

APPENDIX A. STATUTORY ASSESSMENT AND SUMMARY

Objects of the Environmental Planning and Assessment Act 1979 (EP&A Act)

The objects provide an overarching framework that informs the purpose and intent of the legislation and gives guidance to its operation. The Minister's consideration and determination of an application under Part 3A must be informed by the relevant provisions of the Act, consistent with the objects of the Act.

The objects of the Act in section 5 are as follows:

- (a) *To encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land,*
 - (iii) *the protection, provision and co-ordination of communication and utility services,*
 - (iv) *the provision of land for public purposes,*
 - (v) *the provision and co-ordination of community services and facilities,*
 - (vi) *the protection of the environment, including the protection and conservation of native animals and plants, including threatened species, populations and ecological communities, and their habitats,*
 - (vii) *ecologically sustainable development,*
 - (viii) *the provision and maintenance of affordable housing,*
- (b) *To promote the sharing of the responsibility for environmental planning between the different levels of government in the State, and*
- (c) *To provide increased opportunity for public involvement and participation in environmental planning and assessment.*

It is considered that on balance, with consideration of the benefits provided for in the proposal such as housing, jobs, and public domain upgrades, the application promotes the co-ordination of the orderly and economic use and development of land and provides a better built form and a positive amenity environment.

With respect to ESD, the EP&A Act adopts the definition in the *Protection of the Environment Administration Act 1991* including the precautionary principle, the principle of inter-generational equity, the principle of conservation of biological diversity and ecological integrity, and the principle of improved valuation, pricing and incentive mechanisms.

The Department has considered the Objects of the Act, including the encouragement of ESD in the assessment of the Concept Plan Application. The balancing of the application in relation to the Objects is provided in **Section 7**.

Statement of Compliance

Under Section 75I of the EP&A Act 1979 and Clause 8B of the EP&A Regulation 2000, the Director General's report is required to include a statement relating to compliance with environmental assessment requirements with respect to the project.

The Department is satisfied that the environmental requirements have been complied with.

Ecological Sustainable Development Principles

There are five accepted ESD principles:

- (a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations (the integration principle);
- (b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation (the precautionary principle);
- (c) the principle of inter-generational equity - that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations (the inter-generational principle);
- (d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making (the biodiversity principle); and
- (e) improved valuation, pricing and incentive mechanisms should be promoted (the valuation principle).

The Department has considered the proposed development in relation to the ESD principles and has made the following conclusions:

- **Integration Principle** - The social, environmental and economic impacts of the proposal are positive and the development would provide a positive reuse of the site for employment, commercial, retail and residential use. The environmental impacts of the development are appropriately mitigated as discussed in this report. The Department's assessment has duly considered all issues raised by the community and public authorities. The proposal as recommended for approval will not compromise benefits or opportunities to others. The development will also improve landscaping on and surrounding the site and assist in creating a benchmark for further revitalisation of the locality.
- **Precautionary Principle** – The EA is supported by technical and environmental reports which conclude that the proposal's impacts can be successfully mitigated. No irreversible or serious environmental impacts have been identified. The site has a low level of environmental sensitivity and does not contain any threatened or vulnerable species, populations, communities or significant habitats. The Proponent has demonstrated that the development design and appropriate mitigation measures will be implemented to prevent any detrimental environmental impacts. Mitigation measures are recommended in the conditions of approval. No significant climate change risks are identified as a result of this proposal.
- **Inter-Generational Principle** – The site's redevelopment for commercial, retail and residential uses incorporating ecologically sustainable design principles and implementation of environmental management practices to be employed during construction of the new development, will ensure that the environment is protected for future generations.
- **Biodiversity Principle** – There is no threat of serious or irreversible environmental damage as a result of this proposal. The proposal does not impact upon biological diversity or ecological diversity. The site is in the centre of West Ryde and is currently vacant land.
- **Valuation Principle** – The proposal seeks to promote new commercial, retail and residential development within an existing urban area by maximising reliance on existing infrastructure, and enabling residents to live near work, leisure and other opportunities. The project will deliver a significantly improved environment that will have greater economic, ecological and community value than the current and previous incarnations of the site.

