

Sydney North Planning Panel

Panel No	2017SNH014
DA Number	LDA 2016/0524
Local Government Area	City of Ryde
Proposed Development	• Demolition of the two existing commercial buildings on site, excavation to create three basement levels, and site remediation works. • Construction of a Part 17 and Part 21 storey residential flat building (referred to as 'Building 1'), and a Part 19 and Part 21 storey residential flat building (referred to as 'Building 2'). • Provision of 412 dwellings and 360 car parking spaces. • Three ground floor retail tenancies with a total of 259m² gross floor area (GFA) on Waterloo Road and corner of Byfield Street.
Street Address	80 Waterloo Road & 16 Byfield Street, Macquarie Park
Applicant	Time & Place
Number of Submissions	2 submissions received.
Regional Development Criteria (Schedule 4A of the Act)	General Development over \$20 Million – Cost of works: \$154,000,000
List of All Relevant s79C(1)(a) Matters	• Environmental Planning and Assessment Regulation 2000; • Environmental Planning and Assessment Act 1979; • Statement Environmental Planning Policy (State & Regional Development) 2011 • State Environmental Planning Policy No. 55 – Remediation of Land; • State Environmental Planning Policy (Building Sustainability Index: BASIX); • State Environmental Planning Policy (Infrastructure) 2007; • State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development; • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; • Ryde Local Environmental Plan 2014; • City of Ryde Development Control Plan 2014 and • Section 94 Contribution Plan.
List all documents submitted with this report for the panel's consideration	Attachment 1: Conditions of Consent including General Terms of Approval from WaterNSW. Attachment 2: Clause 4.6 variation to height control.
Recommendation	Approval
Report by	Sandra McCarry Senior Town Planner

Report date	11 October 2017
Summary of s79C matters	Yes
Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	
Legislative clauses requiring consent authority satisfaction	Yes
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	
Clause 4.6 Exceptions to development standards	Yes - Clause 4.3 Height.
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?	
Special Infrastructure Contributions	No
Does the DA require Special Infrastructure Contributions conditions (S94EF)?	
Conditions	Yes – the applicant has reviewed the conditions and has requested amendment to Conditions 84 & 85 of the draft conditions. See Annexure 1.
Have draft conditions been provided to the applicant for comment?	

Assessment Report and Recommendation

1. EXECUTIVE SUMMARY

The following report is an assessment of a development application for the construction of a mixed use development containing two residential buildings accommodating a total of 412 residential units and 259m² of retail space at 80 Waterloo Road & 16 Byfield Street, Macquarie Park.

The proposal:

The development proposes the following works:

- Demolition of the two existing commercial buildings on site, excavation to create three basement levels, and site remediation works.
- Construction of a Part 17 and Part 21 storey residential flat building (referred to as 'Building 1'), and a Part 19 and Part 21 storey residential flat building (referred to as 'Building 2').
- Provision of 412 dwellings.

- Three ground floor retail tenancies with a total of 259m² gross floor area (including “Back of House” facilities) on Waterloo Road.
- Basement car park levels accommodating 307 resident spaces, 41 visitor spaces, 8 car share spaces, 4 retail spaces (total of 360 car parking spaces) and 1 car wash bay, 53 bicycle spaces, integrated service area with turntable, individual storage areas, garbage storage rooms and service rooms.
- Provision of a linear park along Waterloo Road frontage.

Referral Response:

Clause 7 of State Environmental Planning Policy No. 55 Remediation of Land requires the consent authority to consider if the land is contaminated and if it is contaminated, is it suitable for the proposed development.

A Detailed Site Investigation prepared by EI Australia P/L dated 11 October 2016 was submitted with the application. The investigation conclude *that widespread contamination was not identified on the site however, remediation works are required to be performed to verify waste classification for soil management and enable the site to made suitable for the proposed development.*

Council’s Environment Health Officer has reviewed the proposal and has imposed conditions requiring the site to be remediated to the extent necessary for the use and a copy of the site validation report to be submitted to Council. See **Conditions 32 & 65 to 67.**

Concurrence is required from Sydney Trains in accordance with Clause 86 of State Environmental Planning Policy (Infrastructure) 2007. Sydney Trains has granted its concurrence subject to deferred commencement condition and general operational conditions. See **Conditions Part 1 (A) 1 and General Conditions Part 2 - 21 to 24, 72 to 79 & 160.**

Public Exhibition:

The application was placed on public notification from 16 November 2016 to 7 December 2016. During this time, Council received one submission from the adjoining property - Holiday Inn Express at 10 Byfield Street. The submission raised concerns in relation to construction impacts (including noise and traffic and car parking).

Amended plans were received and the proposal was re-notified between the period 21 June 2017 to 28 July 2017.

During the 2nd round of notification one submission was received which raised concerns about privacy between the balconies of Building 2. The issues raised in the submissions are discussed in Section 11 of the report.

Compliance Matters:

The development complies with the floor space control under Ryde Local Environment Plan 2014. However, the proposal exceeds the permitted building height by 7m for Building 1 and 4.2m for Building 2. A variation under Clause 4.6 of the LEP is supported and is discussed in detail later in the report.

The development also does not comply with the planning requirements in respect to building depth, separation between the two towers, basement parking design and number of lifts

servicing the apartments. These non-compliances are considered to be acceptable on planning grounds and have been discussed in the body of the report.

After consideration of the development against section 79C 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.

Consequently this report concludes that this development proposal is sound in terms of design, function and relationship with its neighbours. This report recommends that consent be granted to this application in accordance with conditions provided in **Attachment 1**.

2. APPLICATION DETAILS

Applicant: Time & Place

Owner: Golden Age Longship Park One Development P/L

Estimated value of works: \$154,000,000

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

3. SITE DESCRIPTION

The site is known as 80 Waterloo Road & 16 Byfield Street, Macquarie Park and comprises three land parcels (Lot 4 DP270258, Lot 3 DP270258, and Lot 1 DP270258).

The site is an irregularly shaped corner allotment with a splay corner at the intersection of Waterloo Road and Byfield Street as shown at **Figure 1**.

Roads and Maritime Services advised that they will acquire land along Waterloo Road and Byfield Street for future bus route/bus lane and associated traffic signals. The road acquisition will reduce the site area by 568m²

The site has a frontage of 57m to Waterloo Road and 126m to Byfield Street with total site area of 7,638m² (prior to road acquisition).

The site currently contains two commercial buildings with at grade parking around the perimeter of the site. Vehicular access is provided from two driveways off Byfield Street.

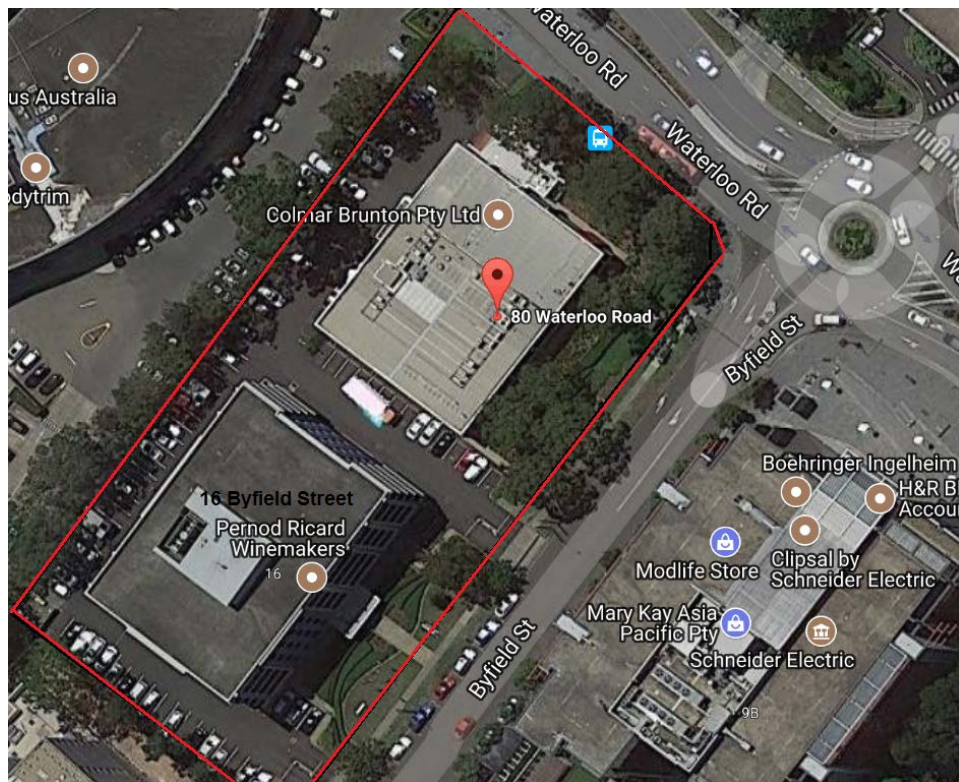


Figure 1: Aerial view of the site with two existing commercial buildings and at grade car parking.



Figure 2: Corner of Waterloo Road and Byfield Street, looking north west with existing two storey commercial building.

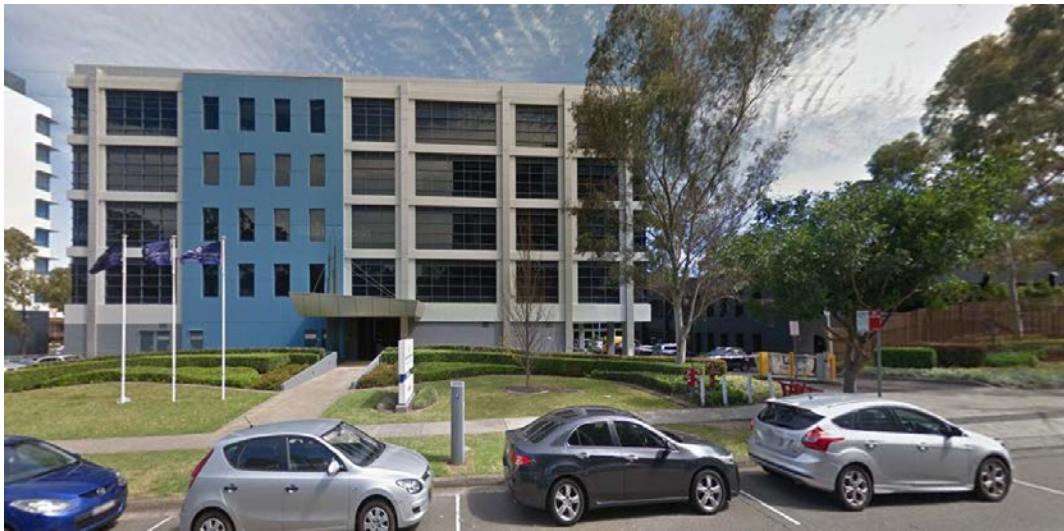


Figure 3: 16 Byfield Street, existing 5 storey commercial building.

