

COUNCIL ASSESSMENT REPORT
SYDNEY NORTH PLANNING PANEL

SNPP No	PPSSNH-500
DA Number	LDA2024/0092
Local Government Area	City of Ryde
Proposed Development	Demolition of existing structures and construction of a mixed-use development comprising retail premises, 411 residential apartments, basement parking for 1,135 vehicles and stratum subdivision into six lots. The application is integrated development pursuant to: Section 91 of the Water Management Act 2000. Section 138 of the Roads Act 1993.
Street Address	152-190 Rowe Street and 3-5 Rutledge Street, Eastwood.
Applicant/Owner	The Trustee for Eastwood Centre Unit Trust
Date of Lodgement	13 May 2024
Number of Submissions	<u>First Notification</u> 18 unique submissions by way of objection. <u>Second Notification</u> 18 unique submissions by way of objection.
Recommendation	Approval subject to conditions
Regionally Significant Development Criteria (Schedule 6 of SEPP (Planning Systems) 2021)	General Development over \$30 Million. Cost of works: \$338,392,607 (excluding GST)
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979; • Biodiversity Conservation Act 2016; • Environmental Planning and Assessment Regulation 2021; • State Environmental Planning Policy (Planning Systems) 2021; • State Environmental Planning Policy (Biodiversity and Conservation) 2021; • State Environmental Planning Policy (Housing) 2021; • State Environmental Planning Policy (Resilience and Hazards) 2021; • State Environmental Planning Policy (Sustainable Buildings) 2004. • State Environmental Planning Policy (Transport and Infrastructure) 2021; • State Environmental Planning Policy (Industry and Employment) 2021; • Ryde Local Environmental Plan 2014;

	<ul style="list-style-type: none"> • Ryde Development Control Plan 2014; and • Section 7.11 Contribution Plan.
Clause 4.6 Requests	<ul style="list-style-type: none"> • Clause 4.3 – Height of Buildings (81.3% variation)
Summary of Key submissions	<ul style="list-style-type: none"> • Building height. • Overshadowing. • Visual privacy. • Traffic and parking • Maintenance of access
List all documents submitted with this report for the panel's consideration	Attachment 1: Draft Conditions. Attachment 2: Architectural and Landscape Plans. Attachment 3: Clause 4.6 (Building Height). Attachment 4: Design Principles and ADG Table. Attachment 5: RDCP Assessment.
Report prepared by	Henry Burnett – DFP Planning Pty Ltd
Report date	1 April 2025

Summary of s. 4.15 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 matter been listed, and relevant recommendations summarised, 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
Regional Infrastructure Contributions	
Does the DA require Regional Infrastructure Contributions (a housing and productivity contribution) conditions (S7.24)?	Yes
Conditions	
Have draft conditions been provided to the applicant for comment?	Yes

1. EXECUTIVE SUMMARY

1.1 Proposed Development

The development application is for a mixed-use development at 152-190 Rowe Street and 3-5 Rutledge Street, Eastwood which comprises a large, consolidated site (~1.26 hectares) within the Eastwood Town Centre at the western side of the heavy rail line.

The proposed development includes the demolition of all existing structures on the site and the construction of a mixed-use development comprising retail premises, 411

residential apartments, basement parking for 1,135 vehicles, and stratum subdivision into six lots.

1.2 Voluntary Planning Agreement

The development application is accompanied by a letter of offer to enter into a Voluntary Planning Agreement (VPA).

Council has agreed to an amended letter of offer and have provided a deferred commencement condition to enable the determination of the development application.

The VPA would need to be entered into prior to the development consent becoming operative.

1.3 Amended Development Application

The proposed development was amended by the applicant during the assessment of the development application which include the following key changes:

- Building Height: Building height reduction;
- Vehicular Entry: Slip-lane entry from Rutledge Street to Council and Transport for NSW requirements; and
- Building Separation: Building separation increased to No. 7 Rutledge Street.

1.4 Public Exhibition and Submissions

The development application was publicly exhibited with a total of 36 unique submissions by way of objection being received comprising 18 in the first round and 18 in the second round related to amended plans.

The issues raised in the submissions relate to loss of amenity for adjoining properties, height, maintenance of access, traffic and parking.

The submissions are addressed under **Section 5.3** in this report.

1.5 Compliance

The proposed development has been assessed having regard to the relevant matters for consideration under Section 4.15(1)(a) of the *Environmental Planning and Assessment Act, 1979*.

Table 1 provides a summary of the statutory pre-conditions for which the Sydney North Planning Panel must be satisfied prior to the granting of development consent.

Table 1 - Summary of Statutory Pre-Conditions		
EPI	Statutory Pre-Condition	Comply
SEPP (Biodiversity & Conservation) 2021	<u>Chapter 6: Sydney Harbour Catchment</u>	Yes

Table 1 - Summary of Statutory Pre-Conditions		
EPI	Statutory Pre-Condition	Comply
	<ul style="list-style-type: none"> Section 6.6-6.9 – Pre-conditions relating to water quality and quantity, aquatic ecology, flooding, recreation and public access. 	
SEPP (Resilience & Hazards) 2021	<u>Chapter 4: Remediation of Land</u> <ul style="list-style-type: none"> Section 4.6 – Pre-condition relating to contamination, remediation and site suitability for proposed use. 	Yes
SEPP (Transport & Infrastructure) 2021	<u>Chapter 2: Infrastructure</u> <ul style="list-style-type: none"> Section 2.99 – Pre-condition of concurrence required under Section 2.99(3) for excavation within 25m of rail corridor. Section 2.100 – Pre-condition relating to impact of rail noise or vibration on non-rail development. Section 2.119 – Pre-conditions for development with frontage to classified road. Section 2.120 – Pre-condition relating to impact of road noise or vibration on non-road development. 	Yes
SEPP (Sustainable Buildings) 2021	<u>Chapter 2 – Standards for residential development – BASIX</u> <ul style="list-style-type: none"> Section 2.1(5) – Pre-condition relating to quantifying embodied emissions attributable to the development. <u>Chapter 3 – Standards for non-residential development</u> <ul style="list-style-type: none"> Section 3.2(2) – Pre-condition relating to quantifying embodied emissions attributable to the development. 	Yes
SEPP (Industry and Employment) 2021	<u>Chapter 3 – Advertising and Signage</u> <ul style="list-style-type: none"> Section 3.6 – Granting of consent to signage. 	Yes
Ryde LEP 2014	<ul style="list-style-type: none"> Clause 4.6 – Exceptions to development standards. Clause 5.21 – Flood planning. Clause 6.4 – Stormwater management. Clause 6.6 – Environmental sustainability. 	Yes

1.6 Variations

The development exhibits a high degree of compliance when assessed against the applicable planning instruments and controls with exception to the following:

State Environmental Planning Policy (Housing) 2021

Apartment Design Guide

- Clause 3F – Visual Privacy.
- Clause 4A – Solar and daylight access.
- Clause 4B – Natural ventilation.
- Clause 4D – Apartment Size and Layout.
- Clause 4F – Common Circulation and spaces.

Ryde Local Environmental Plan 2014

- Clause 4.3 – Height of Buildings.

Ryde Development Control Plan 2014

- Part 4.1 – Eastwood Town Centre - Clause 3.3.1(e) – Setbacks.

The above issues are supported and addressed in detail in **Section 4** of this report.

1.7 Referrals

The development application was referred to internal departments and external agencies. No objections are raised to the proposed development subject to conditions.

Concurrence has been received from Water NSW, Transport for NSW and Sydney Trains and their respective conditions are included in the recommended conditions of consent at **Attachment 1**.

1.8 Deferred Commencement

Three deferred commencement conditions are imposed relating to the entering into a Voluntary Planning Agreement, maintenance of the Rutledge Street slip-lane, and resolution of easements burdening lots.

1.9 Recommendation

After consideration of the development against Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest.

Assessment of the application against the relevant planning framework and consideration of various design matters by Council's technical departments has not identified any fundamental issues of concern.

The issues raised in submissions received in response to the two public exhibitions of the application do not warrant the refusal of the application.

Consequently, this report concludes that this development proposal is sound in terms of design, function, and its relationship with its neighbours and to the surrounding town centre generally.

This report recommends that deferred commencement consent be granted to this application in accordance with conditions provided in **Attachment 1**.

2. THE SITE AND LOCALITY

2.1 The Site

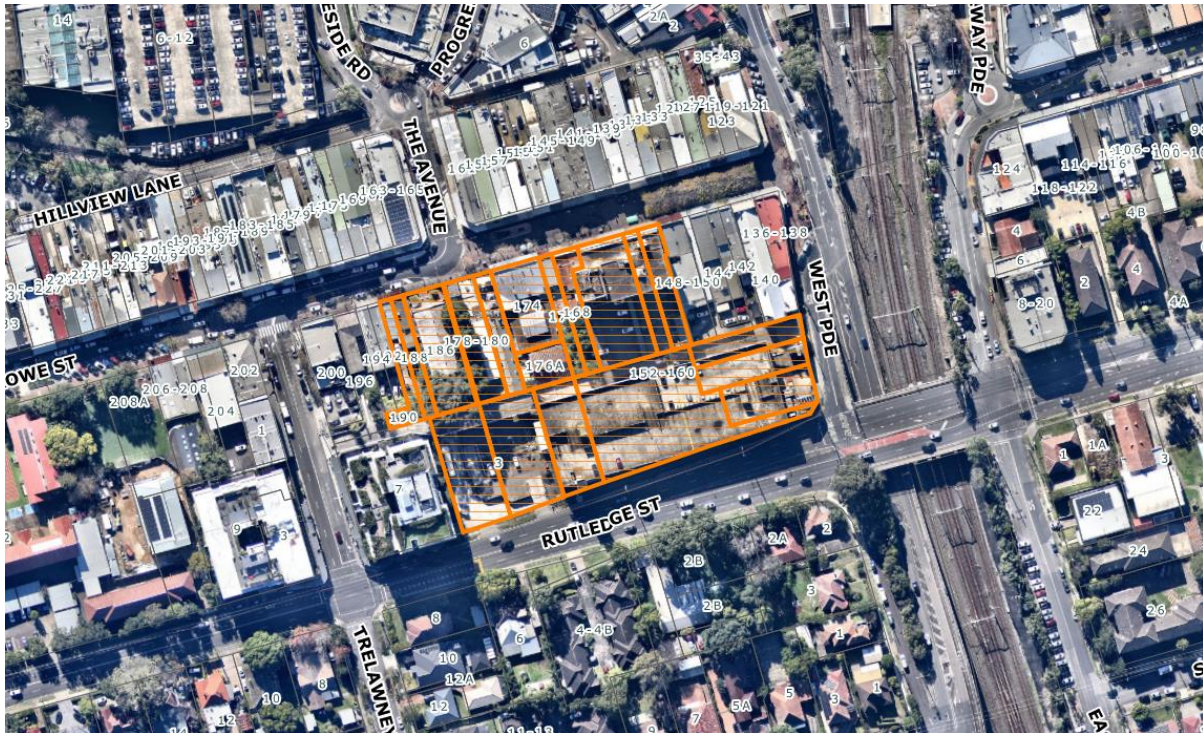


Figure 1 – Aerial Photograph of the site (outlined in orange).

The site is known as 152 to 190 Rowe Street and 3 to 5 Rutledge Street, Eastwood.

The site is located within Eastwood Town Centre on the corner of Rutledge Street, West Parade and Rowe Street Mall (**Figure 1**).

Figure 16 shows the site in context to the broader Eastwood Town Centre.

The site comprises 20 lots as detailed in **Table 2** below.

Table 2 – Site Details	
Feature	Description
Lots	Lots 1, 2 and 3 in DP 1082714, Lots 1 and 2 in DP 15579, Lot 1 in DP 315919, Lot 1 in DP 583398, Lot A in DP 342118, Lot 2 in DP 583398, Lot 1 in DP 105344, Lot 1 and 2 in DP 211809, Lot 7 in DP 656027, Lot 1 in DP 173607, Lot A in DP 317789, Lot 8 in DP 1098697, Lot 1 in DP 331280, Lot 201 in DP 1134152, Lot A in DP 374497, Lot 25 in DP 4231
Dimensions and Area	The site dimensions include a frontage of 117m to Rowe Street Mall, 148m to Rutledge Street and 35m to West Parade. The site has a total area of approximately 12,755m ² .
Topography	The site topography is characterised by fall of approximately 6.9m from the south on Rutledge Street (RL75.11) to the north at Rowe Street Mall (RL68.20).
Existing Development	The site is currently occupied by a retail shopping centre known as Eastwood Shopping Centre which accommodates 12,500m ² retail area and 2,400m ² commercial area.

Table 2 – Site Details	
Feature	Description
	<p>Existing buildings vary in height between 1 to 8 storeys with taller buildings fronting Rowe Street Mall. The site also includes a Masonic Temple which fronts Rowe Street.</p> <p>Existing car parking includes a total of 426 spaces (289 publicly available) within a multi-level platform accessed from Rutledge Street and Trelawney Street.</p>
Existing Vehicular Access	<p>The car park access ramp from Trelawney Street also provides rear vehicular access to neighbouring properties at 188 to 196 Rowe Street (see Figure 15).</p> <p>The car park access ramp from West Parade provides rear vehicle access to neighbouring properties at 142 to 150 Rowe Street (see Figure 12).</p>

Figures 2 to 15 below show the site and its immediate surrounds on 26 June 2024 (the site is outlined in red).

Rowe Street (West to East)



Figure 2 – From Rowe Street/Trelawney Street.



Figure 3 – The Masonic Temple.



Figure 4 – Eastwood Markets.



Figure 5 – Individual commercial premises.



Figure 6 –North side of Rowe Street Mall.



Figure 7 – Eastwood Centre.



Figure 8 – The interior of the Eastwood Centre.



Figure 9 – Rowe Street Mall and West Parade.

Rutledge Street and West Parade (East to West)



Figure 10 – The site from Rutledge Street (looking at West Parade).