The Proponent is committed to ESD principles and has reinforced this through the Environmental Assessment which explores key ESD opportunities. Given that this application is for Concept Plan approval only, ESD concepts have been explored. These including but are not limited to, renewable energy eg. solar power, low energy appliances, recycling, cross ventilation, thermal mass, stormwater harvesting, flexible and adaptable dwelling layouts and choice of materials for

construction. Further, Housing NSW has two ESD publications which will be used to guide design and construction following approval of the Concept Plan.

Some Contributions are also to be paid with any subsequent Development Application to assist Council in providing long term services to the community. Consequently, the Department is satisfied that the proposal is consistent with the principles of ESD.

Section 75I(2) of the Act

Section 75I(2) of the *Environmental Planning and Assessment Act 1979* and clause 8B of the *Environmental Planning and Assessment Regulation 2000* provides that the Director General's Report is to address a number of requirements. These matters and the Departments response are set out as follow:

Section 75I(2) criteria	Response
Copy of the Proponent's Environmental Assessment and any Preferred Project Report;	The Proponent's EA and PPR are located at Appendix C and D of this report.
Any advice provided by public authorities on the project;	All advice provided by public authorities on the project for the Minister's consideration is set out in Section 6 of this report.
Copy of any report of a panel constituted under Section 75G in respect of the project;	No statutory independent hearing and assessment panel was undertaken in respect of this project.
Copy of or reference to the provisions of any State Environmental Planning Policy that substantially govern the carrying out of the project;	Each relevant SEPP that substantially governs the carrying out of the project is identified in Appendix A , including an assessment of the impact of the SEPPs on the development proposal.
Except in the case of a critical infrastructure project – a copy of or reference to the provisions of any environmental planning instrument that would (but for this Part) substantially govern the carrying out of the project and that have been taken into consideration in the environmental assessment of the project under this Division;	An assessment of the development relative to the prevailing environmental planning instrument is provided in Appendix A of this report.
Any environmental assessment undertaken by the Director General or other matter the Director General considers appropriate;	The environmental assessment of the application is this report in its entirety.
A statement relating to compliance with the environmental assessment requirements under this Division with respect to the project.	The proposal adequately complies with the DGRs.
Clause 8B criteria	Response
An assessment of the environmental impact of the project	An assessment of the environmental impact of the proposal is discussed in Section 7 of this report.
Any aspect of the public interest that the Director General considers relevant to the project	The public interest is discussed in Section 9 of this report.
The suitability of the site for the project	The project represents a redevelopment of an underutilised site within an established urban area for retail/commercial/residential activity suitable for the locality.
Copies of submissions received by the Director General in connection with public consultation under section 75H or a summary of the issues raised in those submissions.	A summary of the issues raised in the submissions is provided in Section 6 and Appendix F of this report.

Environmental Planning Instruments (EPI's)

Application of EPI's to Part 3A Projects

To satisfy the requirements of section 75I(2)(d) and (e) of the Act, this report includes references to the provisions of the environmental planning instruments that govern the carrying out of the project and have been taken into consideration in the environmental assessment of the application. An assessment of compliance with the relevant EPI's is provided immediately below which concludes that the proposal complies with these documents.

The primary controls guiding the assessment of the proposal are:

- State Environmental Planning Policy 55 – Contaminated Land (SEPP 55);
- State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (Major Development) 2005;
- Ryde Planning Scheme Ordinance (RPSO) 1979; and,
- Draft Ryde Local Environmental Plan (LEP) 2010.

The provisions, including development standards of local environmental plans are not required to be strictly applied in the assessment and determination of major projects under Section 75R(1) in Part 3A of the Act. Notwithstanding, these standards and provisions are relevant considerations for this application as Section 75I(2)(e) of the Environmental Planning and Assessment Act, 1979 require the Proponent to address such standards and provisions and the Department to duly consider them.

Accordingly the objectives of a number of EPIs and the development standards therein and other plans and policies that govern the carrying out of the project are appropriate for consideration in this assessment as follows.

COMPLIANCE WITH PRIMARY CONTROLS

State Environmental Planning Policy 55 – Contaminated Land

Clause 7(1)A of SEPP 55 states that a consent authority must ascertain whether the site is contaminated and requires remediation prior to issuing consent. The Proponent has provided a cost estimate for preliminary investigations of the site (refer to **Appendix 13** of the EA). Given that this application is for Concept Plan approval only, A Phase 1 Assessment of the site can be provided with any future Development Application.