4. SITE CONTEXT

The subject site is within the area identified as the Macquarie University Station Priority Precinct (formally known as Herring Road Urban Activation Precinct).

This precinct encompasses land surrounding Macquarie University and Macquarie Shopping Centre. The Precinct aims to revitalise the area by providing new housing, public spaces, shops and employment.

By 2031, it is expected that the precinct will become a major strategic hub, containing a range of educational, commercial and residential land uses. This transition has been aided by amendments to the Ryde Local Environmental Plan 2014 which rezoned land within the precinct to B4 Mixed Use, increased maximum building heights and increased permissible floor space ratios.

Figure 4 below identifies the location of the site within the broader local area context with three major development sites as follows:

- Directly adjacent to the north-west (at 82 Waterloo Road) is a four (4) storey commercial building with at-grade parking. A recent approval has been granted for a mixed use development comprising of two x 20 storey towers including a shared two storey podium comprising of 357 residential units (Panel Reference SNH009). **(Figure 5).**
- Situated opposite, to the north (at 101-107 Waterloo Road) is a commercial office building with vehicular access/driveway off Waterloo Road. The site also recently have approval for a mixed use development comprising of 4 x towers with a total rise of 23 storeys including a shared two storey podium comprising of 680 residential units (Panel Reference SNH010). **(Figure 6).**
- Across Waterloo Road to the north-east is 85 – 97 Waterloo Road. A development application is currently in with Council for Staged development with Stage 1 being construction of a 13 storey commercial office/retail building at 97 Waterloo Road together with the construction of a new road and pedestrian link (Panel Reference: 2017SNH031). **(Figure 7).**

- Further north is Macquarie Shopping Centre, which comprises speciality shops, cafes, major department stores and supermarkets. Note: Macquarie Shopping Centre has a concept approval for a Stage 1 mixed use development comprising four towers ranging in height of 90m to 120m. Macquarie University Station and Macquarie University are located approximately 340m and 400m north respectively (**Figure 8**).



Figure 4: Aerial view of developments within the area.



Figure 5: Existing building at 82 Waterloo Road to be demolish with recent approved for a mixed use development comprising of 2 x 20 storey mixed use buildings (Panel Reference 2017SNH009).



Figure 6: Existing building at 101-107 Waterloo Road to be demolish with recent approval for a mixed use development for 4 towers with a total rise of 23 storeys over a shared two storey podium. (Panel Reference 2017SNH010).



Figure 7: 85-97 Waterloo Road - Existing 6 storey building. (Panel Reference 2017SNH031)



Figure 8: Macquarie Shopping Centre as viewed from Waterloo Road.

5. PROPOSAL

The development proposes the following works:

- Demolition of the existing buildings;
- Excavation to a depth of approximately 7.5m to 9.5m below existing ground level for the purpose of basement parking;
- Construction of a mixed used development consisting of two buildings with a maximum height of 72.9m (RL118.9m)
 - The two buildings comprise of Part 17 and Part 21 storey residential flat building, referred to as Building 1', and a Part 19 and Part 21 storey residential flat building, referred to as 'Building 2'
 - The proposal comprises 412 dwellings. The proposed residential apartment mix is 219 x 1 bedroom, 183 x 2 bedroom and 10 x 3 bedroom apartments.
 - Three ground floor retail tenancies fronting Waterloo Road, with a total of 259m² (with "back of house" amenities) and
 - Three basement car park levels accommodating 360 car parking spaces with vehicular access off Byfield Street.
- Associated landscaping, public art, and public domain improvements (including a linear park along Waterloo Road).



Figure 9: Photomontage of proposed development as viewed from Byfield Street.



Figure 10: Photomontage of development as viewed from Waterloo Road (south west).

6. **BACKGROUND**

Relevant Background for the subject Development Application

Prior to submission of the subject application, an Urban Design Review Panel (UDRP) meeting was held on 22 March 2016 with another two meetings held on 29 November 2016 and 1 February 2017 after the lodgement of the application.

The application was submitted to Council on 1 November 2016 and achieved full compliance with Council's height, floor space and setback controls.

In accordance with Council's notification policy the application was advertised and notified between 16 November 2016 and 7 December 2016. During this period one submission was received from the adjoining site at 10 Byfield Street – Holiday Inn Express.

The proposal was referred to the relevant authorities/departments, including Roads and Maritime Service (RMS) as required under Clause 104 of the Infrastructure SEPP. The RMS subsequently advised Council on 16 December 2016 that they did not support the proposal in its current form as it is proposed to acquire land along Waterloo Road and Byfield Street for future bus route/bus lane and associated traffic signals. The land to be acquired from the subject site is shown in **Figure 11**. The proposed acquisition will reduce the existing site area by 568m² and will impact on the developable area of the site.

The proponent was advised of the proposed acquisition and discussions were held between the proponent and RMS. Subsequently the proponent agreed to the road dedication and met with Council to discuss the implications of the land acquisition and how to proceed with the application.

Consequently a series of design options were presented to Council which sought to vary the existing building mass/siting to accommodate the proposed land acquisition whilst still maintaining the original FSR for the site. The applicant was advised that Council could not support a reduce setback/building separation with the adjoining northern site (82 Waterloo Road) and that a zero boundary setback to Byfield Street was not acceptable. Accordingly it was agreed to provide a 3m setback to the proposed new boundary line at Byfield Street and additional storeys are to be added to each tower for the lost floor space.

Amended plans were submitted on 13 June 2017 which added extra storeys to the two Towers, with Building1 being one storey over the maximum height allowed and Building 2 being 0.5 of a storey over the maximum height.

The amended proposal was renotified and one submission was received. The issues raised in the submissions are discussed further in the report, under Section 11.

The amended plans were reviewed by URDP on 28 June 2017. As a result of the pre and post lodgement discussions with the UDRP, most of the larger issues with the proposal particularly around design, public domain and site functionality were resolved prior to lodgement of amended plans for the additional height. The Panel's comments are detailed further in the report.

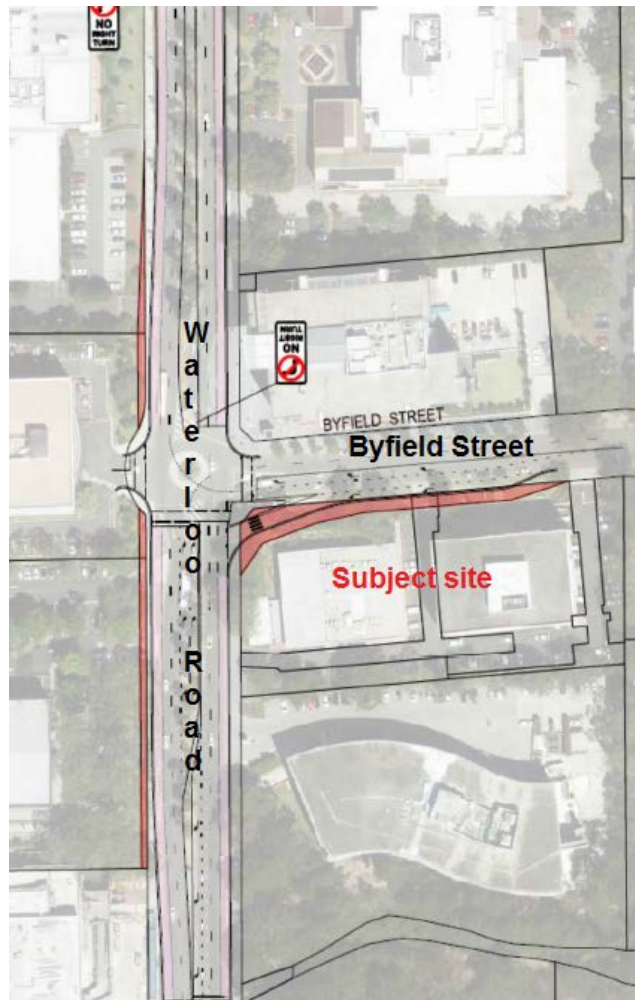


Figure 11: Proposed land acquisition as required by RMS (shown in red).

7. APPLICABLE PLANNING CONTROLS

The following planning instruments, policies and controls are relevant to the development:

- Environmental Planning and Assessment Regulation 2000;
- Environmental Planning and Assessment Act 1979;
- Statement Environmental Planning Policy (State & Regional Development) 2011;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Building Sustainability Index: BASIX);
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development;
- Deemed SEPP - Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Ryde Local Environmental Plan 2014;
- City of Ryde Development Control Plan 2014 and
- Section 94 Contribution Plan.

8. PLANNING ASSESSMENT

8.1 Environmental Planning and Assessment Regulation

This application satisfies Clause 50(1)(a) of the Regulation as it is accompanied by the nominated documentation for development seeking consent for a mixed use development, including:

- A design verification statement from a qualified designer;
- An explanation of the design in terms of the design quality principles set out in Part 2 of State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development; and
- Relevant drawings and montage.

8.2 **Statement Environmental Planning Policy (State & Regional Development) 2011**

As the proposed development has a Capital Investment Value of \$154,000,000, the development application is required to be determined by the Sydney North Planning Panel.