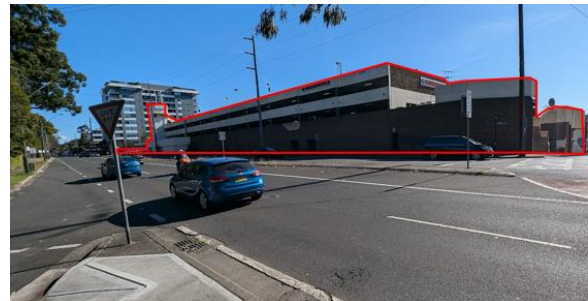


Figure 11 – Rutledge Street (looking towards No. 7 Rutledge Street).

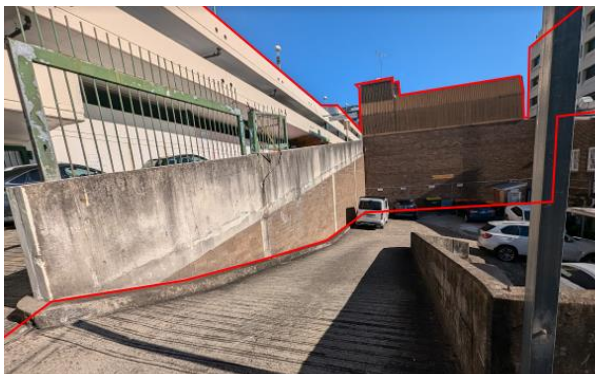


Figure 12 – The vehicular access ramp from West Parade to Nos. 142 to 150 Rowe Street.



Figure 13 – No. 7 Rutledge Street (looking north-west from Rutledge Street).



Figure 14 – Rutledge Street looking east (No. 7 Rutledge Street to the left).



Figure 15 – The vehicular access ramp to the car park and Nos. 188 to 196 Rowe Street.

2.2 The Locality

The site is located within the Eastwood Town Centre (as shown in **Figure 16** below) which is characterised in the Ryde Development Control Plan 2014 as follows:

“An important retail and commercial centre and transport in the City of Ryde that is well served by public transport. There has been shopping at Eastwood since the 1880’s when the railway was constructed. Growth in trade built up as Eastwood and surrounding suburbs grew in the twentieth century. Retail and commercial development extends to the east and west bisected by the railway line. Eastwood has a ‘village character’ with a traditional development generally 2-3 storeys in height.

Eastwood has a concentration of professional services, retail and food outlets. It has seen a gradual increase in the quantity of floor space used for professional services and business purposes that is in turn boosting employment generation and retail trade in the centre.

Within the centre there are also parks, childcare centres, schools, fire station, police station, community facilities and churches”.

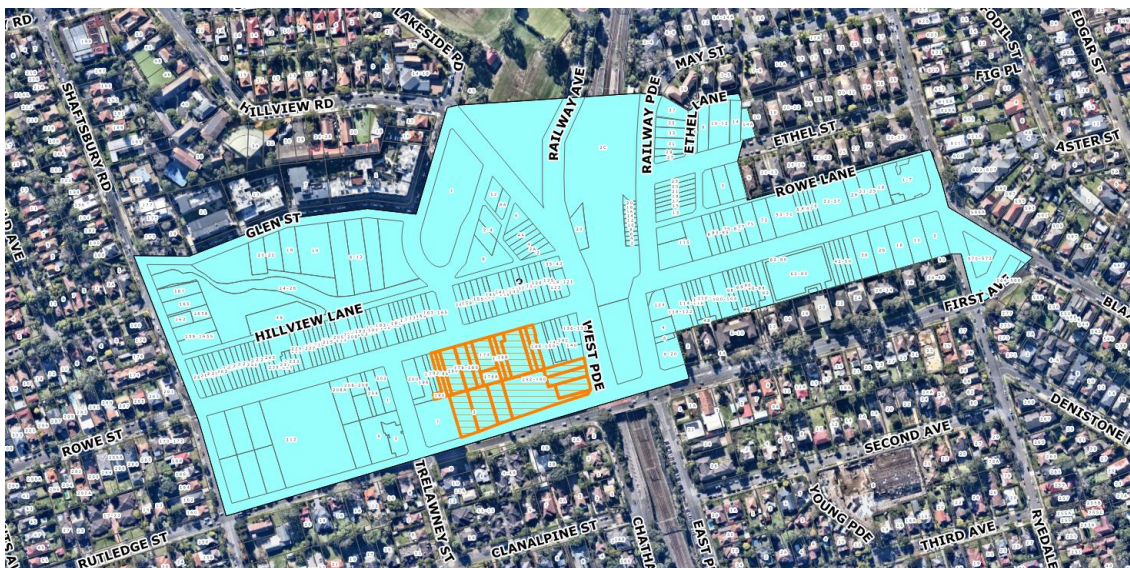


Figure 16 – The Eastwood Town Centre

Eastwood Town Centre encompasses business, residential, educational, infrastructure and open space uses as reflected in the Zoning Map under *Ryde Local Environmental Plan 2014* (LEP) and as shown in **Figure 17** below.

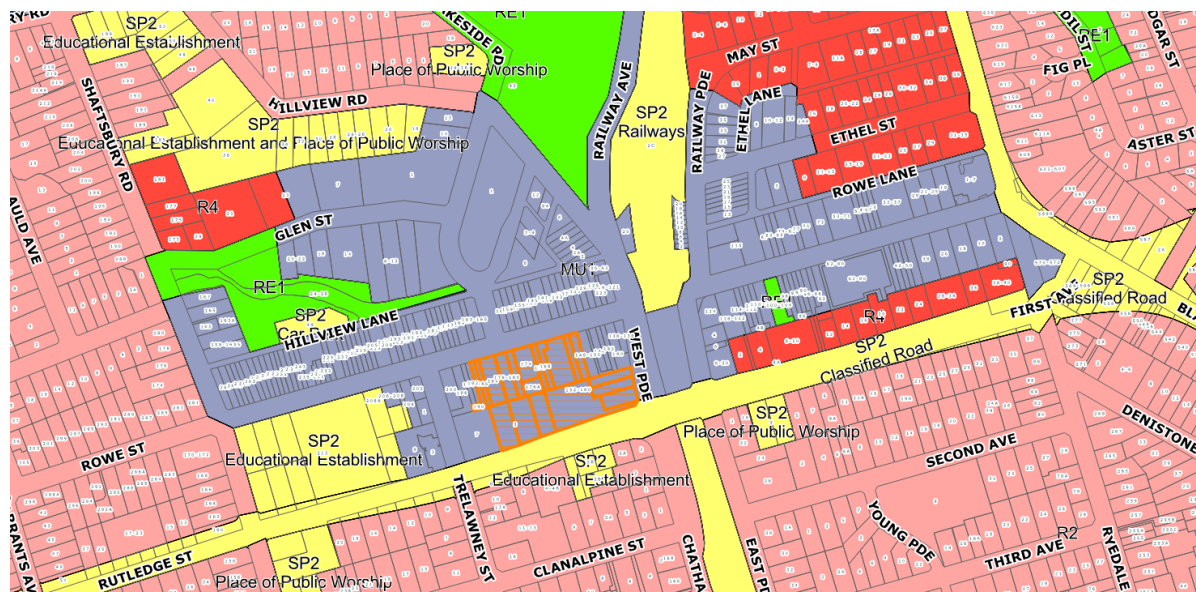


Figure 17 – Zonings within the Town Centre.

The City of Ryde is developing a masterplan for Eastwood. The Eastwood Town Centre is within the Eastwood Masterplan boundary. The masterplan has progressed through early engagement (Phase 1) in mid-2024 and supporting technical studies are currently underway (Phase 2). The Council-endorsed vision for the Eastwood Masterplan is as follows:

“Cultivate a vibrant and diverse Eastwood which fosters a connected, resilient and health community”.

Adjoining Properties

The site is adjoined by the following:

North

Rowe Street Mall and 1 to 2 storey retail/shop top housing development on the northern side of Rowe Street Mall.

South

Rutledge Street including 1 to 2 storey residential development and a centre-based child care centre on the southern side of Rutledge Street.

East

West Parade and existing buildings at 136 to 150 Rowe Street.

West

Existing buildings at 192 to 200 Rowe Street, 7 Rutledge Street and then Trelawney Street.

The locality is serviced by the Eastwood Train Station which is located to the east of the site (on the opposite side of West Parade) and which functions as a public transport hub providing both heavy rail and a bus interchange.

The locality includes local heritage items identified under the RLEP as Item 35 “St Phillips” (church); Item 105 “Summer Hayes” (shops); Item 107 “Fire Station”; and Item 310 “Eastwood Public School” as shown in **Figure 18** below,



Figure 18 – Location of heritage items.

3. THE PROPOSAL AND BACKGROUND

3.1 Background

LDA2016/0378

The site was the subject of a development application (LDA2016/0378) for the demolition of all buildings and structures on the site and the construction of a mixed-use development comprising seven buildings.

The application was approved by the Sydney North Planning Panel (2017SNH013) on 7 August 2019 subject to a deferred commencement condition requiring the applicant to enter into a Planning Agreement.

The deferred commencement condition was satisfied on 7 August 2019 and the consent became active on that day.

The development consent would ordinarily have lapsed on 7 August 2024. However, given the operation of Section 4.53(1) of the EP&A Act, the lapse date is extended by 2 years and becomes 7 August 2026.

3.2 Assessment

Table 3 below provides a chronology of the assessment of the subject Development Application.

Table 3 - Chronology of the application	
Date	Event
26 October 2023	Urban Design Review Panel and Pre-DA Meeting.
21 February 2024	Urban Design Review Panel and Pre-DA Meeting.
13 May 2024	Development Application lodgement.
20 May 2024 – 21 June 2024	Public exhibition of the Development Application.
6 June 2024	Urban Design Review Panel Meeting.
26 June 2024	Site inspection by town planning consultant.
3 July 2024	Request for further information provided to applicant.
17 July 2024	Sydney North Planning Panel Briefing Meeting
October 2024	Further information submitted by the applicant.
February 2025	Development Application amended.
10 February 2025 - 26 February 2025	Public exhibition of amended Development Application.

3.3 Amended Development Application (February 2025)

The amended Development Application (as accepted by Council in February 2025) principally reduced the height of Building A (by two storeys) and Building D (by three storeys) and redistributed floor area to lower levels (refer to **Figures 19 and 20** below).

The amendments reduced the total number of apartments from 441 to 411.



Figure 19 – Deleted Storeys.



Figure 20 – Redistributed Floor Area.

The amended building massing can also be understood in a comparison of the previous and amended Visual Impact Assessment looking west along Rutledge Street (**Figure 21** to **Figure 22**) and looking south from the Eastwood Station (**Figure 23** to **Figure 24**).



Figure 21 – As lodged.



Figure 22 – As amended.



Figure 23 – As lodged.



Figure 24 – As amended.

The amended building massing can also be quantified in terms of the maximum variation to the height of building development standard (**Table 4** provides a numeric comparison of the amended scheme against the originally submitted scheme).

The amended Development Application reduces the maximum variation from 143% to a maximum variation of 81.3%.

3.4 The Proposal (As Amended)

The Development Application seeks consent for the demolition of existing structures and construction of a mixed-use development.

Section 3.4.1 to **Section 3.5** describe key components of the proposed development.

Figure 25 below shows the main entrance of the development from Row Street.



Figure 25 - Perspective from Rowe Street (looking south-east).

3.4.1 Site Preparation

The site preparation works include the following:

- Demolition of all existing structures on the site;
- Removal of 19 trees inclusive of 12 Flooded Gums; and
- Excavation of the entire site 18m to 24m below existing ground level.

3.4.2 Mixed-Use Development

The proposed mixed-use development comprises the following:

- 1,135 parking spaces across four basement parking levels;
- 21,587m² of commercial floor space (primarily retail premises) across three levels including one part basement level; and
- 411 apartments (54 x 1 bedroom, 294 x 2 bedroom and 63 x 3+ bedroom) in buildings ranging in height from six (6) to sixteen (16) storeys.

Table 4 below provides a numeric comparison between the proposal (as originally submitted) and the amended proposal.

Table 4 – Comparison between proposal as submitted and amended proposal			
Element	Original Plans	Amended Plans	Difference
Building Height:			
Building A (21.5m)	24.5m to 39.9m	23.33m to 38.98m	-1.17m to -0.92m
Building B (33.5m)	40.7m	33.52m to 43.33m	-7.18m to +2.63m

Building C (21.5m)	24m to 37m	23.2m to 36.92m	-0.8m to -0.08m
Building D (33.5m)	52.25m	42.45m to 43.96m	-9.8m to -8.29m
Building E (33.5m)	46.5m to 54m	40.46m to 49.95m	-6.04m to -4.05m
Building F (21.5m)	15.2m	21.64m	+6.44m
Gross Floor Area (Total)	65,377m ²	63,008m ²	-2,369m ²
Dwelling Mix:			
Studio	0	0	No Change
1 Bedroom	71	54	-17
2 Bedroom	307	294	-13
3 Bedroom	59	59	No Change
4 Bedroom	4	4	No Change
Total Dwellings	441	411	-30
Retail/Commercial GFA	21,697m ²	21,587m ²	-110m ²
Car Parking:			
Basement 01	251	243	-8
Basement 02	262	256	-6
Basement 03	283	283	No Change
Basement 04	354	353	-1
Total Car Parking	1,150	1,135	-15
Communal Open Space	25% (3,212m ²)	26% (3,269m ²)	+57m ²
Deep Soil Area	Nil	Nil	No Change

Figure 26 to Figure 30 below provide detail the proposed site arrangement and building elevations to each frontage (the red clouding indicates the areas of key change in the amended scheme).