State Environmental Planning Policy 65 – Design Quality of Residential Flat Buildings

SEPP 65 seeks to improve the design quality of residential flat development through the application of a series of 10 design principles. An assessment against these principles is provided below.

A Design Verification Statement has been provided by the Caldis Cook Group stating that the subject development has been designed having respect to the design quality principles.

Key Principles of SEPP 65	Department Response
Principle 1: Context	The site is located in a residential area on the fringe of the West Ryde Urban Village/Transport Interchange Precinct. The site is located in close proximity to public transport and lends itself well to a higher density development on the site.
Principle 2: Scale	The scale of the proposal, with the implementation of recommended modifications, will be in keeping with that of the surrounding area. In particular, the transition of height from south

	to north which will ensure the site serves as a transition from the higher densities of the south with the lower densities of the north.
Principle 3: Built Form	The Proponent has demonstrated that this site can be an effective transitional site between the higher densities of the south and the lower densities of the north, by designing the majority of the bulk and height to be at the southern end of the site. Recommended modifications to increase setbacks will further improve the relationship between the built form and surrounding environment.
Principle 4: Density	The density of the overall development of the site is relatively high, however the recommended modifications to the PPR such as increased setbacks will reduce the density and therefore associated bulk.
Principle 5: Resource, Energy and Water Efficiency	Utilising a site well serviced by infrastructure and in proximity to transport links, retail, and employment uses is an efficient use of resources. The general location and orientation of the buildings maximises sunlight, daylight and ventilation to reduce reliance on artificial heating and cooling. The Concept Plan makes a commitment to a range of ESD initiatives to be considered in future Development Applications
Principle 6: Landscape	The proposal includes a combination of hard and soft landscaping, including deep soil zones, the majority of the soft landscaping is proposed along West Parade and to the northern boundary adjacent to Council's road reserve.
Principle 7: Amenity	The Concept Plan seeks to optimise amenity in terms of solar access, ventilation, views and outlook, private open space and access to public open space. Recommended modifications to the PPR such as increased setbacks will further minimise impacts on the amenity of surrounding residents.
Principle 8: Safety and Security	In general, the concept design allows for good passive surveillance of the road networks, and public and private open space areas on the site. Attention will need to be given to the issue of safety and security in the detailed design of future Development Applications with respect to the proposed basement car parking areas, as well as entry points for apartments from the public open space and public domain areas
Principle 9: Social Dimensions and Housing Affordability	The Concept Plan includes 61 social units, which equates to 43% of the total number of units proposed. A mix of apartment types is proposed to encourage a diverse social mix within the area and to sustain a vibrant community. The site's close proximity to public transport, employment opportunities and retail uses ensure an appropriate location for social housing.
Principle 10: Aesthetics	The specific detail of the buildings proposed within the Concept Plan will be assessed as part of future Development Applications.

Residential Flat Design Code

The Residential Flat Design Code (the Code) is closely linked to the principles of SEPP 65. The Code sets out a number of "rules of thumb" which detail prescriptive standards for residential flat development that would ensure the development complies with the intent of the Code.

Whilst the proposal is for Concept Plan approval only, the proposal has been assessed against these development controls (where relevant to this application). A full assessment will be made at future Development Application stage.

- The Code advises that 25% of the open space area of a site should be deep soil zone. The Proponent has demonstrated that 26% of the open space area of the site will comprise deep soil zones.
- The Code recommends 25-30% communal open space is provided to such a development. The Proponent has demonstrated that 21% of the total site area will be communal open space, which is considered acceptable in this case given the constrained urban nature of the site and its context.
- A Crime Prevention Through Environmental Design (CPTED) Assessment has been undertaken which detailed compliance with the principles of CPTED. This assessment satisfies the Code requirement for a crime risk assessment.
- The Code provides building separation requirements in order to maximise visual privacy between residential flat buildings and other residences. The proposal is considered to comply with the objectives of this control as the Proponent has demonstrated that visual privacy/amenity of habitable rooms can be maintained between buildings. This will be further addressed in any subsequent Development Application.
- The Code recommends that driveways should be limited to 6m in width. The proposal includes a single driveway which is 7.2m in width. Whilst the proposal does not comply with this rule, it is considered a better alternative than providing an additional driveway which would result in an additional vehicle/pedestrian conflict point.