8.3 **State Environmental Planning Policy No 55 – Remediation of Land**

The requirements of State Planning Policy No. 55 – Remediation of Land (SEPP 55) applies to the site. In accordance with Clause 7 of SEPP 55, the consent authority must consider if the land is contaminated and, if so, whether it is suitable, or can be made suitable, for the proposed use.

Council's Environmental Health Officer (EHO) has provided the following assessment in relation to SEPP 55 and contamination of the site:

"The application was accompanied by a detailed site investigation report, EI Australia, Report no. E22998AA_Rev2, 11 October, 2016 (D16/147948). It showed that there is no significant contamination on the site. One test sample returned a minor exceedance of the environmental investigation levels for nickel though it was well below the health investigation levels for this type of use. There was some concern that an underground petroleum storage tank might be on the site. However, radar investigations failed to find any evidence of it. There remains a low chance that it might be discovered during excavation. Any removal and remediation can take place at that stage. Validation of the site generally will be required".

Accordingly **Conditions 54, 55 & 65 to 67** has been imposed and it is considered the site is suitable for the proposed use in accordance with the provisions of SEPP 55.

8.4 **State Environmental Planning Policy (Building Sustainability Index: BASIX)**

The Policy seeks to ensure that new dwellings are designed to use less water and be responsible for fewer greenhouse gas emissions by setting energy and water reduction targets, which are based on the NSW average benchmark. The Policy also sets minimum performance levels for the thermal comfort of a dwelling.

This application is accompanied by BASIX Certificate No. 726248M_04, dated 5 June 2017 which confirms that required targets would be met.

Appropriate conditions are to be imposed requiring compliance with the BASIX commitments detailed within the Certificate (see **Conditions 3,105 & 158**).

8.5 **State Environmental Planning Policy (Infrastructure) 2007**

The Infrastructure SEPP applies to the development due to its location adjacent to a rail corridor, its relevant size and traffic generation capability.

The applicable clauses under the Infrastructure SEPP are as follows:

Clause	Comments	Compliance
Clause 85 Development immediately adjacent to rail corridors The proposed development is on land that is immediately adjacent to a rail corridor and; (a) is likely to have an adverse effect on rail safety, or (b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or (c) involves the use of a crane in air space above any rail corridor. Before determining this DA the Consent Authority must: • Take into consideration any submission that the Sydney Trains provides in response to that notice within 21 days after the notice was given (unless before the 21 days have passes, the Sydney Trains advises that it will not be making a submission), and • Take into consideration guidelines that are issued by the Secretary relating to Development immediately adjacent to rail corridors.	The proposal is adjacent to a rail corridor. Accordingly the proposal was referred to Sydney Trains for their concurrence. Sydney Trains advised Council on 22 September 2017 that it has granted its concurrence to the development application subject to deferred commencement conditions and general conditions on the consent. See Conditions Part 1 (A) 1 and General Conditions Part 2 - 21 to24, 72 to 79 & 160.	Yes – subject to conditions.
Clause 86 Excavation in, above or adjacent to rail corridors The proposed development involves the penetration of ground to a depth of at least 2m below ground level (existing) on land within 25m (measured horizontally) of the ground directly above an underground rail corridor. Before determining this DA the Consent Authority must: • Take into consideration any submission that the Sydney Trains provides in response to that notice within 21 days after the notice was given (unless before the 21 days have passes, the Sydney Trains advises that it	The proposed development includes works within 25m (measured horizontally) of a rail corridor. As such the application was referred to Sydney Trains as the relevant rail authority for the rail corridor. Sydney Trains advised Council on 22 September 2017 that it has granted its concurrence to the development application subject to deferred commencement condition and general operational conditions. See Conditions Part 1 (A) 1 and General Conditions Part 2 - 21 to24, 72 to 79 & 160.	Yes – subject to conditions.

Clause	Comments	Compliance
will not be making a submission), and Take into consideration guidelines that are issued by the Secretary relating to Excavation in, above or adjacent to rail corridors The consent authority must not grant consent to development to which this clause applies without the concurrence of the CEO of Sydney Trains.		
Clause 87 Impact of rail noise or vibration on non-rail development The proposed development involves a building for residential use on land adjacent to a rail corridor and may be adversely affected by rail noise or vibration. Before determining this DA the Consent Authority must: Take into consideration any guidelines that are issued relating to Impact of rail noise or vibration on non-rail development. If the development is for the purposes of a building for residential use, appropriate measures are to be taken to ensure that the following LAeq levels are not exceeded: (a) in any bedroom in the building—35 dB(A) at any time between 10.00 pm and 7.00 am, (b) anywhere else in the building (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.	The proposal includes a building for residential use on land adjacent to a rail corridor. The applicant has submitted an Acoustic Report prepared by Acoustic Logic which demonstrates that the development, subject to compliance with the recommendations contained in the report can comply with the requirements under this clause. This report has been reviewed by Council's Environmental Health Officer who has advised that the proposed development is satisfactory for the purpose of this clause subject to Conditions 35, 36, 80, 188 & 206.	Yes – subject to conditions.
Clause 104 Traffic generating development The proposed development, being an apartment or residential flat building with more than 200 motor vehicles is considered to be a traffic generating development. Before determining this DA the Consent Authority must: Take into consideration any submission that the RMS provides in response to that notice within 21 days after the notice was given (unless before the 21 days have passes, the RMS advises that it will not be	The proposal was forwarded to the Roads and Maritime Services (RMS) for comments. The RMS subsequently advised that it is proposed to acquire land along Waterloo Road and Byfield Street for future bus lane. The applicant has amended the proposal to include the required road acquisition. RMS has raised no objection to the proposed development. The issues of potential traffic safety, road congestion and parking	Yes Yes

Clause	Comments	Compliance
- making a submission), and - Take into consideration any potential traffic safety, road congestion or parking implications of the development.	implications have been considered elsewhere in the report and are considered satisfactory.	

8.6 **State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development**

This Policy aims to improve the design quality of residential flat development. This proposal has been assessed against the following matters relevant to SEPP 65 for consideration:

- a. Urban Design Review Panel
- b. The 9 SEPP 65 Design Quality Principles; and
- c. The Apartment Design Guide

Urban Design Review Panel (UDRP)

The proposal was reviewed by the Urban Design Review Panel on 22 March 2016 prior to lodgement and again on 29 November and 1 February 2017 after the lodgement of the DA.

Most of the issues raised by the UDRP have been resolved prior to lodgement of the amended plans for the additional height. The amended plans were reviewed by the Panel on 28 June 2016 who advised that, the extent to which the applicant has addressed the Panel's comments was exemplary and raised no further comments with regard to the proposal.

Below details the UDRP's comments of 1 February 2017 and how the proposal has responded to their comments:

Built form and Scale

The scale of the proposal is significant. The previous issue was the scale and building length particularly to Byfield Street. The amended proposal attempts to address these issues by providing a deep inset to both sides of the Byfield St tower with a bridging element from level 2-13.

The panel considers that the deep inset does assist in reducing the massing however the geometry of the towers and the narrowness of the gap is not sufficient to allow the break in the building form to be read sufficiently to be effective.

The panel also considers that the height of the linking element is too high and it should be reduced so that the sky view between the towers is more easily appreciated.

The panel notes that a separation distance of 19.5m is provided between Building 1 and Building 2. The ADG requires 18m between towers and therefore there is an opportunity to shift Building 2 at its eastern end towards the east and Building 1 so that the separation is reduced to 18m but the inset in Building 2 can be increased by a further 1.5m.

This change in combination with lowering the height of the bridging element to level 9 will make a significant improvement to the perception of reduced length.

The panel also considers that the architect consider greater shaping to the edges of the gap between the two portions of Tower B so that the gap is perceived as wider. This will also

assist in addressing amenity issues discussed later and achieving a more interesting modelling to the building.

Comment:

The proposal has been amended to increase the separation in Building 2 by 1.8m. Also the bridge has been removed from levels 10-14, increasing the proportion of the separated components of the building by 5 storeys. Building 2 has been further articulated as a stepped facade along the entry to the foyer and is now 6m apart at the narrowness point, for a distance of 6.9m. The new staggered façade now directs the primary outlook of the bedrooms away from the building and towards the street or landscape podium, thereby increasing privacy and amenity. The applicant has amended Building 2 as recommended by the Panel.

Figure 12 illustrates the original design with the smaller separation & **Figure 13** illustrates the changes as recommended by the Panel.

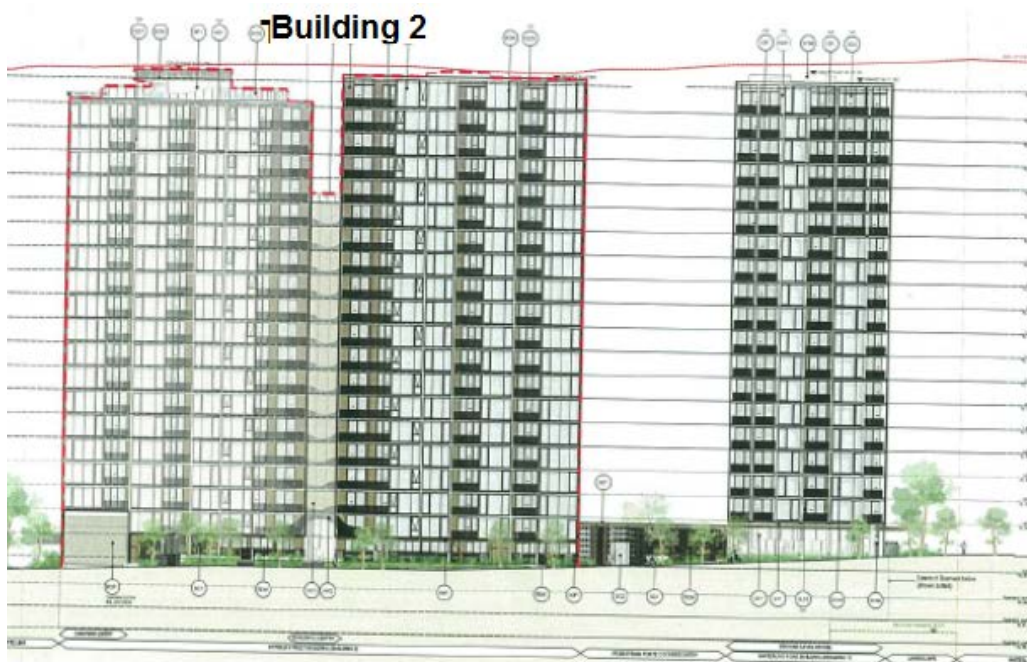


Figure 12: Original proposal with reduce bridge/gap between Building 2.



