment 5**. Therefore, it is recommended that the application be approved for the following reasons:

- The proposed development is consistent with the objectives and development standards for land zoned W4 Working Waterfront.
- This proposal positively contributes to the locality and fits sensitively into the streetscape.
- The proposal promotes and provides for improved public access to the waterfront and provides for a continuation of the public recreation land located to the east and west of the site.
- The issues raised in the submissions do not warrant the refusal of the application and have been adequately addressed in the Assessment report.
- The proposed development does not create unreasonable environmental impact to existing adjoining development.
- The proposal is not contrary to the public interest.
- The site is considered to be suitable for the proposed development.

9. RECOMMENDATION

- A. That the Sydney North Planning Panel accepts that the Clause 4.6 written request to vary the height of buildings control (Clause 4.3) in LEP 2014 has adequately addressed the matters in subclause (4) and will be in the public interest as it is consistent with the objectives of the development standard in Clause 4.3 and the objectives of the W4 Working Waterfront zone of Ryde Local Environmental Plan 2014.

- B. That the Sydney North Planning Panel, as the consent authority, grant development consent to Development Application No. LDA2023/0245 for land at 20 Waterview Street, Putney, subject to the draft conditions contained in **Attachment 5**.
- C. That Water NSW, Department of Planning and Environment - Water and Viva Energy be advised of the decision.
- D. That those who made a submission be advised of the decision.

Report prepared by:

Shannon Butler
Senior Town Planner

Report approved by:

Sohail Faridy
Senior Coordinator Development Assessment

Carine Elias
Manager Development Assessment

ATTACHMENTS

Attachment 1: Proposed Architectural Plans
Attachment 2: Proposed Landscape Plans
Attachment 3: Applicant's Clause 4.6 Request
Attachment 4: Assessment against ADG & Sydney Harbour Foreshore and Waterways DCP
Attachment 5: Recommended Conditions of Consent