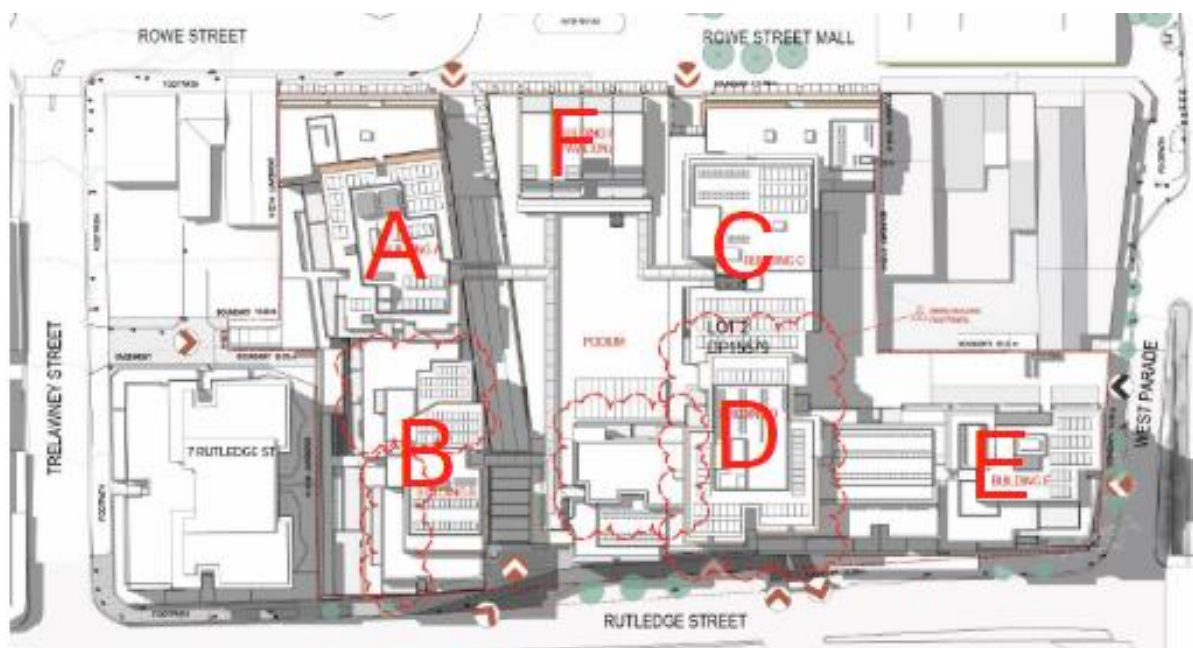


Figure 26 - Site Plan (showing building designations).

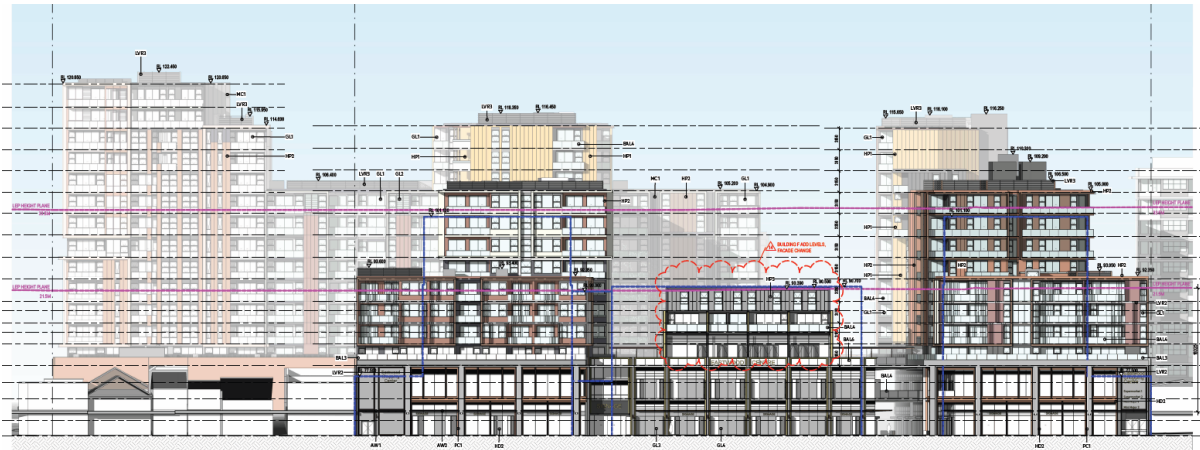


Figure 27 - North Elevation (Rowe Street Mall Frontage).

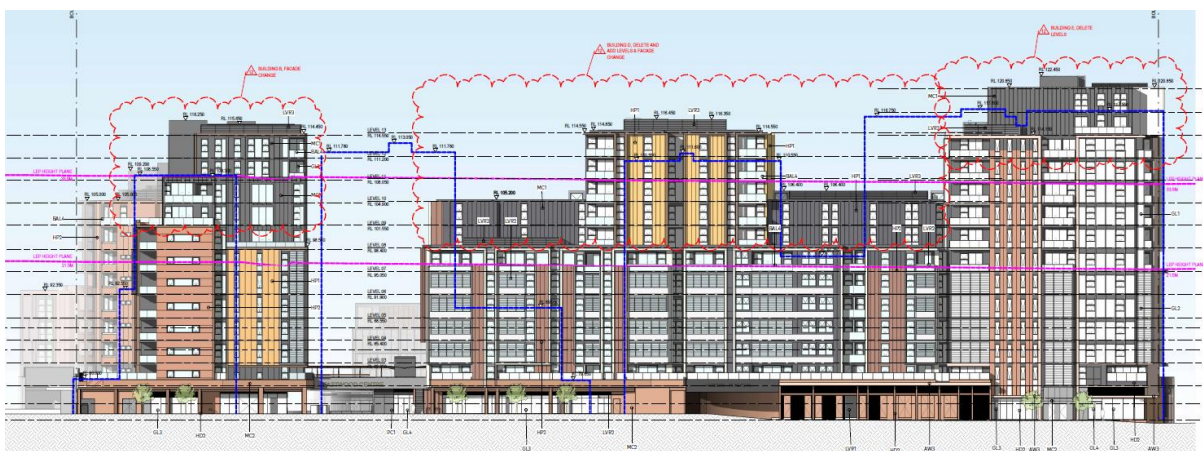


Figure 28 - South Elevation (Rutledge Street Frontage).



Figure 29 - West Elevation.

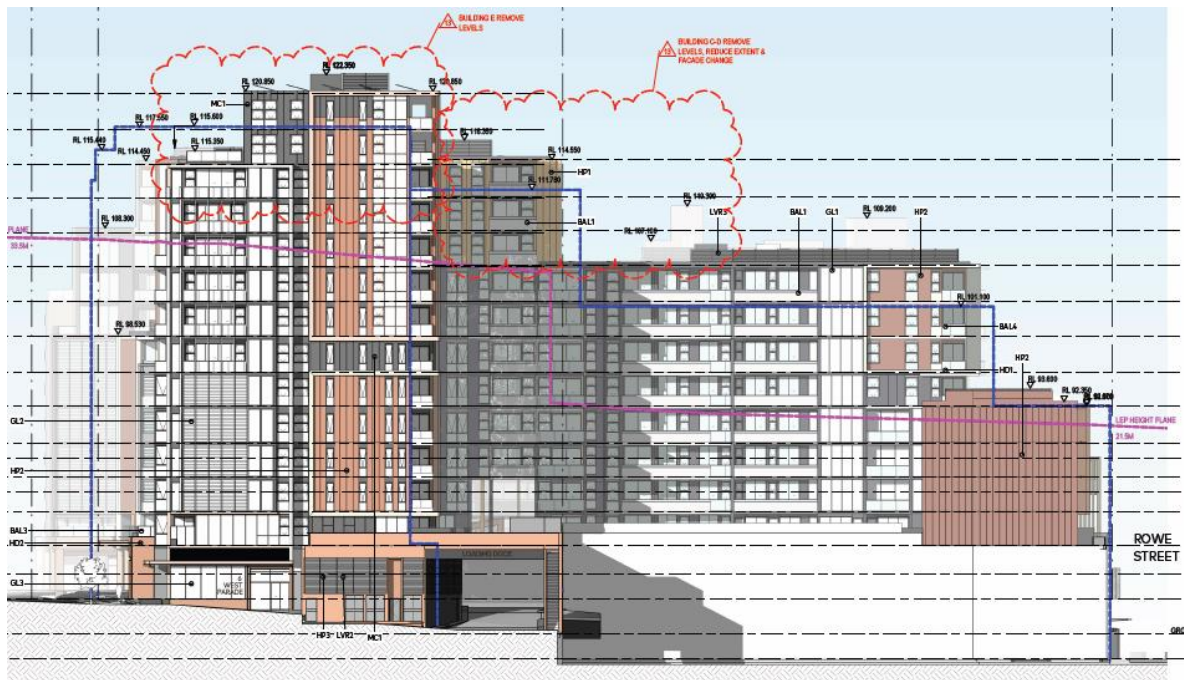


Figure 30 - East Elevation (West Parade Frontage).

Figures 31 and 32 below provide axonometric projections of the development as viewed from Rowe Street (**Figure 31**) and Rutledge Street (**Figure 32**).



Figure 31 – Perspective (Rowe Street).



Figure 32 – Perspective (Rutledge Street).

3.4.3 Vehicular Access

The vehicular access proposed is as follows:

- **Rutledge Street** – new slip lane for passenger vehicle entry/egress.
- **West Parade** – loading dock access.
- **Trelawney Street** – secondary passenger vehicle entry/egress.

The demolition of the existing West Parade and Trelawney Street driveways does not extend into other properties.

3.4.4 Through-Site Link

The proposed development includes a through-site pedestrian link providing access from Rowe Street Mall to Rutledge Street.

3.4.5 Signage

Business identification signage is proposed to be subject to a separate Development Application.

Rationalised building identification signage (reading “Eastwood Centre”) identifying key entrances and buildings is proposed.

3.4.6 Use and Hours of Operation

The proposed development seeks approval for the use of the retail/commercial premises (not fit-out) including the following hours of operation:

- Supermarkets: 7.00am to 11.00pm (Sunday to Monday).

- Through-site link and other tenancies: 7.00am to midnight (Sunday to Monday).

The car park ramp from Trelawney Street is located adjacent to the northern side of 7 Rutledge Street. There is concern regarding impact to the residential amenity of that building and a condition is included as part of the operating hours to close the egress part of the ramp from 10.00pm onwards.

3.4.7 Stratum Subdivision

The proposed development seeks approval for six stratum lots being:

- Lot 1: Residential buildings A & B.
- Lot 2: Residential buildings C & D.
- Lot 3: Residential building E.
- Lot 4: Retail building 1.
- Lot 5: Retail building 2.
- Lot 6: Road widening (subject to compliance with Deferred Commencement condition A1).

3.4.8 Staging

Although not lodged as 'staged development', the submitted Construction Management Plan (CMP) details the proposed staged delivery of the development.

3.5 Comparison of Existing, Approved and Proposed Developments

Table 5 below provides a numeric comparison of key development statistics between the existing site, a previously approved mixed-use development on the site, and the proposed development.

Table 5 - Comparison of Existing, Approved and Proposed Developments				
Element	Existing	LDA2016/0378	Proposed	Change
Site area	12,755m ²			
Max. Height	Unknown	RL 117.8	RL 122.35	+4.55m
Storeys	1 to 8	6 to 13	6 to 14	+ 1
Total Commercial GFA	14,900m ² *	15,079m ²	21,587m ²	+6,508m ²
Total Apartments	Nil	409	411	+2
Apartment Mix	N/A	97 x 1 bedroom 249 x 2 bedroom 63 x 3 bedroom	54 x 1 bedroom 294 x 2 bedroom 63 x 3+ bedroom	-43 x 1 bed +45 x 2 bed No change
Basement Levels	-	4	4	Nil

Table 5 - Comparison of Existing, Approved and Proposed Developments				
Element	Existing	LDA2016/0378	Proposed	Change
Car Parking Spaces	426	1035 (537 business / 498 resident)	1135 (624 business / 502 resident / 9 car share)	+100 (+187 business / +4 resident + 9 car share)
Communal Open Space	-	3,244m ²	3,269m ² (26% of site area)	+25m ²
Deep Soil	Unknown	0%	0%	No change

4. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) *any environmental planning instrument, and*
 - (ii) *any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) *any development control plan, and*
 - (iiia) *any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) *the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46).

- Requiring concurrence/referral (s4.13).

4.1 Environmental Planning Instruments, Proposed Instrument, Development Control Plan, Planning Agreement and the Regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy (Biodiversity and Conservation) 2021.*
- *State Environmental Planning Policy (Housing) 2021.*
- *State Environmental Planning Policy (Industry and Employment) 2021.*
- *State Environmental Planning Policy (Planning Systems) 2021.*
- *State Environmental Planning Policy (Resilience and Hazards) 2021.*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021.*
- *State Environmental Planning Policy (Sustainable Buildings) 2022.*
- *Ryde Local Environmental Plan 2014.*

A summary of the key matters for consideration arising from these environmental planning instruments are considered in **Table 6** below.