Figure 13: Amended design with reduce number of storeys and greater separation in the gap area of Building2.

Landscape.

A detailed landscape design has been prepared and is generally supported by the panel.

The only issues are:

- *All fences to ground floor courtyards facing the street should be reduced to 1.2m with landscaping used to provide privacy.*
- *More mounding or use of landscape vertical walls are needed where the basement comes above ground level to the rear of the site to mitigate the exposure of the blank walls.*

The roof top terrace open space is supported.

Comment:

The applicant has provided additional information showing indicative fences with a height of 1.2m with landscaping in front to screen and provide privacy.

The Landscaping plan also includes detail of moulded planters with a three tiered shrubs for privacy to the courtyard, ground cover grasses and small trees. Blank walls are proposed to be treated with mounding, trellis and planting.

This is considered to be satisfactory.

Amenity

The creation and form of the inset in Building 2 has created amenity issues. The bridging element with its balcony configuration has direct privacy impacts on the bedroom and study spaces in the adjacent units due to the location of windows.

Amendment to the building shape and increased width of the link could assist in addressing these issues other wise the secondary windows to bedrooms should be deleted and the

position of the study reconsidered. The proximity of the balconies to the eastern tail of the building and the link balcony is also too close for acoustic privacy.

Other units such as those similar to C.01.01 and B.01.01 have bedroom windows in very close proximity to each other in the gap. This is not a sufficient separation to achieve either visual or acoustic privacy and the width and depth of the slot is poorly configured to provide an appropriate outlook or amenity for habitable rooms unless windows are secondary.

Unit B.G.03 has a 'colonnade' arrangement to most of the glazing to the living room and to the study. This is not ideal and would be better absorbed into the unit or alternatively a greater setback provided to give a wider useable area and better outlook.

The study to Unit C.G.02 has its window very close to the main entry pathway, which reduces its amenity. It should be relocated away from the pathway and privacy screens provided to the circulation area.

Comment:

As discussed above, the building separation of Building 2 has increased by 1.8m and also further articulated as a stepped façade (as illustrated in **Figures 14, 15 & 16**). The amended proposal with increased separation, staggered façade and reconfigured windows have addressed the concerns of overlooking and acoustic privacy.

Unit CG.02 has been reconfigured to include a privacy screen to minimise overlooking to the public courtyard area. See **Figure 17**

Unit BG.03 has been redesigned to absorb the area of the veranda as recommended by the Panel. See **Figure 18**.



Figure 14: Original proposal.



Figure 15: Amended proposal with increased separation, stepped façade which directs the outlook away from the building.

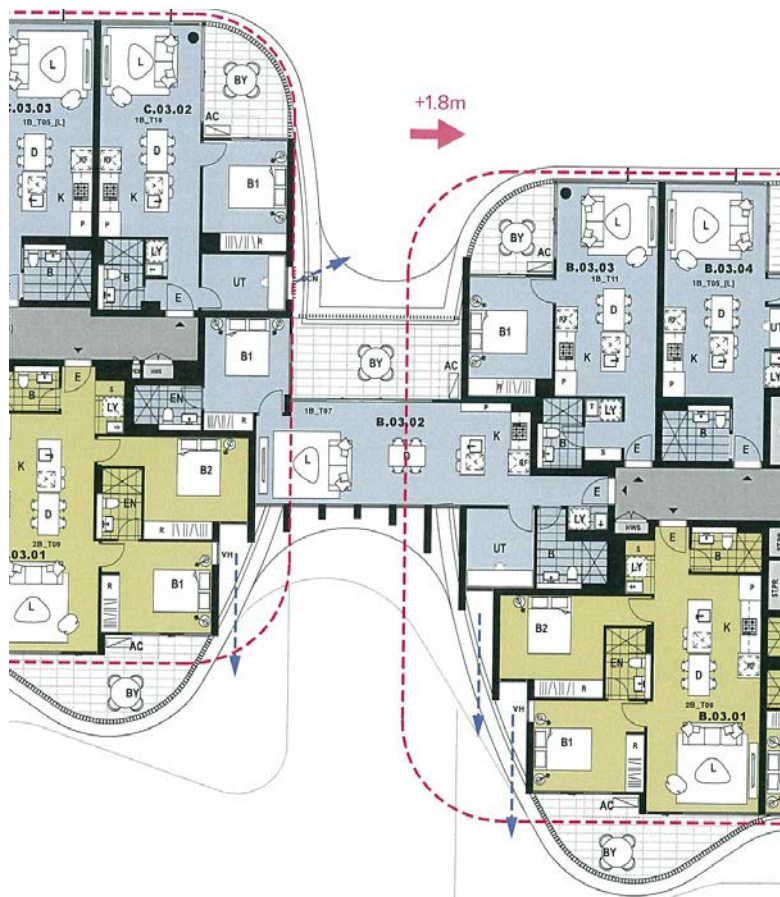


Figure 16: Amended proposal with increased gap separation and staggered façade. Red dotted line outline original proposal.

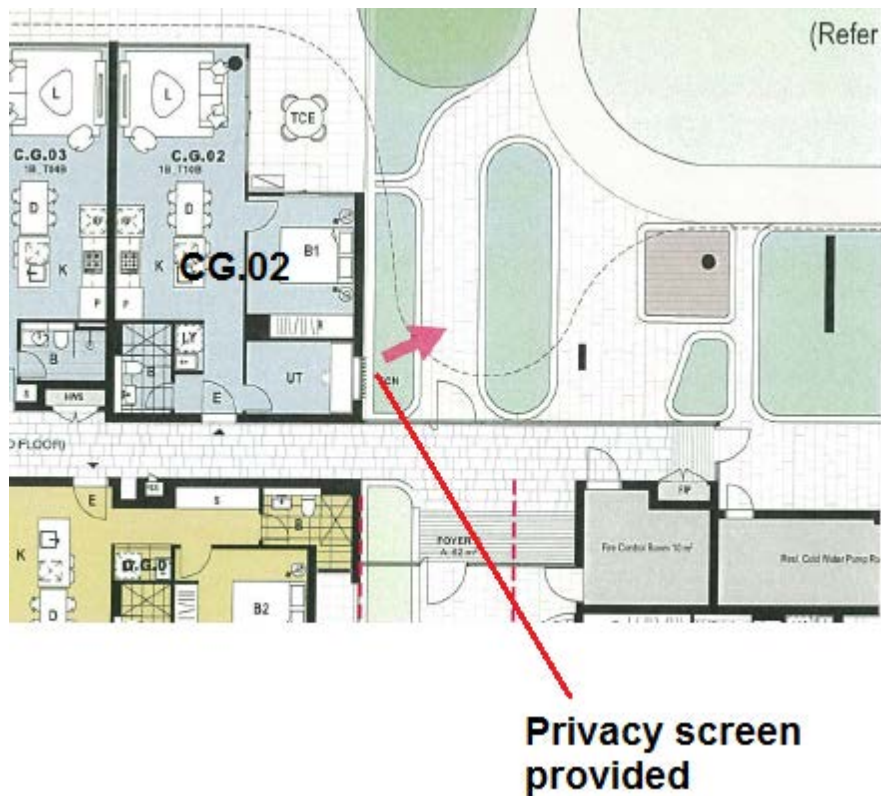


Figure 17: Privacy screen provide to redirect the primary outlook towards the garden.

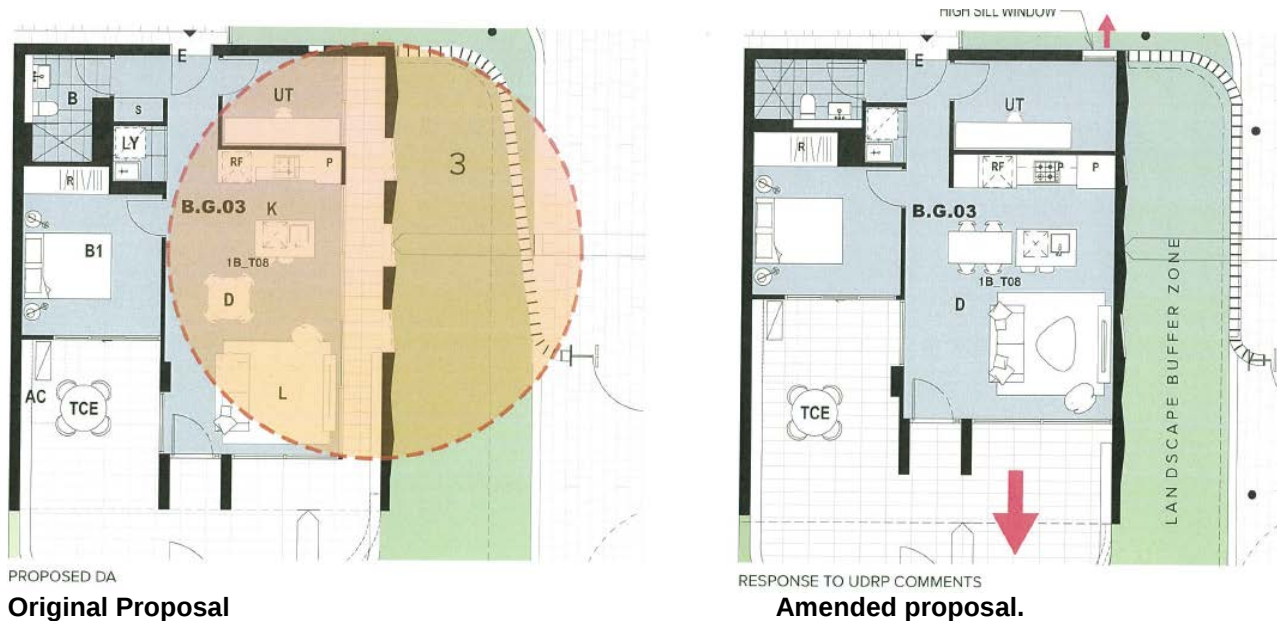


Figure 18. The “colonnade” arrangement of Unit BG.03 has been amended as recommended by the Panel.