The proposed Concept Plan is generally consistent with the aims and provisions of the Code, and any inconsistencies will be addressed at future Development Application stage.

State Environmental Planning Policy (Infrastructure) 2007

As the proposal is adjacent to a rail corridor, clause 87 of the above mentioned SEPP needs to be complied with. Consequently the Department referred the subject application to Railcorp as part of the consultation process. Refer to **Section 6.2** for Railcorp's comments. In addition, the Proponent submitted a Traffic and Railway Noise and Vibration Assessment prepared by Acoustic Logic Consultancy, which recommended that subject to noise/vibration attenuation measures, the site is suitable for the proposed development.

State Environmental Planning Policy (Major Development) 2005

Under Schedule 1, Group 5 of the former Major Projects SEPP, "*residential, commercial or retail projects*" with a capital investment value (CIV) of more than \$50 million that the Minister determines are important in achieving State and regional planning objectives may be declared a Major Project under Part 3A of the EP&A Act 1979. The project proposes residential uses with ancillary retail and commercial uses and has a CIV of \$55 million.

Ryde Planning Scheme Ordinance

The site is zoned "*Residential 2(c5)*" under the Ryde Planning Scheme Ordinance (RPSO). The proposed residential use is permissible within this zone, however the proposed ancillary office and retail uses are prohibited within this zone.

Ryde Planning Scheme Ordinance			
Provisions	Permitted	Proposed	Compliance
Clause 46 Minimum Allotment Size	840m ²	3,735m ²	Yes
Minimum Frontage	24m	135.85m	Yes
Clause 51 FSR	0.75:1	3.5:1	No
Clause 55 Density (min site area)	12,540m ²	3,735m ²	No
Landscaped Area	5,100m ²	1,627m ²	No
Clause 56 Parking (1 bed/2 bed/3 bed/visitor)	53/88.8/17.6/34.5 194 spaces	105	No

Draft Ryde Local Environmental Plan 2010

The Draft Ryde Local Environmental Plan (LEP) 2010 is currently at section 69 stage and is nearing gazettal by the Minister. The site is zoned "R4 - High Density Residential" under the Draft Ryde LEP 2010. The proposed uses are permissible within this zone (Figure 7).

Draft Ryde Local Environmental Plan 2010			
Provisions	Permitted	Proposed	Compliance
Clause 4.3 Height	11.5m	36m to top of roof slab (12 storeys)	No
Clause 4.4 FSR	N/A	3.5:1	N/A*
Clause 4.5B Density** (min site area)	12,820m ² (required site area)	3,735m ² (site area)	No

* FSR of 0.75:1 only applicable to shop-top housing.

** Based on a set m² for each dwelling

APPENDIX B. DIRECTOR GENERAL'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS

Director General's Requirements

Section 75F of the *Environmental Planning and Assessment Act 1979*

Application number	MP 09_0029
Project	Construction of 140-150 new dwellings, associated commercial floorspace and community facilities
Location	63-77 West Parade, West Ryde
Proponent	Housing NSW
Date issued	4 May 2009
Expiry date	If the Environmental Assessment (EA) is not exhibited within 2 years after this date, the applicant must consult further with the Director General in relation to the preparation of the environmental assessment.
Key issues	<p>The Environmental Assessment (EA) must address the following key issues:</p> <p>1. Relevant EPI's policies and Guidelines to be Addressed Planning provisions applying to the site, including permissibility and the provisions of all plans and policies including:</p> <ul style="list-style-type: none"> • Objects of the EP&A Act; • NSW State Plan, Urban Transport Statement; • Draft Inner North Sub-regional Strategy; • SEPP 53 Metropolitan Residential Development; • SEPP 55 Remediation of Land; • SEPP 65 Design Quality of Residential Flat Development; • SEPP (Building Sustainability Index: BASIX) 2004; • Draft SEPP 66 Integration of Land Use and Transport; • Ryde Planning Scheme Ordinance 1979, relevant Development Control Plans; and • Nature and extent of any non-compliance with relevant environmental planning instruments, plans and guidelines and justification for any non-compliance. <p>2. Built Form Urban Design/Public Domain The EA shall address the height, bulk and scale of the proposed development within the context of the locality. In particular, detailed envelope/height and contextual studies should be undertaken to ensure the proposal integrates with the local environment.</p> <p>The EA shall address the design quality with specific consideration of the façade, massing, setbacks, building articulation, use of appropriate colours, materials/finishes, landscaping, safety by design and public domain, including an assessment against the CPTED Principles.</p> <p>A key desired outcome is a high quality public domain in West Parade and the EA should present strategies for the successful integration of public and private open space.</p> <p>The EA shall provide the following documents:</p>