Table 6 - Summary of Key Matters in the Relevant EPIs		
EPI	Matters for Consideration	Comply
SEPP (Planning Systems) 2021	<u>Chapter 2: State and Regional Development</u> <ul style="list-style-type: none"> • Section 2.19(1) declares the proposal regionally significant development pursuant to Clause 2 of Schedule 6. 	Yes
SEPP (Biodiversity & Conservation) 2021	<u>Chapter 2: Vegetation in non-rural areas</u>	Yes
	<u>Chapter 6: Sydney Harbour Catchment</u> <ul style="list-style-type: none"> • Section 6.6-6.9 – Pre-conditions relating to water quality and quantity, aquatic ecology, flooding, recreation and public access. 	Yes
SEPP (Resilience & Hazards) 2021	<u>Chapter 4: Remediation of Land</u> <ul style="list-style-type: none"> • Section 4.6 – Pre-condition relating to contamination, remediation and site suitability for proposed use. 	Yes
SEPP (Transport & Infrastructure) 2021	<u>Chapter 2: Infrastructure</u>	
	<ul style="list-style-type: none"> • Section 2.48(2) – electricity transmission referral. 	Yes
	<ul style="list-style-type: none"> • Section 2.99 – Pre-condition of concurrence required under Section 2.99(3) for excavation within 25m of rail corridor. 	Yes
	<ul style="list-style-type: none"> • Section 2.100 – Pre-condition relating to impact of rail noise or vibration on non-rail development. 	Yes
	<ul style="list-style-type: none"> • Section 2.119 – Pre-conditions for development with frontage to classified road. 	Yes

Table 6 - Summary of Key Matters in the Relevant EPIs		
EPI	Matters for Consideration	Comply
	<ul style="list-style-type: none"> Section 2.120 – Pre-condition relating to impact of road noise or vibration on non-road development. Section 2.122 - Traffic-generating development. 	Yes Yes
SEPP (Sustainable Buildings) 2021	<u>Chapter 2 – Standards for residential development – BASIX</u> <ul style="list-style-type: none"> Section 2.1(5) – Pre-condition relating to quantifying embodied emissions attributable to the development. <u>Chapter 3 – Standards for non-residential development</u> <ul style="list-style-type: none"> Section 3.2(1) – ESD considerations. Section 3.2(2) – Pre-condition relating to quantifying embodied emissions attributable to the development. 	Yes Yes Yes
SEPP (Housing) 2021	<u>Chapter 4 – Design of Residential Apartment Development</u> <ul style="list-style-type: none"> Section 145(2) - Referral to Design Review Panel. Section 147 – Consideration of: <ul style="list-style-type: none"> Design Quality Principles. Apartment Design Guide. Design Review Panel Advice. 	Yes Yes No Yes
SEPP (Industry & Employment) 2021	<u>Chapter 3 – Advertising and Signage</u> <ul style="list-style-type: none"> Section 3.6 – Granting of consent to signage. 	Yes
Ryde LEP 2014	<ul style="list-style-type: none"> Clause 2.3 – Permitted with consent. Clause 2.6 – Subdivision. Clause 2.7 – Demolition. Clause 4.1 – Minimum lot size. Clause 4.3 – Height of Buildings. Clause 4.4 – Floor Space Ratio. Clause 4.6 – Exceptions to development standards. Clause 5.10 – Heritage conservation. Clause 5.21 – Flood planning. Clause 6.2 – Earthworks. Clause 6.4 – Stormwater management. Clause 6.6 – Environmental sustainability. 	Yes Yes Yes N/A No N/A Submitted Yes Yes Yes Yes Yes

Consideration of the relevant EPIs is outlined below.

4.1.1 State Environmental Planning Policy (Planning Systems) 2021

Chapter 2: State and Regional Development

The proposal is *regionally significant development* pursuant to Section 2.19(1) as it satisfies the criteria in Clause 2 of Schedule 6 of the Planning Systems SEPP as the proposal is development for general development over \$30 million.

Accordingly, the Sydney North Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

4.1.2 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in Non-Rural Areas

The development includes the removal of 27 on-site trees including Box Elder Map, Camphor Laurel, Flooded Gums or Silky Oaks.

Council's Landscape Officer agrees with the recommendations of the arborist report that the trees are within the proposed building footprint and are either exempt species or within 4 metres of an existing building (being akin to the exempt development provisions within City of *Ryde Development Control Plan 2014* Part 9.5 – Tree Preservation).

The development includes street tree improvements and substantial on-structure planting which is considered satisfactory within the context of the MU1 Zone in the Eastwood Town Centre.

The development satisfies the aims and objectives of the planning instrument.

Chapter 6 – Water Catchments

Chapter 6 of the SEPP applies to land in the Sydney Harbour Catchment.

The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the SEPP. However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development.

The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of *Ryde Development Control Plan 2014*.

The development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.

4.1.3 State Environmental Planning Policy (Housing) 2021

Chapter 4 – Design of Residential Apartment Development

Chapter 4 of the SEPP aims to improve the design of residential apartment development in NSW and applies to the apartment component of the development.

Section 147 requires the consent authority consider the following prior to the granting of consent:

- (a) *the quality of the design of the development, evaluated in accordance with the design principles for residential apartment development set out in Schedule 9,*
- (b) *the Apartment Design Guide,*

- (c) any advice received from a design review panel within 14 days after the consent authority referred the development application or modification application to the panel.

Design Principles

The development was referred to the City of Ryde Urban Design Review Panel (UDRP) who have assessed the development against the Design Principles in Schedule 9.

Attachment 2 provides the UDRP assessment of the development against the Design Principles. The development satisfies all nine design principles.

Apartment Design Guide

The development has been assessed against the Apartment Design Guide (ADG). The development complies with the ADG with the exception to the following design criteria outlined in **Table 7** below.

The identified non-compliances are addressed after the table.

Table 7 - Apartment Design Guide Variations					
Clause	Design Criteria		Proposal	Compliance	
Part 3 - Siting the development					
3F-1 Visual Privacy	1. Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:		Building A and the western side boundary at Levels 9 and 10 where 8.3m-11.3m is provided in lieu of 12m.	No	
	Building height	Habitable rooms and balconies			Non-habitable rooms
	up to 12m (4 storeys)	6m			3m
	up to 25m (5-8 storeys)	9m			4.5m
	over 25m (9+ storeys)	12m			6m
Part 4 - Designing the Building					

Table 7 - Apartment Design Guide Variations			
Clause	Design Criteria	Proposal	Compliance
4A-1 Solar and Daylight Access	1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter in the Sydney Metropolitan Area and in the Newcastle and Wollongong local government areas	69.8% (287 of 411 apartments)	No
	3. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter	17.3% (71 apartments)	No
4B-3 Natural Ventilation	1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	59.9%	No
4D-3 Apartment Size and Layout	3. Living rooms or combined living/dining rooms have a minimum width of: <ul style="list-style-type: none"> • 3.6m for a studio and 1 bedroom apartments. • 4m for 2 and 3 bedroom apartments. 	Type 2B02 and 2B03 are 3.8m wide in lieu of 4m (Refer to Drawing No. DA2033).	No
4F-1 Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	Building D does not comply, up to 13 apartments per core.	No

Clause 3F-1: Visual Privacy

Building A provides an 8.3m-11.3m separation to the western side boundary at Levels 9 to 10 where the ADG requires 12m at Level 9 and above (Refer to **Figure 33** below).

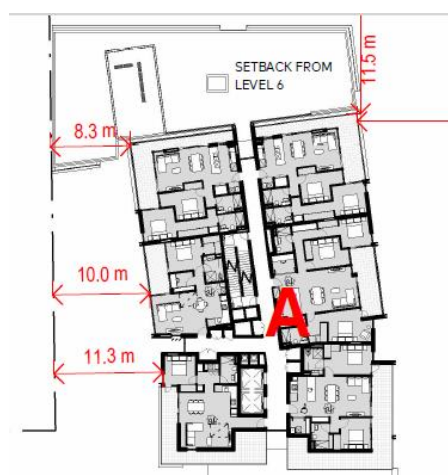


Figure 33 – Building Separation – Building A – Levels 9 and 10

The building separation is considered satisfactory as it is a minor part of the overall development which is otherwise compliant.

The separation meets the habitable separation requirements for Level 5 to 8, the development does not extend beyond Level 10 (being only two floors above the Level 8).

Stepping the building in at the upper two floors would result in a poorer built form outcome and is partly the result of improving the amenity of the through site link which has improved solar access from the angling/alignment of Building A.

Clause 4A-1: Solar and Daylight Access

The development provides 17.3% (71) of apartments receiving no direct sunlight where the ADG stipulates a maximum 15% (62).

The variation of 9 apartments (i.e. 14.5%) is considered satisfactory in this instance given the actual number of 'no direct sunlight' apartments has not increased from the originally submitted scheme, which was compliant when originally submitted. That is, during the assessment of this Development Application, the applicant reduced height and apartment numbers (from 441 to 411 apartments).

The deletion of these upper-level apartments has resulted in the apartments with no direct sunlight now representing a greater percentage of the overall apartment mix, even though the total number has not increased.

Given this, and the approved outcomes from reduced building heights, a variation to the no direct sunlight design criteria is considered satisfactory in this instance.

Clause 4D-3: Apartment Layout

The apartment layout for Type 2B02 and 2B03 units provide a 3.8m living room width where the ADG specifies 4.0m (**Figure 34**).

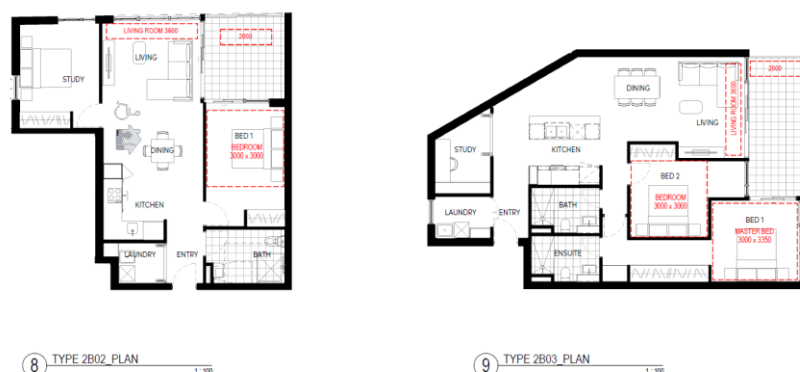


Figure 34 – 2B02 and 2B03 Apartment Layouts.

The apartment layouts demonstrate adequate internal amenity including adequate space for furniture and circulation.

The variation is considered satisfactory in this instance.

Clause 4F-1: Common Circulation

The development complies with common circulation with the exception of Building D.

The core in Building D services up to 13 apartments on a single level, where the ADG prescribes a maximum of 8 apartments as shown in **Figure 35** below.

The application is accompanied by a Consultant Advice Note (CAN) dated 19 September 2024, as prepared by ADP Consulting which states:

“It is the opinion of ADP Consulting that, through expert review and analysis, the provision of two (2) passenger lifts in each of Buildings A to E is sufficient to satisfy the proposed density of the development and subsequently the objective of NSW Apartment Design Guide (ADG) Part 4F Objective 4F-1. This is demonstrated through a design response in the form of a lift traffic analysis showing adequate levels of lift service quality”.

The 'lift traffic analysis' referred to above provides a theoretical level of lift service quality which satisfies the recommended criteria established under ISO 8100-32:2020 “Lifts for the transportation of persons and goods — Part 32; Planning and selection of passenger lifts to be installed in office, hotel and residential buildings” as referenced in AS 1735.1.1:2022 “Lifts, escalators and moving walks – General requirements”.

It should be noted that, since the above CAN was lodged, the amended Development Application has reduced the number of apartments of this core from 128 to 112 which will further improve servicing.

The circulation is considered satisfactory in this instance as good amenity is achieved and the apartments are properly serviced as per Objective 4F-1 of the ADG.

Amenity is achieved through two openings at the southern and western ends of the circulation core. The lifts are centrally located and the applicant has demonstrated that lift waiting times comply with the relevant standard.



Figure 35 – Common Circulation – Building D – Levels 4 to 7.

The variation to common circulation is considered satisfactory in this instance.

4.1.4 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4: Remediation of Land

The provisions of Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* ('the Resilience and Hazards SEPP') have been considered in the assessment of the development application. Section 4.6 of Resilience and Hazards SEPP requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The Preliminary Site Contamination Assessment submitted with the Development Application has determined that based on a previous Preliminary Site Investigation (PSI) completed, and historical land use, there is the potential for site contamination, however the nature of the potential sources of contamination would not preclude the development subject to remediation.

Considering the logistics and intrusive nature of coordinating access for comprehensive testing prior to demolition, the requirements for a Detailed Site Investigation, and further site remediation are included as recommended conditions of consent.

This is consistent with the previous development consent issued by the Sydney North Planning Panel.

The development can satisfy section 4.6 of the SEPP subject to recommended conditions of consent.

4.1.5 State Environmental Planning Policy (Sustainable Buildings) 2022

The development includes a residential and non-residential component and accordingly Chapter 2 (residential) and Chapter 3 (non-residential) of the SEPP apply.

Chapter 2 – Standards for Residential Development - BASIX

The amended Development Application was accompanied by the requisite BASIX Certificates satisfying Section 2.1 of the SEPP. Section 2.1(5) requiring calculation of embodied emissions, is satisfied for the residential component through the BASIX Certificates.

Chapter 3 – Standards for Non-Residential Development

Section 3.2(1) requires the consent authority to consider whether the development is designed to enable the following outcomes.

(a) the minimisation of waste from associated demolition and construction, including by the choice and reuse of building materials.

Comment

The development will seek to maximise recycling/re-use of demolition/construction materials whether on or off-site (through waste recycling centres etc.).

(b) a reduction in peak demand for electricity, including through the use of energy efficient technology.

Comment

The retail area includes some unconditioned areas reducing the air-conditioning load. Further the heat from supermarket refrigeration can be utilised for retail heating during winter months, reducing electricity demand.

(c) a reduction in the reliance on artificial lighting and mechanical heating and cooling through passive design.

Comment

The northern orientation of the main retail frontage, the through site link, the light well in the Level 02 communal open space, and design of Level 01 tenancies allows for a reduced reliance on artificial lighting with suitable shading to allow for seasonal access or protection from daylight.

(d) the generation and storage of renewable energy.

Comment

A 50kW photovoltaic system is proposed.

(e) the metering and monitoring of energy consumption.

Comment

The development will provide metering and monitoring of energy (and water) consumption.

(f) the minimisation of the consumption of potable water.

Comment

A 10,000 litre rainwater tank is proposed to be used for irrigation and WELS rated fixtures are proposed for sanitary facilities.

Section 3.2(2) requiring calculation of embodied emissions, is satisfied for the non-residential component through the submitted NABERS Embodied Emissions Form.

The development is considered satisfactory with respect to Chapter 2 and Chapter 3 of the SEPP.

4.1.6 State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 – Infrastructure

Division 5 – Electricity Transmission or Distribution

The development was referred to Ausgrid under Section 2.48(2) of the SEPP as the site is within 5m of an electricity transmission network.

Ausgrid raises no objections to the development subject to recommended conditions of consent.

Division 15 – Railways

The development requires concurrence of Sydney Trains under Section 2.99(3) of the SEPP due to excavation greater than 2m depth within 25m of the rail corridor (heavy rail line).

Sydney Trains have provided their concurrence and accordingly, Section 2.99(3) of the SEPP is satisfied.