Safety

The Panel notes that direct access for each tower has been improved and is now acceptable.

The Panel recommends to achieve improved safety that the gates providing access to both Towers is moved closer to the street to reduce opportunities for concealment.

The Panel also considers that the pathway for access to the bicycle store is too close to the vehicle ramp. It should be relocated to the east so that landscaping can provide some separation to vehicle movements. This would also allow the fire boosters to be rotated through 90 degrees accessible via the vehicle ramp which reduces their visual impact to the public domain.

Comment:

The proposal has not amended the location of the foyer entry. However the proposal was referred to NSW Police who did not raised any concerns with regards to the entry and have imposed standard conditions. See **Conditions 189 to 195.**

The pathway to the bicycle store has been amended to be away from the vehicle ramp with landscaping separating the ramp and pathway.

Aesthetics

The architectural expression is supported in principle however greater identity is needed to the towers. Currently the eastern tower is more successful in its articulation and form than the western Byfield Street Building.

Comment:

The two buildings will adopt a different expression of colour from the same bronze tone with Building 1 predominantly lighter than Building 2. Also Building 1 is expressed as a grid pattern with vertical and horizontal elements equal in hierarchy. Building 2 is expressed in more horizontal components with less emphasis on vertical elements. This together with the different tones, the differing character of each building is accentuated. **Figure 19** illustrates the proposed expression between the two buildings.



Figure 19: The different colour tone between the two buildings.

Design Quality Principles

The following Table provides an assessment of the development against the nine Design principles of the SEPP.

Principle	Comments	Consistency
Context and Neighbourhood Character Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.	The site is located within the Macquarie University Station Priority Precinct, planned by the State Government for significant renewal. The proposal presents a high-quality design which responds to the context of the site both along Waterloo Road and Byfield Street. It is proposed to provide a linear park along Waterloo Road which will provide a neighbourhood linkage and will enhance and improve the streetscape. The built form responds well to the proposed northern development at 82 Waterloo Road with sufficient building separation distances proposed across the sites. The ground plane is designed to produce a vibrant place with active uses fronting Waterloo Road. Entry points are clearly identified for uses and promote activity along the ground level. Vehicle movement is limited to an entry point on Byfield Street which is located away from the primary street frontage and pedestrian circulation. The development promotes the benefits of living in an area well serviced by transport, services and recreational facilities.	Yes
Built Form and Scale Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings. Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements. Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook.	The proposed design is considered suitable for the site. The proposal complies with the desired future character of the locality and complies with the floor space control applicable to the site. The front setback and building separation and side setbacks has been adequately provided. The scale in terms of height is considered to be appropriate given the circumstance of the site and the surrounding area. The built form of the development is well articulated and responds to the proposed developments at 82 Waterloo Road and 101 Waterloo Road. The development will contribute positively to the existing and emerging character of the surrounding streetscape with the steady development of mixed-use development near the Macquarie University Station Activity Centre. The proposed built form is also considered to be acceptable given that the development achieves suitable compliance with the objectives contained in the Apartment Design Guide (ADG).	Yes
Density Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be	The proposal complies with the Ryde LEP 2014 FSR control of 4:1 as further detailed in this report. The overall bulk and scale of the development is considered to be appropriate for the site and its context, providing sufficient open space, solar access and ventilation for residents. Additionally the design provides for public open space	Yes

Principle	Comments	Consistency
sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	improvements and a high quality design which includes additional residential accommodation near public transport, access to jobs, community facilities and environmental areas.	
Sustainability Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and reuse of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	The applicant has provided a BASIX Certificate which indicates that the development will meet the energy and water use targets set by the BASIX SEPP. The design maximises solar access and cross ventilation to apartments. The development complies with the ADG with respect of natural cross ventilation and solar access for the whole development being 60.4% and 70.6% of apartments, respectively. A total of 1,988m ² of deep soil area has been provided on site, which is equal to 28% of the site area, which exceeds the minimum 7% required under the ADG.	Yes
Landscape Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood. Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.	The site exceeds the total landscape requirement with 58% of the site area being landscaped of which 28% is provided as deep soil. This improves the overall amenity, including solar access, access to daylight and ventilation, privacy and consolidated private and communal open space. The landscape plans provide detail for seating, shading and BBQ facilities within the communal open space areas, with a range of common open space areas provided to suit the needs and convenience of the two towers and multiple levels of the development. Given the location, size and context of the site, the proposed landscape outcome is considered reasonable and acceptable. Council's Open Space Planning and Development team and Consultant Landscape Architect have reviewed the proposal and have considered the landscaping satisfactory subject to conditions. See Conditions 1(a), 86 & 157.	Yes

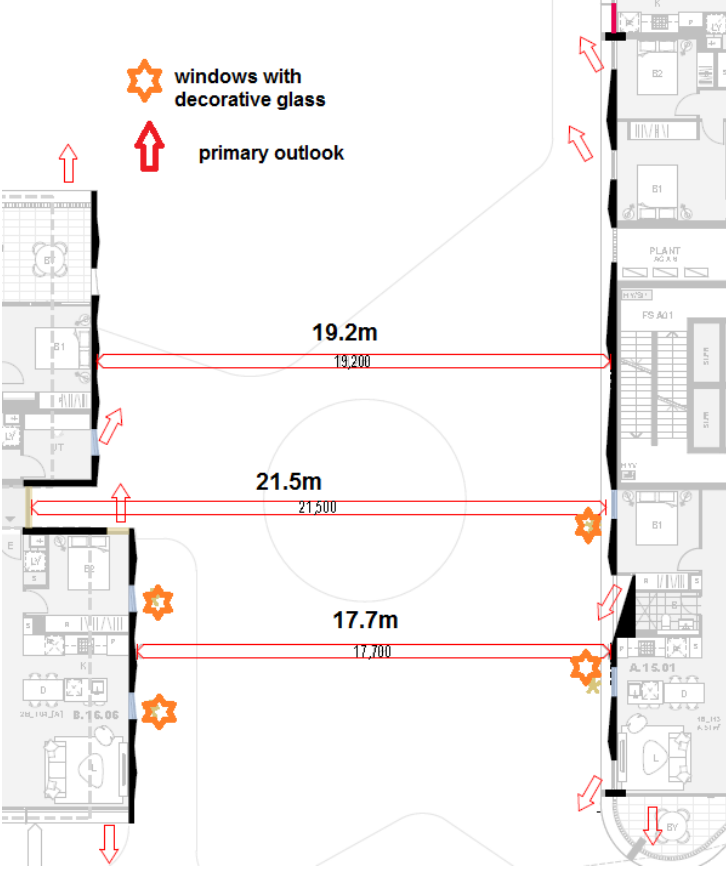
Principle	Comments	Consistency
Amenity Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being. Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas and ease of access for all age groups and degrees of mobility.	Overall the development will provide adequate amenity for the future occupants, ensure internal privacy of each unit and access to high quality communal facilities within the development. The following are noted which are consistent with the above principle: - Considering the site constraints, the proposed design and orientation of the units are considered to result in an acceptable level of amenity. - Acoustic privacy is considered and incorporated in the design through tower orientation and materials. - Balconies and/or private open space are provided to all apartments. - On-site parking and storage areas are provided. - Provision of a centralised lift and accessibility have been incorporated into the design with sufficient access points provided to each level. - The development complies with relevant key controls contained in the ADG and amenity for the units is satisfactory in terms of unit size, visual and acoustic privacy, storage, indoor and outdoor space, and ease of access. It is noted that the proposal does not comply with the required solar access. However the development has provided appropriate room dimensions, shapes and outlook to the apartments layouts to maximise amenity to the occupants of the development. See full discussion under ADG table.	Yes
Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose. Opportunities to maximise passive surveillance of public and communal areas promote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.	The development is considered consistent with the CPTED principles as follows: - Clear pedestrian pathways provided throughout the site. - Secure and separate building entry points are provided along the north, north-east and southern building frontage which are in locations with legible and exposed access with clear signlines and passive surveillance. - Way finding signage will be required to be provided to assist residents and visitors in locating and identifying access points. - There is a clear delineation between publically accessible areas of the development and private spaces through the use of well-designed fencing and access doorways. - Lighting both internal and external will be provided in accordance with Australian Standards. Conditions have been imposed requiring appropriate light, surveillance and maintenance. See Conditions 100, 189 to 195.	Yes
Housing Diversity and Social Interaction	The proposal includes a mix of 1, 2 and 3 bedroom apartments and internal layouts that provide greater housing choice. The proposal comprises the	

Principle	Comments	Consistency
Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	following: • One bedroom x 219 (53.2 %) • Two bedroom x 183 (44. 4%) • Three bedroom x 10 (2.4%) A total of 42 (10.2%) units are designed to comply with adaptable housing design provisions. The unit mix is considered to be suitable to attract a variety of occupants into an area which is highly accessible to public transport and local shopping.	Yes
Aesthetics Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures. The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The overall appearance of the building is considered to reflect a 'Tower' building type under the ADG as encouraged by the SEPP 65 guidelines, and is generally consistent with Council's LEP controls. The development has also considered privacy impacts of adjoining sites, the context of the development within a dynamically changing environment and incorporated suitable articulation and a variety of materials and finishes to assist in reducing the apparent massing of the development. Overall the aesthetics are considered to respond suitably to the context of the site and the desired future character of the area.	

Apartment Design Guide

The SEPP requires consideration of the "Apartment Design Guide" (ADG) which supports the Design Quality Principles by giving greater detail as to how those principles might be achieved. The Table below addresses the relevant matters.