- Comparable height study to demonstrate how the proposed height relates to the height of the existing/approved developments surrounding the subject site and in the locality;
- View analysis to and from the site from key vantage points; and
- Options for building envelopes, massing and articulation, with particular consideration given to the integration of the public domain along West Parade.

3. Staging

The EA must include details regarding the staging of the proposed development (if proposed).

4. Environmental and Residential Amenity

The EA must address solar access, acoustic privacy, visual privacy, view loss and wind impacts and achieve a high level of environmental and residential amenity.

5. Transport & Accessibility Impacts (Construction and Operational)

The EA shall address the following matters:

- Provide a Transport & Accessibility Impact Study prepared in accordance with the RTA's *Guide to Traffic Generating Developments*, considering traffic generation (including daily and peak traffic movements), any required road / intersection upgrades, access, loading dock(s), car parking arrangements, measures to promote public transport usage and pedestrian and bicycle linkages;
- Provide an assessment of the implications of the proposed development for non-car travel modes (including public transport, walking and cycling), including an assessment of existing and proposed pedestrian and cycle movements within the vicinity of the subject site, and possible linkage to the "Rail Trail Shared Use Path Cycle/Pedestrian Route" which runs along the rail corridor;
- Demonstrate that a minimalist approach to carparking provision is taken based on the accessibility of the site to public transport;
- Demonstrate how users of the development will be able to make travel choices that support the achievement of relevant State Plan targets;
- Demonstrate consistency with the accessibility and traffic/transport principles which are currently being developed as part of the West Ryde Masterplan Principles report (by Council);
- Details of service vehicle movements;
- Consideration into a one way internal road system; and

The EA should consider and investigate the opportunities for providing a pedestrian bridge across the rail corridor to link to the West Ryde Centre and improve pedestrian flows.

6. Ecologically Sustainable Development (ESD)

The EA shall detail how the development will incorporate ESD principles in the design, construction and ongoing operation phases of the development.

In particular, the EA must consider Council's minimum energy performance, water use and stormwater quality standards of the CoR DCP 2008. In addition, a minimum rating of 4.0 stars equivalent to the industry accepted Green Star Multi Residential Pilot Tool of the Green Building Council is encouraged for the category of development.

7. Contributions

The EA shall address the provision of public benefit, services and infrastructure

	<p>having regard to Council's Section 94 Contribution Plan and/or any Planning Agreement, or other legally binding instrument which would be required for a development of this size.</p> <p>8. Consultation Undertake an appropriate and justified level of consultation in accordance with the Department's <i>Major Project Community Consultation Guidelines October 2007</i>.</p> <p>9. Drainage The EA shall address drainage/flooding issues associated with the development/site, including: stormwater, drainage infrastructure and incorporation of Water Sensitive Urban Design measures, including measures to control impacts on channel bed and bank erosion and measures to improve the quality of stormwater runoff to achieve best practice standards.</p> <p>10. Groundwater The EA is to identify groundwater issues and potential degradation to the groundwater source and shall address any impacts upon groundwater resources, and when impacts are identified, provide contingency measures to remediate, reduce or manage potential impacts.</p> <p>The EA shall also address whether a licence is required under Part 5 of the Water Act 1912.</p> <p>11. Noise and Vibration Assessment The EA shall address the issue of noise and vibration impact from the railway corridor and provide detail of how this will be managed and ameliorated through the design of the building, in compliance with relevant Australian Standards and the Department's <i>Interim Guidelines for Development near Rail Corridors and Busy Roads</i>.</p> <p>12. Statement of Commitments The EA must include a draft Statement of Commitments detailing measures for environmental management, mitigation measures and monitoring for the project.</p>
Deemed refusal period	60 days