Section 2.100 requires the consideration of rail noise or vibration impacts on residential accommodation in accordance with the relevant Guidelines and the following criteria in Section 2.100(3):

- (3) *If the development is for the purposes of residential accommodation, the consent authority must not grant consent to the development unless it is satisfied that appropriate measures will be taken to ensure that the following LAeq levels are not exceeded:*
 - (a) *in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am.*
 - (b) *anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.*

Council's Environmental Health Officer is satisfied the noise criteria is capable of being met subject to compliance with the submitted acoustic report which forms a recommended condition of consent.

Section 2.100 of the SEPP is satisfied.

Division 17 – Roads and Traffic

Section 2.119 applies as the development has a frontage to Rutledge Street which is a classified road.

Section 2.119 includes matters the consent authority must be satisfied over prior to the granting of consent including operation of the classified road and amenity of any residential accommodation proposed (noise and emissions).

In addition, Section 2.120 includes acoustic amenity criteria that must be met.

Both Council's Environmental Health Officer and Transport for NSW raise no objection to the development and have provided recommended conditions of consent.

Section 2.119 and Section 2.120 of the SEPP are satisfied.

The development is traffic-generating development. A referral was sent to Transport for NSW. The applicant liaised with Transport for NSW during the course of the assessment period to resolve the design of the proposed Rutledge Street vehicular entrance.

Transport for NSW do not raise any objection to the amended Development Application and have provided recommended conditions of consent which are incorporated into **Attachment 1**.

4.1.7 State Environmental Planning Policy (Industry and Employment) 2021

Chapter 3 – Advertising and Signage

The Development Application was accompanied by signage plans.

A condition of consent recommended requiring updating the signage plans to reflect the amended Development Application, and the deletion of any business identification signage which is not sufficiently detailed. A separate Development Application would be required for any business identification signage.

The remaining signage is limited to building identification signage. Building identification signage is subject to the provisions of the SEPP. Building identification signage identifies retail buildings ("Eastwood Centre") and key entrances (loading, parking, residential buildings).

The provisions of the SEPP have been assessed and the development is considered satisfactory.

4.1.8 Ryde Local Environmental Plan 2014

The relevant local environmental plan applying to the site is the *Ryde Local Environmental Plan 2014* ('the LEP'). The aims of the LEP include the following:

- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to encourage a range of development, including housing, employment and recreation, that will accommodate the needs of the existing and future residents of Ryde,*
- (b) to provide opportunities for a range of housing types that are consistent with adjoining development and the existing environmental character of the locality,*
- (c) to foster the environmental, economic, social and physical development of Ryde so that it develops as an integrated, balanced and sustainable city,*

- (d) to identify, conserve and promote Ryde's natural and cultural heritage as the framework for its identity, prosperity, liveability and social development,*
- (e) to improve access to the city, minimise vehicle kilometres travelled, facilitate the maximum use of public transport and encourage walking and cycling,*
- (f) to protect and enhance the natural environment, including areas of remnant bushland in Ryde, by incorporating principles of ecologically sustainable development into land use controls,*
- (g) to preserve and improve the existing character, amenity and environmental quality of the land to which this Plan applies,*
- (h) in relation to economic activities, to provide a hierarchy of retail, commercial and industrial activities that enable employment capacity targets to be met, provide employment diversity and are compatible with local amenity.*

The development is consistent with these aims as it promotes housing and employment, fosters the economic development of Ryde, minimises vehicle kilometres travelled by providing new and revitalised retail premises and co-located housing, while being compatible with the future desired character of the Eastwood Town Centre.

Part 2 - Zoning and Permissibility

The site is located within the MU1 Mixed Use Zone pursuant to Clause 2.2 of the LEP (refer to **Figure 17**).

According to the definitions in Clause 4 (contained in the Dictionary), the proposal mixed use development satisfies the definition of Shop Top Housing which is a permissible use with consent in the Land Use Table in Clause 2.3.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.*
- To promote strong links between Macquarie University and research institutions and businesses in the Macquarie Park corridor.*

The development is considered to be consistent with the relevant zone objectives for the following reasons:

- The development will generate employment opportunities.
- Active street frontages, particularly to Rowe Street Mall, will promote vibrant, diverse and functional public spaces with ground and first floor retail presentation.
- Conflict with the adjoining R2 Low Density Residential zone has been considered by minimising overshadowing.

Part 4 – Principal Development Standards

The site is subject to the height provisions under Clause 4.3. Floor space ratio under Clause 4.4 does not apply to the site.

The site is mapped as having a maximum building height of 21.5m adjoining Rowe Street Mall and 33.5m adjoining Rutledge Street as shown in **Figure 36** below.

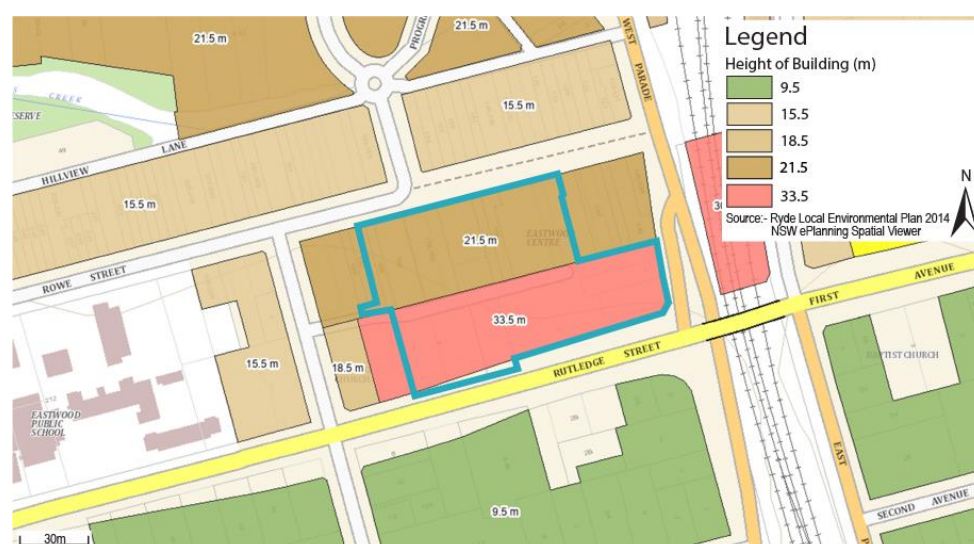


Figure 36 – RLEP Height of Buildings Map.

The proposal does not comply with the development standard in Part 4 of the LEP, Clause 4.3 'Height of Buildings' and accordingly, a Clause 4.6 request has been provided with the application for the exceedance of the maximum height of building standard.

Table 8 below provides detail on the proposed building heights within the respective height zones of the site.

Table 8 – Compliance to the Principal development Standard			
Permitted	Proposed (By Building)	# Variation	% Variation
R1: 21.5m	A: 23.33m to 38.98m C: 23.2m to 36.92m F Pavilion: 21.64m	+1.83m - +17.48m +1.7m - +15.42m +0.14m	8.51% - 81.3% 7.9% - 71.7% 0.65%
U4: 33.5m	B: 33.52m to 43.33m D: 42.45m to 43.96m	-0.02m - +9.83m +8.95m - +10.46m	0.06% - 29.3% 26.72% - 31.2%

Clause 4.6(3) of the LEP requires that:

- (3) *Development consent must not be granted to development that contravenes a development standard unless the consent authority is satisfied the applicant has demonstrated that:*
- (a) compliance with the development standard is unreasonable or unnecessary in the circumstances, and*
 - (b) there are sufficient environmental planning grounds to justify the contravention of the development standard.*

(a) Is compliance with the development standard unreasonable or unnecessary in the circumstances?

The applicants Clause 4.6 written request demonstrates the objectives of the height of building standard are achieved despite the numerical non-compliance which is an accepted test for whether a development standard is unreasonable or unnecessary.

The objectives of Clause 4.3 are as follows:

- (a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.***

Rowe Street Mall

The Clause 4.6 written request notes the two storey retail character of Rowe Street Mall. The development provides a two storey street wall and a further setback residential component that is generally in keeping with the 21.5m height limit. Accordingly the development responds to the existing, and future desired character of Rowe Street Mall.

West Parade

The Clause 4.6 written request states West Parade is a secondary street, transitional in nature, with no distinct character. The development utilises this frontage for loading which is generally low scale, and Building E which is the tallest building is in keeping with objective (e) to emphasise road frontages along road corridors.

Rutledge Street

The Clause 4.6 written request states the Rutledge Street frontage is currently characterised by blank walls other than the recent development of No. 7 Rutledge Street in the north-western corner. The proposed development is generally in proportion with No. 7 Rutledge Street with increases in height towards the corner of Rutledge Street and West Parade.

The proposed building height satisfies Objective 4.3(1)(a) of the LEP.

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

The architectural drawings (see **Attachment 2** of this report) include detailed shadow diagrams and the Clause 4.6 written request includes detailed analysis of the overshadowing (see **Attachment 3**, page 37 onwards). In particular a detailed assessment of overshadowing impacts to the existing residential flat building at No. 7 Rutledge Street and existing low density development on the southern side of Rutledge Street has been undertaken. The analysis demonstrates satisfactory solar access is maintained to adjoining properties.

The development will be a substantial improvement in appearance when compared to the existing development.

The proposed building height satisfies Objective 4.3(1)(b) of the LEP.

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

The Clause 4.6 written request states the site is a substantial consolidated holding approximately 200m from Eastwood Train Station. The consolidated holding allows for many integrated land use design features that would otherwise not be possible. The development is considered to use its site area to redistribute massing to provide for a large central north-orientated communal open space, a through-site link, retail activation and higher levels of building separation than would otherwise typically be provided if sites were to be redeveloped in an isolated manner.

The proposed building height satisfies Objective 4.3(1)(c) of the LEP.

(d) to minimise the impact of development on the amenity of surrounding properties.

Amenity impacts have been primarily addressed by demonstrating that overshadowing has been minimised (refer to Objective (b) discussion above). The Clause 4.6 written request states the variation also does not give rise to visual privacy, view loss or visual impacts. The amended Development Application in particular reduces the visual impact of the development from key viewpoints. Refer to **Figures 21 to 24** for an example of the comparative visual impact analysis.

The proposed building height satisfies Objective 4.3(1)(d) of the LEP.

(e) to emphasise road frontages along road corridors.

The development provides for taller buildings on Rutledge Street stepping down to Rowe Street Mall. Rutledge Street is a classified road corridor and the development emphasises this road frontage.

The proposed building height satisfies Objective 4.3(1)(e) of the LEP.

(b) Are there sufficient environmental planning grounds to justify the contravention of the development standard?

The Clause 4.6 written request advances three environmental planning grounds to justify the contravention of the development standard, each with sub-grounds.

While not all environmental planning grounds advanced are well-established, there remains sufficient environmental planning grounds to justify the contravention of the development standard.

The grounds and sub-grounds are summarised as follows:

1. Enhanced Urban Outcomes

a) Greater spacing between buildings

Comment

The proposed development provides for greater building separation than would otherwise be required. In particular, the through-site link has a minimum width of 18m (in lieu of a minimum building separation of 12m allowed under the ADG at Levels 1 to 4).

This increased separation combined with the adjacent local of the communal open space provides high levels of amenity to the through site link.

Figure 38 below illustrates the proposed separation between Building B and D when viewed from Rutledge Street. Greater spacing between buildings is considered to be a well-established planning ground.



Figure 38 – Visual separation between Buildings D and B (as seen from Rutledge Street).

b) Provides key pedestrian connections

Comment

The provision of the link is not considered to be a stand-alone environmental planning ground.

The through-site link is required by the Eastwood Town Centre DCP. This is not therefore considered a distinct point from 1(a) which rightly advances the additional amenity created for the through-site link through the provision of greater spacing between buildings.

c) Quality of communal open space

Comment

The proposed development provides for a large, centralised, north-orientated communal open space area at the podium level.

Figure 39 below demonstrates the communal open space area when viewed from the north. The quality of communal open space, and the associated redistribution of building mass above the height limit, is considered a valid environmental planning ground.



Figure 39 – Communal Open Space Area.

2. Housing near Transport Infrastructure

Comment

The proposed development provides housing near transport infrastructure. The site is not subject to a specific planning policy in place to facilitate uplift (such as Transport Oriented Development (TOD) or Low and Mid-Rise Housing (LMR) provisions) or draft policies that have a site-specific indication of potential suitable uplift (if any).

Accordingly, the nexus is limited to a general statement about the location of the site and current general planning policy, which is not considered a sufficient environmental planning ground.

3. No Adverse Environmental Impacts

a) *Visual impact*

Comment

Visual impact was a principal concern raised during the assessment of the Development Application. The reductions made to building height result in a visual impact that is now considered satisfactory.

The original and amended Visual Impact Assessment demonstrates the substantial improvement made to visual impact. **Figure 40** is a legend for the visual impact assessment.



Figure 40 – View Point locations of the Visual Impact Assessment.

Figure 41 to Figure 44 below provide the original and amended photomontages.



Figure 41 – View Point 1 – Originally Submitted (Left) and Amended (Right)



Figure 42 – View Point 2 – Originally Submitted (Left) and Amended (Right)



Figure 43 – View Point 3 – Originally Submitted (Left) and Amended (Right)



Figure 44 – View Point 4 – Originally Submitted (Left) and Amended (Right)

b) Overshadowing

Comment

The overshadowing is considered satisfactory as outlined in the response to the objectives above and supports the environmental planning ground of no adverse environmental impacts.

The environmental planning grounds that are supported in the above assessment (1(a), 1(c), 3(a), 3(b)) are considered sufficient environmental planning grounds to justify the contravention of the development standard.

Conclusion

The written submission from the applicant has adequately demonstrated that the contravention of the Height of Buildings development standard prescribed by Part 4.3 of the RLEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

The applicant's Clause 4.6 written request to vary the height of buildings development standard in Clause 4.3 of *Ryde Local Environmental Plan 2014* is acceptable as the proposal satisfies the relevant objectives of the zone and the development standard, is consistent with the scale anticipated on this site and will read favourably in the context of the Eastwood town centre. Compliance with this development standard is unreasonable or unnecessary in the circumstances of this specific proposal; and there are sufficient environmental planning grounds to justify contravening this development standard.

Accordingly, the proposal is in the public interest and is consistent with the objectives of the Clause 4.3 development standard and it is recommended that the consent authority supports the departure from the development standard in this instance.