SEPP No. 65 ADG Compliance Table	Considerations	Consistent
Part 2 Developing the controls		
Building Depth Use a range of appropriate maximum apartment depths of 12-18m from glass line to glass line. Where greater depths are proposed, demonstrate that indicative layouts can achieve acceptable amenity with room and apartment depths. This may require significant building articulation and increased perimeter wall length.	<u>Building 1</u> The building exceeds the maximum depth, being 19.5m. <u>Building 2</u> The building exceeds the maximum depth, being between 22 to 24m. Notwithstanding the proposed depth variations above 18m, the proposal provides for acceptable levels of cross ventilation (62.4% of units). 70.6% of the units will receive a minimum of 2 hours solar access in midwinter. The proposal provides for high quality amenity for residents through adequate ceiling heights and common open space areas. Furthermore, externally the design incorporates articulation through deviations in the building façade depths, and	No - Variation Acceptable

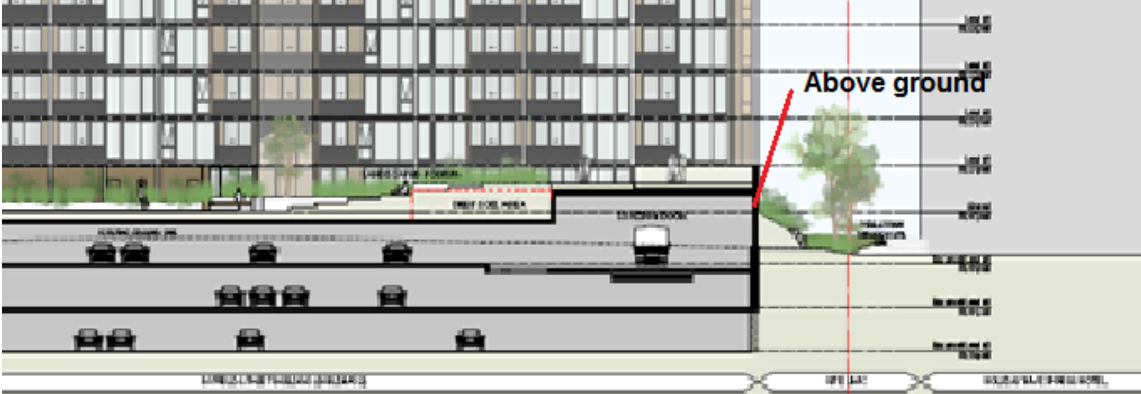
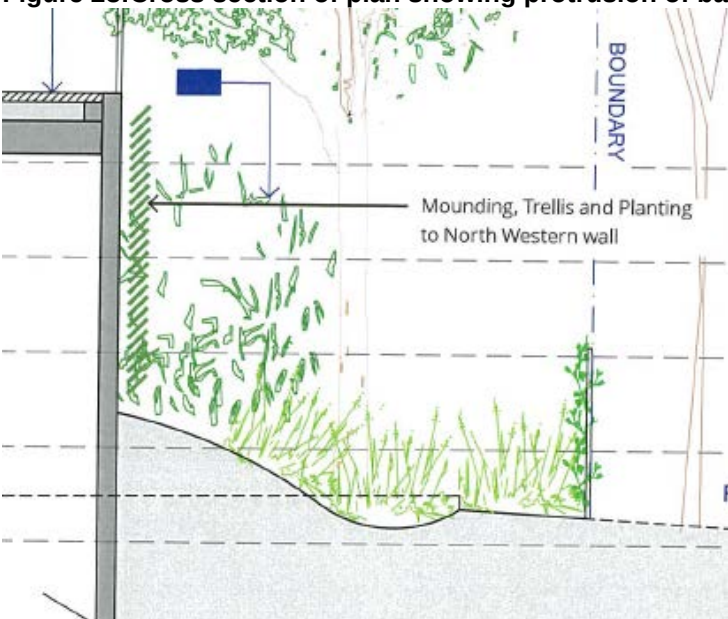
SEPP No. 65 ADG Compliance Table	Considerations	Consistent
Building Separation Minimum separation distances for buildings are: <i>Up to four storeys (approx 12m):</i> - 12m between habitable rooms/balconies - 9m between habitable and non-habitable rooms - 6m between non-habitable rooms <i>Five to eight storeys (approx. 25m):</i> - 18m between habitable rooms/balconies - 12m between habitable and non-habitable rooms - 9m between non-habitable rooms <i>Nine storeys and above (over 25m):</i> - 24m between habitable rooms/balconies - 18m between habitable and non-habitable rooms - 12m between non-habitable rooms Note: • At the boundary between a change in zone from apartment buildings to a lower density area, increase the building setback from the boundary by 3m • No building separation is necessary where building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within centres.	variation in materials and finishes. The building separation is provided as follows: <u>Between Building 1 & 2</u> Require: 12m for 1st to 4th floors and 18m for 5th to 8th floors and 24m for the 9th storey and over. The separation between the two buildings is 17.7m to 19.2m. The proposal complies with the separation requirement up to the 8th storey. Nine storeys and above require a separation of 24m between habitable rooms/balconies. The proposed variation can be supported in this instance as there will be no overlooking concerns between the two buildings. Where the building is separated at 17.7m the windows facing each other are secondary windows with decorative glass for privacy. Where the buildings are separated at 19.2m no windows are proposed, as illustrated in Figure 20 below.  Figure 20 – Separation distance between Buildings 1 & 2 <u>South west (adjoining property at 10 Byfield Street)</u> Located at 10 Byfield is an eight storey hotel (commercial building). Along the north eastern elevation of the hotel facing the subject site, there are ground floor windows (off the restaurant) and corner balconies facing the subject site. The hotel is setback 5m from the common boundary. A separation of 9m and 12m is required between habitable	Yes for up to the 8th floors and No for Levels 9 and above – variation acceptable Yes

SEPP No. 65 ADG Compliance Table	Considerations	Consistent
	and non-habitable rooms. To distribute the building separation equally, the proposal is required to provide half the minimum separation requirement, being 4.5m and 6m The proposal has provided a setback of 7 to 8m. The north eastern elevation of the adjoining hotel has ground floor restaurant windows, windows and end balconies facing the subject site.  Figure 21: Building (Holiday Inn) at 10 Byfield Street – their side elevation has darkened windows facing the subject site. The development includes secondary windows which face the darkened windows of the neighbouring property as shown above in Figure 21 (Holiday Inn). The applicant has advised that graphic privacy glass (decorative glass windows), as shown below in Figure 22 below, is used for the secondary outlook windows facing 10 Byfield Street to ensure privacy. However, it is considered that this would not be sufficient. Therefore, in order to alleviate any concerns regarding privacy impact, it is considered appropriate to impose a condition requiring the windows to be of darken glass. See Condition 1(f).	Yes Yes Subject to condition

SEPP No. 65 ADG Compliance Table	Considerations	Consistent
	 Figure 22 Proposed Decorative glass for southern side windows of Building 2. <u>Western boundary (to 82-84 Waterloo Road).</u> Setback of 11.5m to 27.5m is proposed which complies with the required separation.	
Front, Rear & Side Setbacks Street setbacks establish the alignment of buildings along the street frontage. Side and rear setbacks govern the distance of a building from the side and rear boundaries and govern the height of the building.	As per building separation requirement & Council's DCP for front setback. The setbacks provide adequate privacy and amenity for neighbouring sites.	Yes
Part 3 Siting the development Design criteria/guidance	Considerations	Consistent
3B Orientation Building types and layouts respond to the streetscape and site while optimising solar access and minimising overshadowing of neighbouring properties in winter.	The development has been designed to respond to the streetscape and site whilst optimising solar access. Building 1 is orientated to Waterloo Road with ground floor commercial premises. Building 2 is oriented to Byfield Street.	Yes
3C Public domain interface Transition between private & public domain is achieved without compromising safety and security and amenity of the public domain is retained and enhanced.	Building 1 is orientated to Waterloo Road with ground floor commercial/retail area facing Waterloo Road and at the corner of Waterloo and Byfield. This will assist in activating and enhancing the quality of the public domain. Street activation is also promoted with footpath access to ground floor apartments in Building 2 facing Byfield street. In addition, apartment windows and balconies overlook the public domain. The pathways from the public domain to the buildings' entrances are clear and legible, providing safe access to the proposed development and overall, a safe transition is proposed between the private and public domain. Public domain improvements are also proposed to Waterloo Road. In addition a Linear Park/connection is provided within the front setback area along Waterloo Road, as required by Council's Open Space Planning & Development Team. The proposed landscaping scheme will also enhance the amenity of the public domain. The development has	Yes – subject to conditions.