Other Applicable LEP Clauses

Table 9: Consideration of the LEP Controls			
Control	Requirement	Proposal	Comply
Subdivision (CI 2.6)	Subdivision permitted with consent.	Stratum subdivision.	Yes
Demolition (CI 2.7)	Demolition permitted with consent.	Demolition of existing structures.	Yes
Heritage (CI 5.10)	The site is in the vicinity of heritage items (Figure 18).	The development does not impact the heritage significance of heritage items in the vicinity of the site.	Yes
Flood Planning (CI 5.21)	Flood engineering requirements.	Council's Engineering conditions provided.	Yes
Earthworks (CI 6.2)	Requirements for earthworks.	Council's Engineering conditions provided.	Yes
Stormwater Management (CI 6.4)	Requirements for stormwater management.	Council's Engineering conditions provided.	Yes

Table 9: Consideration of the LEP Controls			
Control	Requirement	Proposal	Comply
Environmental Sustainability (CI 6.6)	Requirements for environmental sustainability in the MU1 Zone.	The development addresses the environmental sustainability outcomes.	Yes

(b) Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no draft instruments relevant to this site or proposal.

(c) Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Ryde Development Control Plan 2014 ('the DCP')

The application is subject to the provisions of Part 4.1 – 'Eastwood Town Centre' of the DCP.

Attachment 5 of this report provides a detailed assessment of the development against the provisions of Part 4.1. The following discussion addresses matters of identified non-compliances.

Clause 3.3.1 - Setbacks

Clause 3.3.1(e) requires a 3m setback to all boundaries, where the building exceeds 9.5m in height from the street level.

The development proposes a nil setback to the eastern and western ends of the Rowe Street Mall frontage in lieu of a 3m setback as shown by the red dashed line in **Figure 45**.

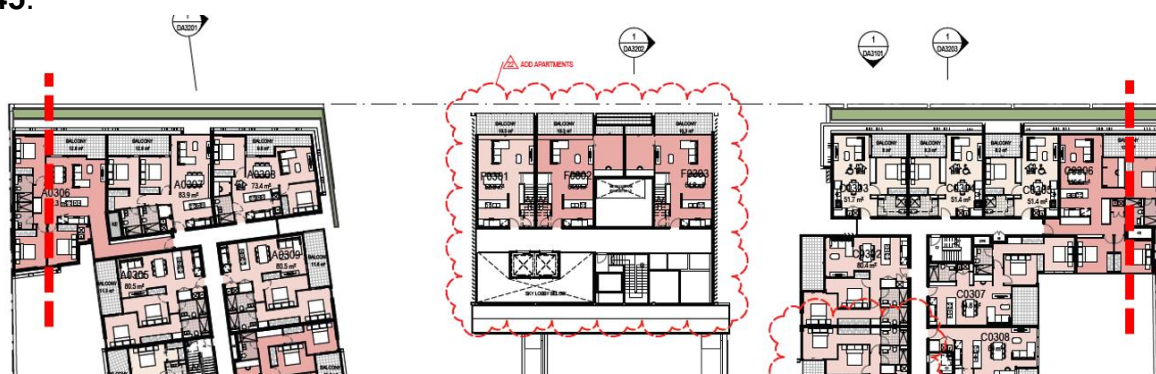


Figure 45 – Setback Variation Diagram.

Minor variations are also proposed to the Rutledge Street and West Parade front setback due to a non-linear boundary line.

The relevant objectives of the DCP are as follows:

1. To ensure that the existing traditional scale element of the streetscape is retained.
2. To reinforce the established and accepted streetscape characteristics of Eastwood when considered from the pedestrian perspective.
3. To clearly define the adjoining streets, street corners and public spaces and avoid ambiguous external spaces with poor pedestrian amenity and security.

The proposed development provides the necessary 3m setback from Rowe Street Mall at the upper levels which provides for the delineation of the traditional scale of Rowe Street Mall from the residential levels above. The proposed nil setback is an development outcome that will be resolved upon development of the adjoining properties.

The UDRP generally supports the massing and street presentation to Rutledge Street and West Parade, noting they are not identified as a traditional scale or pedestrian priority streets in the Eastwood Town Centre DCP.

A variation to the side setback, along Rowe Street Mall, and front setbacks to Rutledge Street and West Parade are considered satisfactory in this instance.

Clause 3.6 - Signage

Clause 3.6(d)(ii) of the DCP prescribes a maximum flush wall signage size of 5m².

The proposed primary “Eastwood Centre” building identification sign to Rowe Street Mall, outlined in red in **Figure 46**, has an area of 11600 (W) x 1680 (H) resulting in an area of 19.488m².

The rationalisation of building identification signage is supported by *State Environmental Planning Policy (Industry and Employment) 2021* and the size is not considered unreasonable to identify a retail precinct of the scale proposed.



Figure 46 – Location of the proposed Building Identification Sign.

Part 9.3 – Parking Controls

The application is subject to the provisions of Part 9.3 – ‘Parking Controls’ of the DCP.

Table 10 below provides detail of the level of compliance achieved by the development.

Table 10: DCP Parking Assessment				
Use	Required	Required #	Provided	Compliance
Residential				
1 Bedroom (54)	0.6/dwelling	32.4		
2 Bedroom (294)	0.9/dwelling	264.6		
3 Bedroom (63)	1.4/dwelling	88.2		
Total (411)		385.2 (386)		
Visitors (411)	1/5 dwellings	82.2 (83)	502	+33
Car Share	N/A	N/A	9	+9
Commercial (1,331m²)	1/40m ² GFA	33.275 (34)		
Retail (16,936m²)	1/25m ² GFA	659.8 (660)	624	-70
Total		1,163	1,135	-28

Part 3J of the ADG stipulates that development for residential apartments within 800m of a railway station in the Sydney Metropolitan Area can apply the DCP rate or the Guide to Traffic Generating Development rate (now the Guide to Transport Impact Assessment), whichever is the lesser.

The development is ~175m from Eastwood Train Station. **Table 11** below provides an assessment of the development against the Guide to Transport Impact Assessment (for the residential apartment component only).

Table 11: GTIA Parking Assessment				
Use	Required	Required #	Provided	Compliance
Residential				
1 Bedroom (54)	0.4/dwelling	21.6		
2 Bedroom (294)	0.7/dwelling	205.8		
3 Bedroom (63)	1.2/dwelling	75.6		
Total (411)		303		
Visitors (411)	1/7 dwellings	58.7 (59)	502	+140
Total		362	502	+140

An overall shortfall of 28 car parking spaces is considered satisfactory in this instance for the following reasons:

- **Commercial Rate:** Council's Development Engineer has reviewed the parking rate for the commercial component and is of the view that given the location of the development a rate of 1 space per 60m² is appropriate, reducing the commercial/retail variation from 34 spaces to 23 spaces, resulting in a revised

commercial/retail parking shortfall of 59 spaces and revised overall variation of 17 spaces.

- **ADG Residential Rate:** In addition, the ADG stipulates a lower residential requirement. The development would provide a surplus of 123 spaces if the ADG residential rate were to be applied.
- **Car Share:** The development is provided with car share spaces reducing car parking space demand for residential and commercial/retail uses.
- **Proximity to Public Transport:** The site is well-connected to public transport (~175m walking distance to entrance to Eastwood Train Station) which will reduce car-reliance.

4.1.9 Contributions

The following contributions are relevant and have been included in the recommended conditions:

Section 7.11 - Development Contributions

City of Ryde Development Contributions Plan 2020

Council's 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.

With respect to the application of credits for the existing non-residential gross floor area on the site, Section 7.11 states, where a proposed development displaces either an existing residential or non-residential development, a demand credit will be granted for that existing development.

In this instance, demand credits are calculated on the existing non-residential gross floor area (which in this instance is 14,900m²) being demolished as a result of the development.

The contribution that are payable with respect to the increase density on the subject site (less credits) are as follows:

Contribution Type	Contribution Amount
Community & Cultural Facilities	\$2,351,575.41
Open Space & Recreation Facilities	\$4,049,302.41
Roads & Traffic Management Facilities	\$1,243,122.06
Plan Administration	\$114,659.94
Total Contribution	\$7,758,659.82

The Section 7.11 Contribution of **\$7,758,659.82** has been included in the draft consent.

Section 7.28 - Housing and Productivity Contribution

Section 7.28(1)(a) requires that, *if a Ministerial planning order requires a housing and productivity contribution in relation to development, a consent authority must impose a condition on a development consent for the development requiring the housing and productivity contribution.*

The *Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bill 2023* was assented on 13 July 2023.

The applicable Housing and Productivity Contribution (HPC) is imposed as a condition being **\$4,579,438.74** (base component).

(d) Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act

The amended Development Application was submitted with a concurrent amended letter of offer to City of Ryde Council to enter into a planning agreement.

A deferred commencement condition is included in the recommended conditions requiring a voluntary planning agreement (VPA) be entered into prior to the consent becoming operative.

It is understood that the VPA does not seek to exclude the application of Section 7.11. Therefore, the Panel is not required to be a party to the agreement under Section 7.4(3A) of the EP&A Act.

(e) Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application, with the following matters being relevant to the proposal:

- Provisions of AS 2601 – The Demolition of Structures.

Conditions are imposed to ensure compliance with the relevant AS & BCA.

4.2 Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential environmental and built form impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above.

In relation to social impacts the proposal will increase housing supply, improve pedestrian connectivity and provide for larger retail tenancies (supermarkets) to support to the daily needs of local residents.

In relation to economic impact, the proposal will include an uplift in the commercial/retail floor space when compared to the existing Eastwood Centre. An economic study has been submitted and has determined the proposed increase is

limited to 3,915m² gross leasable area and will likely increase foot traffic to Eastwood Town Centre to the benefit of adjoining retailers.

4.3 Section 4.15(1)(c) - Suitability of the site

The site is considered suitable for the development. The site has been assessed in detail including contamination, integration of the site with the existing road network and traffic management, flooding, stormwater, and other potential environmental constraints.

As the proposal involves a complete redevelopment of the entire site, there are no constraints identified that would render the site unsuitable for the mixed use nature of the development.

4.4 Section 4.15(1)(d) - Public Submissions

Public submissions are considered in **Section 4.3** of this report and do not warrant refusal of the Development Application.

4.5 Section 4.15(1)(e) - Public Interest

On balance, the development is in the public interest as it complies with the objectives of the zone including contributing to the revitalisation of the Eastwood Town Centre.

5. REFERRALS AND SUBMISSIONS

5.1 External Referrals

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 12**.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

Table 12: Concurrence and Referrals to Agencies			
Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
Sydney Trains	Section 2.98(3) - <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>	The proposal involves the excavation of ground to a depth of at least 2m below ground level (existing) on land within, below or above a rail corridor.	Yes

		Concurrence has been granted and included as recommended conditions of consent.	
Ausgrid	Section 2.48 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development near electrical infrastructure	Referred to Ausgrid and no objection raised subject to conditions.	Yes
Sydney Trains	Section 2.97 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development land that is in or adjacent to a rail corridor.	As above.	Yes
Transport for NSW	Section 2.121 – <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> Development that is deemed to be traffic generating development in Schedule 3.	Refer to Transport for NSW and no objection raised to new Rutledge intersection subject to recommended conditions of consent.	Yes
Design Review Panel	Section 145(2) – <i>State Environmental Planning Policy (Housing) 2021</i> .	The advice of the DRP has been considered in the proposal and is further considered in Attachment 4 to this report.	Yes
Integrated Development (s4.46 of the EP&A Act)			
Water NSW	S89-91 – <i>Water Management Act 2000</i> Water use approval, water management work approval or activity approval under Part 3 of Chapter 3.	General terms of Approval provided and included as recommended conditions of consent.	Yes

Referrals were also made to NSW Police and Sydney Water who do not object to the development subject to recommended conditions of consent.

5.2 Internal Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 13** below.

Table 13 – Consideration of Council Referrals		
Officer	Comments	Resolved
City Works - Drainage - Traffic - Public Domain - Waste	City Works support the proposal subject to recommended conditions of consent.	Yes
	City Works requested further information during the course of the assessment of the Development Application. The amended	

Table 13 – Consideration of Council Referrals		
Officer	Comments	Resolved
	<p>Development Application has provided additional information in relation to stormwater, flooding and waste management.</p> <p>City Works Traffic were involved in negotiations with the applicant and Transport for NSW in relation to the Rutledge Street vehicular entrance. A new intersection and the terms of its design, ownership and maintenance have been agreed and conditions of consent imposed to achieve those terms.</p>	
City Places & City Transport	City Places and City Transport support the proposal without conditions.	Yes
Development Engineering	<p>Development Engineering support the proposal subject to recommended conditions of consent including in relation to the proposed stratum subdivision.</p> <p><u>Parking</u></p> <p>The parking controls are contained within Part 9.3 of the DCP.</p> <p>Residential</p> <ul style="list-style-type: none"> • 0.6 to 1 space / one bedroom dwelling • 0.9 to 1.2 spaces / two bedroom dwelling • 1.4 to 1.6 spaces / three bedroom dwelling • 1 visitor space / 5 dwellings <p>The development requires a total of 82.2 visitor spaces and 385.2 residential spaces being 467.4 spaces. The development provides 502 spaces and complies with the DCP.</p> <p>Retail/Commercial</p> <p>The development provides 624 spaces for the office and retail component, which is less than the 694 required (660 retail & 34 commercial).</p> <p>It is considered appropriate that the retail parking be prioritised over commercial, considering the public transport options surrounding the site and transport objectives related to reducing motor vehicle usage for commuter transport.</p> <p>In lieu of a particular commercial parking rate for this area, it would be appropriate to apply the lower Macquarie Park corridor commercial rate (1 parking space / 60m²) given the correlation of public transport options available. For the proposed commercial floor space area (1,331m²) and application of this rate, the parking allocation is presented to be 22 parking spaces and this has been implemented in recommended conditions of consent.</p> <p>Excerpt from Parking Condition</p> <p><i>Both the owner and occupier of the development must provide and maintain the following parking allocation:</i></p> <ul style="list-style-type: none"> • 411 residential spaces (including 44 adaptable spaces) • minimum 89 resident visitor spaces 	Yes

Table 13 – Consideration of Council Referrals		
Officer	Comments	Resolved
	<ul style="list-style-type: none"> • 22 commercial parking spaces • minimum 607 retail parking spaces • 51 motorbike parking spaces and, • 110 bicycle parking spaces. 	
Heritage	The Heritage Officer notes no additional impact beyond the existing approved development on the site. Accordingly, the proposal is supported, without conditions.	Yes
Geotech	An external geotechnical consultant supports the proposal without specific conditions being required.	Yes
Environmental Health	<p>Environmental Health support the proposal subject to recommended conditions of consent.</p> <p><u>Contamination</u></p> <p>The PSI states the potential contamination sources would not preclude the development. Considering the logistics and intrusive nature of coordinating access for comprehensive testing prior to demolition, the requirements for a DSI, and further site remediation are recommended as conditions of consent.</p> <p><u>Acoustics</u></p> <p>The reporting demonstrates relevant acoustic criteria can be met. A condition of consent is recommended to ensure that the acoustic attenuation requirements for the development are implemented.</p>	Yes
Landscape & Tree Management	Council's Landscape (on-site trees and landscaping) and Council's Tree Management (street trees) support the proposal, including the extent of tree removal proposed, subject to recommended conditions of consent.	Yes

5.3 Community Consultation

5.3.1 First Public Exhibition

The proposal was notified in accordance with the DCP/Council's Community Participation Plan from 20 May 2024 until 21 June 2024. The notification included the following:

- Notification letters sent to adjoining and adjacent properties (1,170 letters sent to local properties); and
- Notification on the Council's website.

The Council received a total of 18 unique submissions, comprising 18 objections and nil submissions in support of the proposal. The issues raised in these submissions are considered in **Table 14**.

Table 14 – Summary of Submissions – First Exhibition

Category	No.	Summary of Concerns	Response
Infrastructure (Road)	8	The existing road infrastructure is inadequate with significant traffic congestion in Eastwood that would be exacerbated.	<p>Council's City Works and Transport for NSW have determined the proposal is satisfactory in relation to traffic.</p> <p>The results of the traffic modelling show that the proposed redevelopment coupled with the proposed vehicular access, which is unrestricted access to Trelawney Street, LIRILO on Rutledge Street and entry only (for loading vehicles) on West Parade, is shown to have improved performance on Rutledge Street particularly where the SIDRA model demonstrates a reduction in the level of unreleased traffic demand and improved delays.</p> <p>The results of the traffic modelling as shown in the revised TIA report is consistent with the results of the modelling that was recently undertaken by Council for those intersections. In addition, the SIDRA modelling files have been reviewed by TfNSW and considered appropriate. As a result, the impact assessment of the proposed development is considered acceptable.</p>
Building Height	8	The proposed building height/scale is excessive, out of character and results in amenity impacts including overshadowing of Rutledge Street.	Building height has been reduced as described in this report from the first exhibition and is now considered satisfactory as outlined in this report.
Parking	8	<p>Adequate on-site parking including visitor and disabled parking should be provided for the residential as well as the commercial components of the development.</p> <p>Residential and Commercial parking should be separated.</p>	<p>Council's Development Engineer has assessed the parking provision as adequate.</p> <p>Parking areas are separated.</p>

Table 14 – Summary of Submissions – First Exhibition

Category	No.	Summary of Concerns	Response
		<p>Food delivery trucks, fire trucks, emergency vehicles including ambulances and police, rubbish and furniture removal vehicles should only be permitted to enter and exit from Rutledge Street in an easterly direction.</p> <p>Parking signage should be installed in Trelawney and Clanalpine Streets limiting parking to permit owners.</p>	<p>Loading is proposed from West Parade. A Loading Dock Management Plan has been conditioned to ensure impact on the road network is minimised (Attachment 1).</p> <p>On-site parking provision is considered adequate with no need for parking restriction signage. Parking signage is subject to separate approval from Council's Local Traffic Committee. Should Council determine parking signage is required upon operation of the development a recommendation can be made to the Committee.</p>
Amenity of Adjoining Properties	5	<p>A shadow analysis on impacts to No. 7 Rutledge St, Eastwood and southern adjoining properties should be undertaken.</p> <p>The development should have adequate setbacks and be designed to include appropriately located privacy screens to prevent overlooking, light spillage and to protect the privacy and amenity of adjoining residents.</p>	<p>Overshadowing to the southern adjoining properties is considered satisfactory (refer to building height assessment above)</p> <p>For further discussion of the impacts on No. 7 Rutledge Street please refer to discussion below.</p>
Overdevelopment and Density	5	<p>The proposal comprising 440+ apartments and basement parking is considered an over-development given its land size and location and will negatively impact the amenity of the community.</p>	<p>The proposed development has been reduced to 411 apartments and is considered a reasonable development for a large consolidated land holding. Amenity impacts are addressed within the body of this report.</p>
Construction	4	<p>The noise and air pollution from the construction will affect the local school children.</p> <p>Minimum disruption to the Rowes Street side should be provided to enable businesses to continue to operate during the extended construction phase.</p> <p>Parking of trucks and trades people during the redevelopment</p>	<p>Demolition and construction impacts and the proximity of sensitive receivers is noted.</p> <p>Numerous conditions of consent are recommended to ensure that demolition and construction impacts are minimised in accordance with the relevant guidelines including working hours, the requirement to provide a Construction Traffic</p>

Table 14 – Summary of Submissions – First Exhibition

Category	No.	Summary of Concerns	Response
		<p>should appropriately be considered.</p> <p>During the demolition construction period, traffic (especially heavy vehicles) which enter and exit Trelawney Street, will inconvenience adjoining tenants.</p> <p>Tenants will be adversely affected by the noise, dust and demolition debris produced during the construction work.</p>	<p>Management Plan, dust control and erosion and sediment control.</p>
Pedestrian Access	3	<p>Appropriate pedestrian access and crossing should be provided by the development to ensure pedestrian and traffic safety in the area of the development.</p>	<p>The Rutledge Street slip lane works do not include a signalised pedestrian crossing from the northern to the southern side of Rutledge Street.</p> <p>Notwithstanding, the amended slip lane design improves pedestrian safety when compared to the original scheme by providing a signalised crossing of the proposed driveway entry/exit.</p>
Flood Mitigation	2	<p>The 100-year flood impacts have not appropriately been considered. A revised flood report should be prepared which includes mitigation measures to minimise the risk and resulting impacts of flooding on adjoining properties including during and post- construction.</p>	<p>Revised flood information was submitted to the satisfaction of Council's City Works Section.</p>
Infrastructure (General)	2	<p>The additional 441 residential apartments will negatively impact existing infrastructure including, schools, healthcare facilities and emergency services.</p>	<p>The proposal has been reduced to 411 apartments, only 2 more apartments than the previously approved (and active) development consent and does not represent a substantial uplift in density.</p>
Owners Consent	2	<p>Development is proposed on adjoining properties and a footpath for which owners' consent has not been obtained.</p>	<p>The amended Development Application clarifies no works are to occur on adjoining properties through demolition of existing ramp access (from Trelawney Street) within the subject property only.</p>
Access	1	<p>To enable all neighbouring properties to have a simple</p>	<p>Rear vehicle access to adjoining properties to the east</p>

Table 14 – Summary of Submissions – First Exhibition

Category	No.	Summary of Concerns	Response
		method of access into the rear of their properties, Council should consider conditioning that a surface ground access corridor be provided and constructed by the developer to Council standards.	and west of the development is required to be resolved in accordance with existing title restrictions. This requirement forms a deferred commencement condition (Attachment 1).
Economic	1	<p>Three (3) levels of commercial will detract from the distinct 'feel' of the Rowe St open mall and should be limited to ground floor. The other two levels should be for offices and or residential and NOT commercial.</p> <p>Concerns are raised regarding the impact of having vacant stores in Rowe Street.</p> <p>An anchor tenant will be a good thing, but Eastwood should not be turned into a Macquarie centre / Westfield which detracts from the 'village' atmosphere.</p>	<p>The development will present as a two storey retail frontage to Rowe Street Mall. The third retail level is at the basement level.</p> <p>An economic study has been undertaken by the applicant which determines the proposal will not negatively detract from existing shops in Eastwood and will be able to coincide with the existing stores.</p>
Noise	1	Noise impacts from additional residents will negatively impact the quality of life of existing residents.	An acoustic report has been prepared that has assessed noise emissions as within the applicable Guidelines, subject to compliance with the recommendations of the report. The report and its recommendations form part of the recommended conditions of consent (Attachment 1).
Affordable Housing	1	Lack of affordable housing.	There is no legislative requirement to provide affordable housing. Notwithstanding, a planning agreement is proposed which will consider affordable housing contributions / provision.
Public Toilets	1	Adequate and safe public toilets including disabled toilets should be provided for the commercial component of the development.	Toilets will be provided in accordance with the NCC including accessible toilets.
Rezoning of neighbouring land and Eastwood generally	1	Rezoning of Eastwood to allow for high rise development in all areas of Eastwood should be considered prior to the approval of this proposed development.	The development does not propose rezoning. The reduction in heights in the amended Development Application and accompanying written request to vary the

Table 14 – Summary of Submissions – First Exhibition			
Category	No.	Summary of Concerns	Response
			<p>building height control satisfy Clause 4.6 of the LEP.</p> <p>Recent reforms under <i>State Environmental Planning Policy (Housing) 2021</i> expand the potential for higher density development to the south of Rutledge Street, which is outside the scope of this DA.</p>
Views	1	The new development will block views of existing residents.	The development will not result in any unsatisfactory view loss. Views of the sky are principally controlled in relation to overshadowing which is deemed to be satisfactory primarily falling across Rutledge Street which is not a priority pedestrian active street for the Eastwood Town Centre.

5.3.2 Second Public Exhibition

The amended Development Application was notified in accordance with the DCP/Council's Community Participation Plan from 10 February 2025 to 26 February 2025.

A total of 18 submissions were received by way of objection. The submission issues are primarily addressed in **Table 14** above.

The second public exhibition raised a greater number of concerns on the impacts on the existing residential flat building at No. 7 Rutledge Street, Eastwood in relation to visual privacy and solar access.

- **Solar Access**

The interface and amenity impact to No. 7 Rutledge Street, Eastwood have been considered in detail in the assessment of the Development Application.

The overshadowing of No. 7 Rutledge Street, Eastwood, by the proposed development, between 9am and 3pm mid-winter is detailed in the eye of the sun diagrams in **Figure 47** to **Figure 53** (No. 7 Rutledge Street is outlined in red).



Figure 47 – Eye of the Sun Diagram - June 21 – 9am



Figure 48 – Eye of the Sun Diagram - June 21/Mid-Winter – 10am.



Figure 49 – Eye of the Sun Diagram - June 21/Mid-Winter – 11am.



Figure 50 – Eye of the Sun Diagram - June 21/Mid-Winter – 12pm.

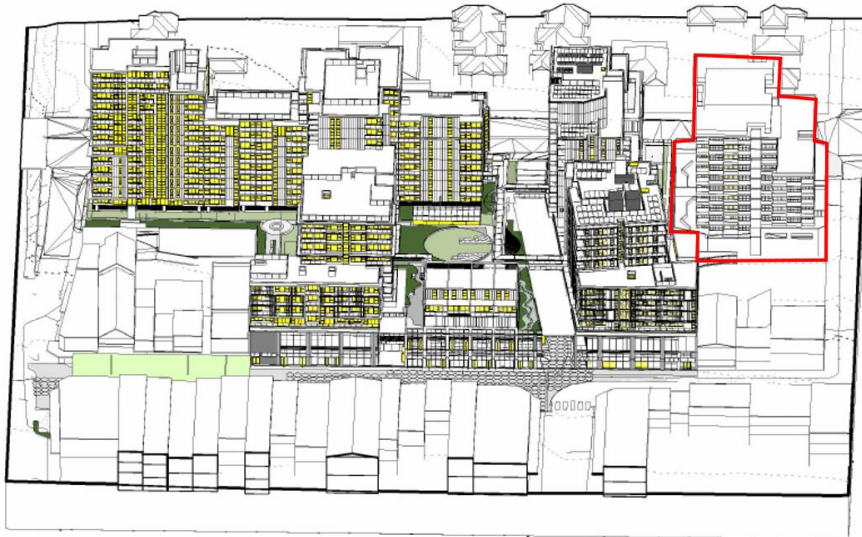


Figure 51 – Eye of the Sun Diagram - June 21/Mid-Winter – 1pm.



Figure 52 – Eye of the Sun Diagram - June 21/Mid-Winter – 2pm.

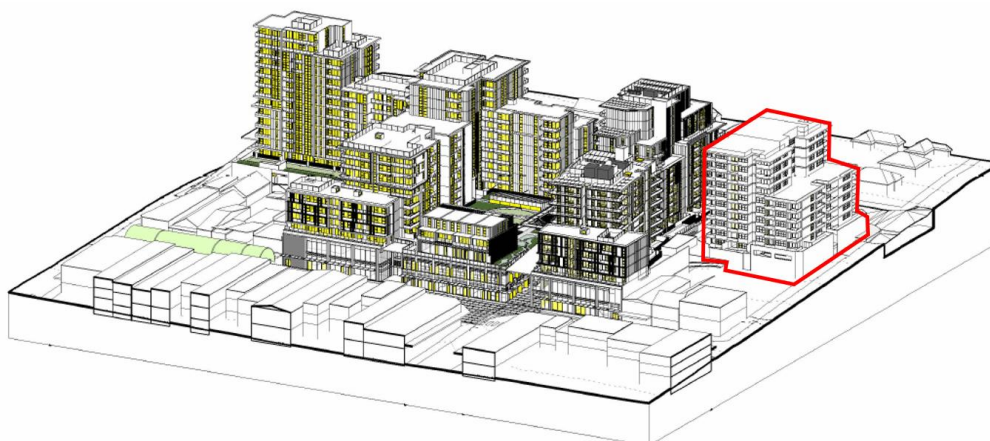


Figure 53 – Eye of the Sun Diagram - June 21/Mid-Winter – 3pm.