SEPP No. 65 ADG Compliance Table	Considerations	Consistent												
	provided an appropriate transition between public and private domain. Condition 86 has been imposed with regards to the linear park.													
3D Communal & public open space Provide communal open space to enhance amenity and opportunities for landscaping & communal activities. Design Criteria 1. Provide communal open space with an area equal to 25% of site; 2. Minimum 50% of usable area of communal open space to receive direct sunlight for a minimum of 2 hours between 9 am and 3 pm on 21 June.	The proposed communal open spaces equates to an area of 4,580m², totalling 64.7% of the site area The main communal courtyard located to the northern part of the site, and the communal open space located on the roof of Building 2 will receive the minimum 2 hours to 50% the useable portion during mid-winter from 9am to 11am. In addition the roof terrace on Building 2 which will receive more than 3 hours solar access on 21 July. The proposed communal open space area has direct, equitable access for all residents, variation in the design and location of the spaces, and provided with outdoor lounges, BBQ facilities, relaxation areas and shelters.	Yes – solar access figures for the communal open space area have been checked and verified by Council. Yes												
3E Deep Soil Zone Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality. Design criteria Deep soil zones are to be provided equal to 7% of the site area and with min. dimension of 3m.	The development provides for 1,479m² (28%) of deep soil area.	Yes												
3F Visual Privacy Building separation distances to be shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy. Design Criteria 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: <table border="1" data-bbox="121 1809 539 2107"> <thead> <tr> <th>Building Height</th><th>Habitable rooms & balconies</th><th>Non habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m(4 storeys)</td><td>6m</td><td>3m</td></tr> <tr> <td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr> <tr> <td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr> </tbody> </table>	Building Height	Habitable rooms & balconies	Non habitable rooms	Up to 12m(4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	The separation of 17.7m to 19.2m between Buildings 1 & 2 for level 9 and above does not comply with the 24m requirement. However privacy is achieved by offsetting windows and providing privacy glazing to the windows in the two buildings. Apartments will receive reasonable levels of external and internal visual privacy. The proposal provides appropriate building separation distances to facilitate visual privacy between the buildings to the north western boundary (82 Waterloo Road). The side boundary to the South - 10 Byfield Street	Yes Yes
Building Height	Habitable rooms & balconies	Non habitable rooms												
Up to 12m(4 storeys)	6m	3m												
Up to 25m (5-8 storeys)	9m	4.5m												
Over 25m (9+ storeys)	12m	6m												

SEPP No. 65 ADG Compliance Table	Considerations	Consistent
<u>Note:</u> Separation distances between buildings on the same site should combined required buildings building separations depending on the type of room (see Figure 3F.2)	complies with Council setbacks to the boundary and as discussed previously, Condition 1(f) has been imposed to address any overlooking concern.	
3G Pedestrian Access & entries Pedestrian Access, entries and pathways are accessible and easy to identify.	Separate entries are provided for each building - one from Waterloo Road and one from Byfield Street. A main pedestrian porte cochere has been provided from Byfield Street. The entries have clear pathways, are accessible and easy to identify.	Yes
3H Vehicle Access. Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes.	Vehicular access to the basement car park is provided off Byfield Street, at the south western end of the site so as to avoid conflicts with Waterloo Road and pedestrian routes. Pedestrian paths to the site are provided from Waterloo Road and Byfield Street. The pedestrian pathways provide safe and legible access to the development. Council's Traffic Engineer and Senior CoOrdinator Development Engineering Services have raised no objections to the proposed vehicle access.	Yes
3J Parking Provisions. Car parking: For development in the following locations: - on sites that are within 800 metres of a railway station; or - within 400 metres of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre, The minimum parking for residents and visitors to be as per RMS Guide to Traffic Generating Developments, or Council's car parking requirement, whichever is less.	The site is <800m to Macquarie University Station and is zoned B4 Mixed Use. The RMS and Council's DCP residents' car parking rate are the same except for the visitors' car parking rates. The RMS visitors rate is one per/ 5 unit whilst Council's DCP is 1 per/ 10 which is a lesser therefore Council's DCP rates applies. The proposal provides 360 car spaces which complies with the number of car spaces required. See discussion under Part 4.5 – Macquarie Park Corridor.	Yes
Bicycle Parking: Provide adequate motorbike, scooter and bicycle parking space (undercover).	It is proposed to provide 10 spaces within the basement levels, 30 bicycle parking spaces on the ground level (within the building) and 13 spaces within the front landscaped area. A total of 53 bicycle spaces are proposed to be provided.	Yes
Basement Design for parking: - Basement car park not to exceed 1m above ground (use stepped/ split level). - Natural ventilation to be provided for basement car parks. Any ventilation grills/ screening device to be integrated into the façade and landscape design.	The basement is 3 levels and is predominantly below ground level except for the rear western section of the basement carpark which extends 1m above ground level, as seen in Figure 23. It is proposed to screen the basement wall through mounded landscaping however the URDP commented that more moulding or use of landscape vertical walls are needed to mitigate the visual exposure of the walls. The applicant has advised that moulding and trellis planting will be used to soften the north west and south west facing external walls, as shown below in Figure 25 Condition 1(a)	No – variation acceptable

SEPP No. 65 ADG Compliance Table	Considerations	Consistent
	has been imposed requiring this. Ventilation of the basement has not been shown on the plans. Condition 107 has been imposed to provide ventilation and screening..	
		
Figure 23:Cross section of plan showing protrusion of basement more than 1m above ground. Figure 24: Extent of basement above ground and proposed mounding, trellis and planting treatments to minimise the visual impact of the wall.		
Part 4 Designing the building 4A Solar & daylight access Design Criteria 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. A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid- winter.	The applicant indicates that the development will provide for the following sunlight access: 70.6% of units (or 291 of 412 residential units) will receive more than 2 hours solar access. 13.6% of units (or 56 out of 412 units) would not get direct sunlight access between 9am and 3pm mid winter. Council has assessed sunlight access under two scenarios being: - The development as proposed without development on 82 Waterloo Road; and - The development as proposed with approved development on 82 Waterloo Road.	No Supported on merit

SEPP No. 65 ADG Compliance Table	Considerations	Consistent
	Council's assessment of the two above scenarios reveals that sunlight access would be as follows: <u>Without development on 82 Waterloo Road</u> 63.5% of units (or 262 of 412 residential units) will receive more than 2 hours solar access. This represents a variation of 9.7%. 33% of units (or 136 out of 412 units) would not get direct sunlight access between 9am and 3pm mid winter. <u>With approved development on 82 Waterloo Road</u> 57% of units (or 235 of 412 residential units) will receive more than 2 hours solar access. This represents a variation of 18.4%. 33% of units (or 136 out of 412 units) would not get direct sunlight access between 9am and 3pm mid winter. Given the high density context of the site and its surrounds and, in consideration of the considerably constrained nature of the site (i.e. its southern location at the corner, its narrow width and its length-wise north/south orientation), it is considered that full compliance would be difficult to achieve. The development demonstrates sufficient building separation and apartments layouts to maximise amenity to the occupants of the development as well as to the occupants of surrounding development. In this regard, it is considered that on merit, the development is supported.	
Design should incorporate shading and glare control, particularly for warmer months.	The proposed development incorporates balcony overhangs to the west and north to control heat load.	Yes
4B Natural Ventilation All habitable rooms are naturally ventilated.	All habitable rooms have direct access to a window opening for natural ventilation.	Yes
Design layout of single aspect apartments to maximises natural ventilation.	The single aspect apartments have depths less than 8m, with a floor-to-ceiling height of 2.7m. This complies with the 2:1 width to depth ratio.	Yes

SEPP No. 65 ADG Compliance Table	Considerations	Consistent												
<u>Design criteria</u> 1. At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed. 2. Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	The proposal provides natural cross-ventilation to 62.4 %of the total apartments in the first nine levels. No details have been provided as to whether the balconies can be enclosed from Level 10 upwards. Condition 1(e) has been imposed requiring that the balconies remain open. There is no cross -through apartments proposed.	Yes – subject to condition. Yes												
4C Ceiling Heights Ceiling height achieves sufficient natural ventilation and daylight access. The following is required as a minimum: <table><tr><td colspan="2">Min ceiling height for apartment & mixed use buildings</td></tr><tr><td>Habitable rooms</td><td>2.7m (3.1m floor to floor)</td></tr><tr><td>Non Habitable</td><td>2.4m</td></tr><tr><td>2 storey parts</td><td>2.7m for main living area , 2.4m for 2nd floor</td></tr><tr><td>Attic spaces</td><td>1.8m at edge of room</td></tr><tr><td>Mixed used zone</td><td>3.3m for ground & 1st floor to promote future flexibility of use.</td></tr></table>	Min ceiling height for apartment & mixed use buildings		Habitable rooms	2.7m (3.1m floor to floor)	Non Habitable	2.4m	2 storey parts	2.7m for main living area , 2.4m for 2 nd floor	Attic spaces	1.8m at edge of room	Mixed used zone	3.3m for ground & 1 st floor to promote future flexibility of use.	Floor to floor is 3.1m with ceiling heights of 2.7m. Ground retail levels has a floor to floor height of 4.4m. A floor-to-floor height of 3.1m is used to allow the ADG recommendation to be achieved in living, dining and bedroom areas.	Yes
Min ceiling height for apartment & mixed use buildings														
Habitable rooms	2.7m (3.1m floor to floor)													
Non Habitable	2.4m													
2 storey parts	2.7m for main living area , 2.4m for 2 nd floor													
Attic spaces	1.8m at edge of room													
Mixed used zone	3.3m for ground & 1 st floor to promote future flexibility of use.													
4D Apartment size and layout Apartments are required to have the following minimum internal areas with one bathroom: • Studio = 35m²; • 1 bedroom = 50m²; • 2 bedroom = 70m²; • 3 bedroom = 90m²; • 4 bedroom = 102m². <u>Note:</u> Additional bathrooms increase the minimum internal area by 5m².	All apartments meet the minimum internal areas.	Yes												
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Every habitable room has a window with an external wall with no borrowed light or air from another room.	Yes												
Habitable room depths are limited to a maximum of 2.5 x the ceiling height. In open plan layouts – habitable room (where the living, dining and kitchen are combined) be maximum depth of 8m from a window.	Maximum habitable room depth is 6.75m. Open plan apartments have a maximum depth of 8m.	Yes												