The principal impact is to the eastern elevation of No. 7 Rutledge Street between 9am and 12pm mid-winter.

The proposed development does not impact solar access to No. 7 Rutledge Street from 1pm mid-winter.

The design of the development was amended to ensure that the eastern elevation of No. 7 Rutledge Street receives no less solar access (overall) than when compared to the previously approved development for the site and a maximum permitted LEP building envelope.

Drawing Nos. DA2840 and DA2841 (**Attachment 2** (pages 65 and 66)) compare solar access when compared to the previously approved development for the site and a maximum permitted LEP envelope.

A summary of the assessment is provided in **Table 15** below.

Table 15 – Impact on Solar Access to Eastern Elevation of No. 7 Rutledge Street			
Category	LEP Envelope	Approved DA	Subject DA
Apartments >2hrs	8	12	13
Apartments <2hrs	16	14	13
Apartments 0hrs	6	4	4

An excerpt of the comparative solar analysis between the previously approved DA and the proposed development is provided in **Figure 54**.



Figure 54 – Approved and Proposed Solar Access to Eastern Elevation of No. 7 Rutledge Street.

An excerpt of the comparative solar analysis between the maximum permissible LEP envelope and the proposed development is provided in **Figure 55**.

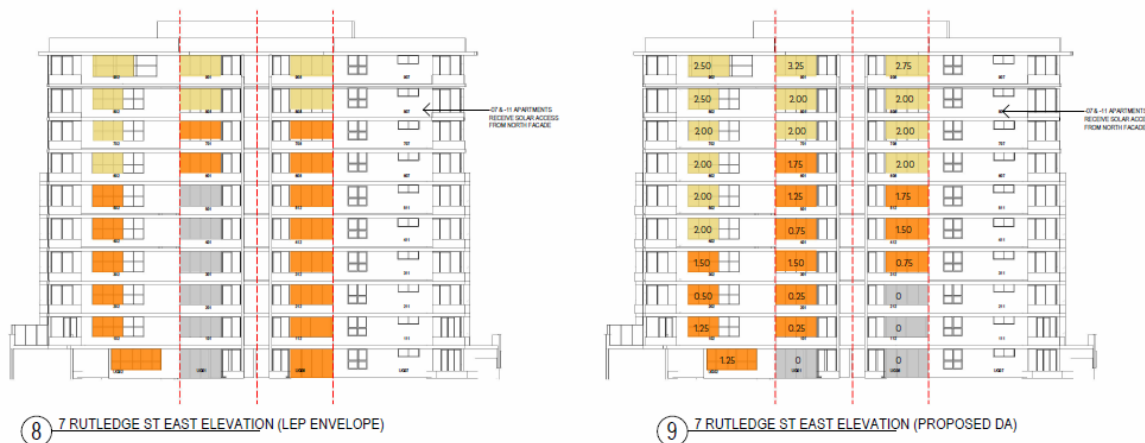


Figure 55 – LEP and Proposed Solar Access to Eastern Elevation of No. 7 Rutledge Street.

The above analysis demonstrates the proposed development provides no less solar access than the previously approved DA and when compared to a compliant LEP building envelope.

Further, as described below, the proposed development provides its share of building separation and accordingly does not increase overshadowing as a result of the siting of the proposed development.

On this basis, the proposed solar access impact to No. 7 Rutledge Street are considered reasonable, having regard to the relevant planning controls, and does not warrant refusal of the DA.

• Building Separation

The existing residential flat building on No. 7 Rutledge Street is 10 storeys at the interface with proposed Building B which is 12 storeys.

No. 7 Rutledge Street is set back 6m from the common boundary for all 10 storeys. The proposed development is set back between 9m to 13.4m from the common boundary as shown in **Figure 56**.

The proposed development provides its share of ADG building separation. However, due to the non-compliant building separation of No. 7 Rutledge Street, the total building separation between the buildings does not meet the ADG from 5 storeys and above.

There is no requirement under Part 3F of the ADG to provide for additional building separation where an adjoining site is non-compliant. Notwithstanding, the proposed development provides privacy screens to Levels 6 to 8 to improve the visual privacy afforded to No. 7 Rutledge Street.

Further, the proposed development limits the number of apartments at Level 9 and above with an interface to No. 7 Rutledge Street to either one or two.

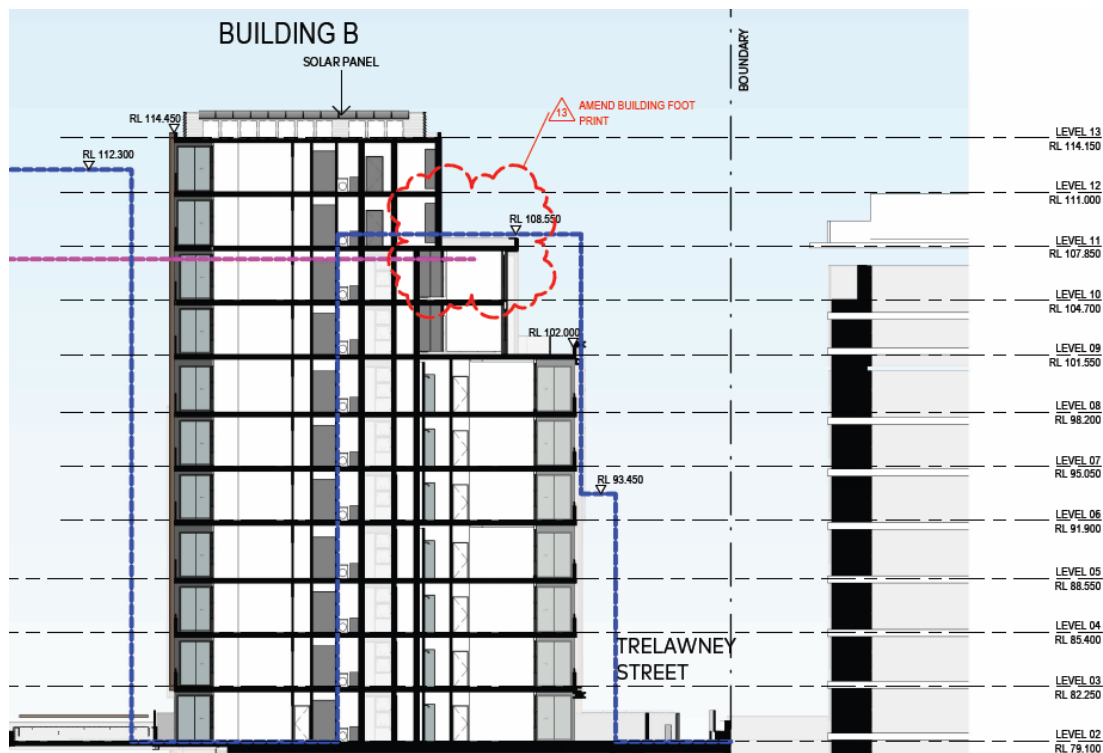


Figure 56 – Section – Interface Between RFB on No. 7 Rutledge Street and Proposed Building B

In addition, the Development Application was amended during the assessment to increase the building separation from No. 7 Rutledge Street.

For example, the Level 11-12 building setback was increased from 12.3m to 13.4m and the floorplate of those levels substantially reduced as shown in **Figure 57**.

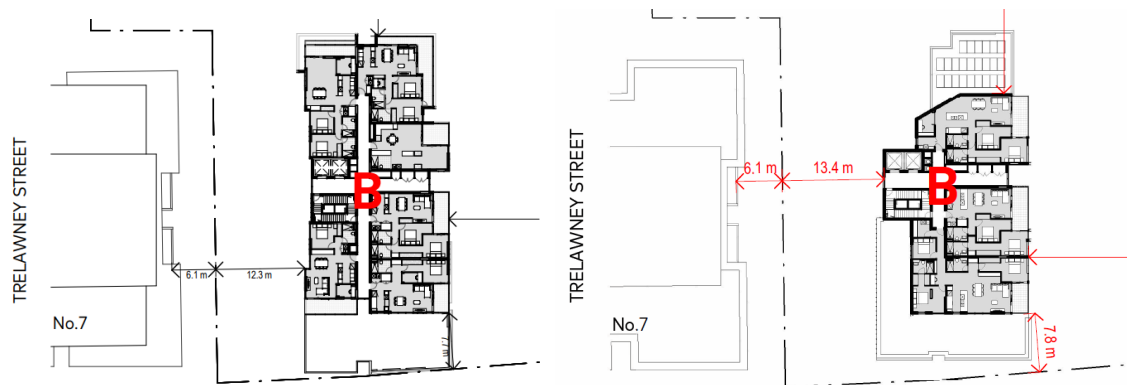


Figure 57 – Originally Submitted (Left) and Amended (Right) Level 12 Plan.

For the reasons given above, the building separation is considered satisfactory and accordingly visual privacy concerns raised in the submissions does not warrant refusal of the DA.

Design Amendments (Recommended Conditions of Consent)

In order to further improve the interface with No. 7 Rutledge Street, a reduced height non-trafficable zone, removal of AC units and acoustic screening of the driveway ramp are proposed through recommended conditions of consent.

The reduced height non-trafficable zone is shown in **Figure 58**.

The amendments require deletion of the outer balustrade to better align with the wall on No. 7 Rutledge Street and creation of a 3m wide non trafficable zone (dashed red line).

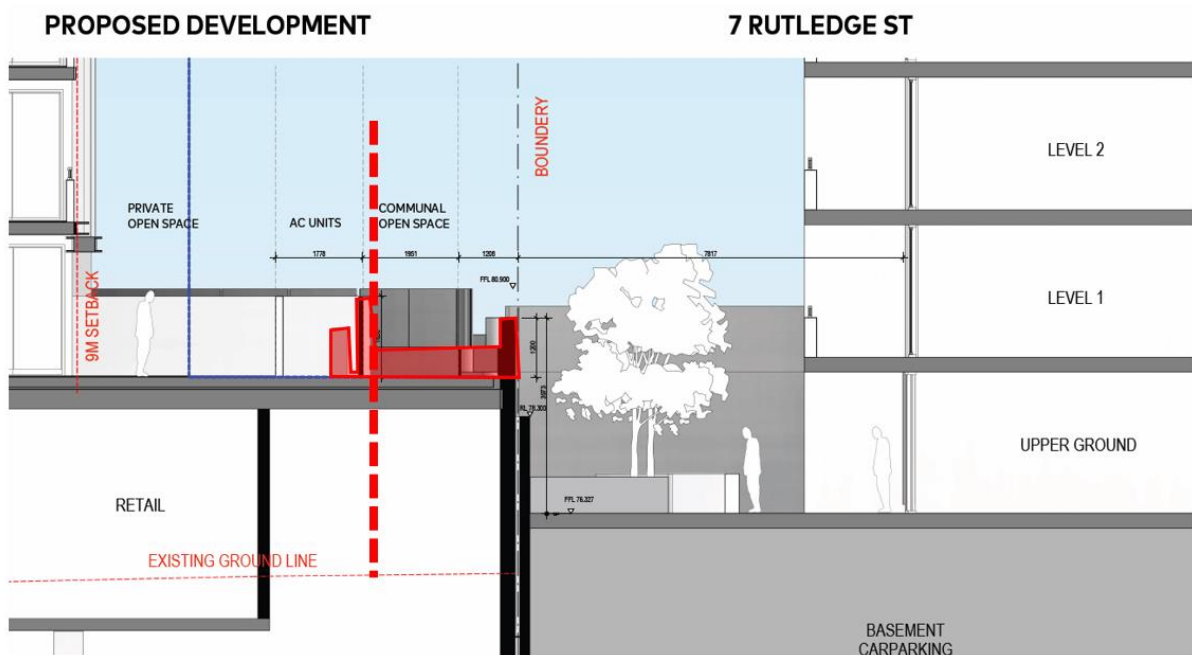


Figure 58 – Proposed Non-Trafficable Zone.

6. CONCLUSION

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest.

The application is responsive to the strategic intentions of the RLEP 2014 that have been adopted for the locality. The proposal is consistent with the relevant objectives of the MU1 Mixed Use zone.

Therefore, it is recommended that the application be approved subject to the surrender of LDA2024/0092, and the conditions of consent for the following reasons:

- The proposal complies with the statutory provisions set out in the Environmental Planning and Assessment Act 1979.
- The applicant's Clause 4.6 written request to vary the height of buildings development standard in Clause 4.3 of *Ryde Local Environmental Plan 2014* is acceptable as the proposal satisfies the relevant objectives of the zone and the development standard, is consistent with the scale anticipated on this site and will read favourably in the context of the redevelopment of neighbouring sites in the future. Compliance with this development standard is unreasonable or unnecessary in the circumstances of this specific proposal; and there are sufficient environmental planning grounds to justify contravening this development standard.
- The issues raised in the submissions do not warrant the refusal of the application and have been adequately addressed in this report.
- The proposed development does not create unreasonable environmental impact to existing development in the immediate vicinity.
- The site is considered suitable for the proposed development.
- The development is in the public interest through the provision of a mix of apartment types and retail premises to address growing housing demand and support the growth of the local community.

It is considered that the key issues raised within the report have been resolved satisfactorily through amendments to the proposal and/or in the recommended draft conditions at **Attachment 1**.

7. RECOMMENDATION

- 1) THAT the Sydney North Planning Panel accepts the Clause 4.6 written request to vary Clause 4.3 Height of Buildings in the Ryde Local Environmental Plan 2014 which has adequately addressed the matters in sub-clause (3) and will be in the public interest as it is consistent with the relevant objectives of the MU1 Mixed Use Zone of Ryde Local Environmental Plan 2014.
- 2) That the Sydney North Planning Panel grant consent to development application LDA2024/0092 for the demolition of existing structures and construction of a mixed-use development comprising retail premises, 411 residential apartments, basement parking for 1,135 vehicles and stratum subdivision into six lots at 152-190 Rowe Street and 3-5 Rutledge Street, Eastwood, subject to conditions of consent in **Attachment 1** of this report.

- 3) That WaterNSW, Transport for NSW, and Sydney Trains be advised of the decision.
- 4) That those persons who provided a submission be notified of the decision.