SEPP No. 65 ADG Compliance Table	Considerations	Consistent															
Master bedrooms - minimum area of 10m ² & other bedrooms 9m ² (excluding wardrobe space).	All master bedrooms are 10m ² or more, with min 9m ² for other bedrooms.	Yes															
Bedroom - minimum dimension of 3m (excluding wardrobe space)	Min dimension of 3m achieved for all bedrooms.	Yes															
Living rooms or combined living/dining rooms have a minimum width of: • 3.6m for studio and 1 bedroom apartments; • 4m for 2 and 3 bedroom apartments.	Living room widths have been designed to comply with minimum widths under this design criteria.	Yes															
The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	No cross through apartments are proposed.	N/A															
4E Private Open Space and balconies Apartments must provide appropriately sized private open space and balconies to enhance residential amenity. Design criteria 1. All apartments are required to have primary balconies as follows: <table border="1"> <thead> <tr> <th>Dwelling type</th><th>Min. area</th><th>Min. depth</th></tr> </thead> <tbody> <tr> <td>Studio apt</td><td>4m²</td><td>N/A</td></tr> <tr> <td>1 bed</td><td>8m²</td><td>2m</td></tr> <tr> <td>2 bed</td><td>10m²</td><td>2m</td></tr> <tr> <td>3+ bedr</td><td>12m²</td><td>2.4m</td></tr> </tbody> </table>	Dwelling type	Min. area	Min. depth	Studio apt	4m ²	N/A	1 bed	8m ²	2m	2 bed	10m ²	2m	3+ bedr	12m ²	2.4m	All balconies comply with the minimum area and depth requirements.	Yes
Dwelling type	Min. area	Min. depth															
Studio apt	4m ²	N/A															
1 bed	8m ²	2m															
2 bed	10m ²	2m															
3+ bedr	12m ²	2.4m															
2. For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	The ground floor apartments have balconies greater than 15m ² and depth of 3m.	Yes															
Primary private open space and balconies are appropriately located to enhance liveability for residents.	Primary private open space is located adjacent to living areas to improve outlook and connectivity of units.	Yes															
Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building.	Balconies are used to provide articulation and variation in the building façade. They are suitably integrated into the overall design of the development and form part of the detail of the building.	Yes															
4F Common circulation and spaces. Design criteria 1. The maximum number of apartments off a circulation core on a single level is 8. 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	A maximum of 8 apartments are proposed off a single circulation core. In each of the buildings there will be 2 lifts servicing each of the three circulation cores. Building 1: Two lifts will serve 132 units (1 per 66 units) Building 2: Core B will serve 151 units (1 per 75.5 units) and Core C will serve 129 units (1 per 64.5 units). A Lift Traffic Analysis Report has been submitted which	Yes No - Variation acceptable															

SEPP No. 65 ADG Compliance Table	Considerations	Consistent										
	carried out lift traffic studies for the worst case scenario (Building 2 Core B) to determine the level of service that be provided by the two lifts. The analysis concludes that the average waiting time is 46.6 seconds (morning peak) and 40.2 seconds (evening peak). Note: A waiting time (WT) of between 40 seconds to 80 seconds is deemed to be a good service for residential lifts. The proposed number of lifts will provides for an acceptable level of service during the morning and evening peak.											
Design Guide: Daylight and natural ventilation should be provided to all common circulation space above ground. Windows should be provided at the end wall of corridor, adjacent to the stair or lift core.	Windows are at the end of the corridor walls situated on the circulation core of Building 2. This will provide natural daylight and ventilation to the corridors to improve the amenity of the circulation spaces. Building 1 does not have any windows in its circulation core. The proposed variation to this design guide can be supported as the corridor is not excessively long (being 17.5m in length) and servicing 8 apartments, which is in accordance with the design criteria. Condition 1(b) is imposed to provide a variety of interior design strategies to the corridors, including interior finishes, internal furniture and landscaping.	Yes for Building 2. No for Building 1 - Variation acceptable subject to condition.										
4G Storage Adequate, well designed storage is to be provided for each apartment. Design criteria 1.In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided: <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio</td><td>4m³</td></tr><tr><td>1 bedroom apt</td><td>6m³</td></tr><tr><td>2 bedroom apt</td><td>8m³</td></tr><tr><td>3 + bedroom apt</td><td>10m³</td></tr></table> At least 50% of the required storage is to be located within the apartment. Additional storage is conveniently located, accessible and nominated for individual apartments (show on the plan).	Dwelling type	Storage size volume	Studio	4m ³	1 bedroom apt	6m ³	2 bedroom apt	8m ³	3 + bedroom apt	10m ³	Storage is provided in the basement and within units for all apartments. Adequate storage is provided for all units. Condition 104 has been imposed to ensure that adequate storage area is provided.	Yes – subject to condition.
Dwelling type	Storage size volume											
Studio	4m ³											
1 bedroom apt	6m ³											
2 bedroom apt	8m ³											
3 + bedroom apt	10m ³											
4H Acoustic privacy Noise transfer is minimised through the siting of buildings and building layout. Noise impacts are mitigated within apartments through layout and acoustic treatments. In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings. Appropriate noise shielding or attenuation techniques for the building design, construction and	The proposal is accompanied by an Acoustic Report which provides recommendations regarding any attenuation measures required for apartments. Council's Environmental Health Officer has reviewed the Acoustic Report and has imposed Conditions 80 & 188 to ensure compliance with the recommendations of the report.	Yes – subject to conditions.										

SEPP No. 65 ADG Compliance Table	Considerations	Consistent
choice of materials are used to mitigate noise transmission.		
4K Apartment mix A range of apartment types with different number of bedrooms (1 bed, 2 bed, 3 bed etc.) should be provided.	The proposal includes the following mix of apartment types: – One bedroom x 219 (53.2%) – Two bedroom x 183 (44.4%) – Three bedroom x 10 (2.4%)	Yes
4L Ground floor apartments Building facades to provide visual interest, respect the character of the local area and deliver amenity and safety for residents.	Ground floor apartments are adequately secured with gates/fencing and provide casual surveillance to Byfield Street with living spaces facing towards the street. The apartments will have high level of amenity with large open space areas.	Yes
Building functions are expressed by the façade.	The building includes ground floor retail tenancies facing Waterloo Road and Byfield Street which are clearly defined as being separate from the residential units above. Lobbies are readily identifiable and public and private areas delineated from the façade.	Yes
Privacy and safety should be provided without obstructing casual surveillance.	The ground apartments facing Byfield Street provide an active presentation to the street. The front courtyards will be suitably screened and landscaped.	Yes
4N Roof design Roof treatments are integrated into the building design and positively respond to the street.	Proposed roof design integrates with the overall design of the tower built form of the development. Mechanical plant is setback to be imperceivable from the street.	Yes
Opportunities to use roof space for residential accommodation and open space are maximised.	Level 19 of Building 2 has a roof top terrace area (communal open space).	Yes
Roof design incorporates sustainability features.	Landscape garden on Building 2.	Yes
4O Landscape design Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable	The proposal includes a landscape concept plan which has been reviewed by Council's Consultant Landscape Architect and considered acceptable. The proposal includes a range of communal open space areas and communal indoor areas to provide a high level of amenity for residents. Landscaping is carefully chosen to respond to the quality and context of the development.	Yes
4P Planting on structures Appropriate soil profiles are provided.	The proposed development includes deep soil planting at ground level and mounded planting at the communal podium level and on the roof top terrace. To ensure that the soil provision complies with the recommended soil profiles, a condition on the consent has been imposed requiring compliance with the relevant soil depth. See Condition 106.	Yes – subject to condition.
4Q Universal design Universal design features are included in apartment design to promote flexible housing for all community members. A variety of apartments with adaptable designs are to be provided.	The development is designed to comply with Council's requirement of 10% adaptable apartments. A minimum of 42 adaptable apartments are required to be provided. The proposal will provide 42 (10%) adaptable apartments. See Condition 103 .	Yes – subject to condition.
4R Adaptive reuse New additions to existing buildings are contemporary and complementary and enhance an	Not applicable.	N/A

SEPP No. 65 ADG Compliance Table	Considerations	Consistent
area's identity and sense of place. Adapted buildings provide residential amenity while not precluding future adaptive reuse.		
4S Mixed use Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.	Active uses are proposed along the ground floor frontage to Waterloo Road and Byfield Street to promote activation. There are 259m ² of retail areas and the ground floor apartments of Building 2 facing Byfield Street have separate entrances which integrate with the street frontage.	Yes
4T Awnings and signage Awnings are well located and complement and integrate with the building design.	Awnings to Waterloo Road are provided which extends over the outdoor retail dining area and is integrated with the overall design.	N/A
4U Energy efficiency Development incorporates passive environmental design measures – solar design, natural ventilation etc.	Complies with BASIX.	Yes

8.7 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The SREP applies to the whole of the Ryde Local Government Area. However, the site is over 3km (approx. 3.9km) from the nearest point of Sydney Harbour. As such, it is considered that the proposed development will not have a significant visual impact on Sydney Harbour and the catchment.

8.8 Ryde Local Environmental Plan 2014

The following provides an assessment of the proposed development against the applicable provisions from the Ryde LEP 2014.

Clause 2.3 Zone Objectives and Land Use Table

The land is zoned B4 Mixed Use under Ryde LEP 2014.

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives for the B4 Mixed Use are as follows:

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

The development complies with the above objectives. It will be consistent with the desired future character for the precinct by introducing a mixed use building within walking distance of train and bus services, commercial services and is therefore considered to be a suitable location for this development.

As demonstrated in the assessment by the UDRP and against the built form controls of the ADG, the massing and scale of the development is considered appropriate in terms of the future built environment.

The built form contributes to the character and public domain of the area and public benefit is provided through the delivery of a linear park along Waterloo Road.

Clause 4.4 Floor Space Ratio

The FSR for the site is 4:1. The proposal will have a FSR of 4:1 which complies with this control.

Clause 4.3 Height of buildings

The maximum height of building control for the site is 65m. The proposal will exceed the height by:

Building 1 7m for the top of the plant room and between 3.8m to 5.7m for top of parapet of the roof area. A variation of 10.7% for the plant room and 8.7% for the top of building.

Building 2: 4.2m for the top of the plant room and 2.9m for the top of parapet of the roof area. A variation of 6.46% for the plant room and 4.5% for the top of building.

Clause 4.6 Exceptions to Development Standards – Height of Buildings

A request for exemption under clause 4.6 was lodged as the maximum height of the building exceeds the maximum Height of Buildings standard under Clause 4.4 of Ryde LEP 2014. The applicant seeks a variation to Clause 4.4 of the Ryde LEP 2014 entitled 'Height of Buildings'. The request outlines the rationale for the departure and identifies the constraints of the site.

The maximum height allowed is 65m. The proposed development will result in one additional storey above the maximum height for Building 1 and additional half storey above the maximum for Building 2, a variation of between 10.7% & 6.46% for top of plant rooms and 4.5% & to 8.7% for top of buildings as shown at **Figures 25 & 26**.

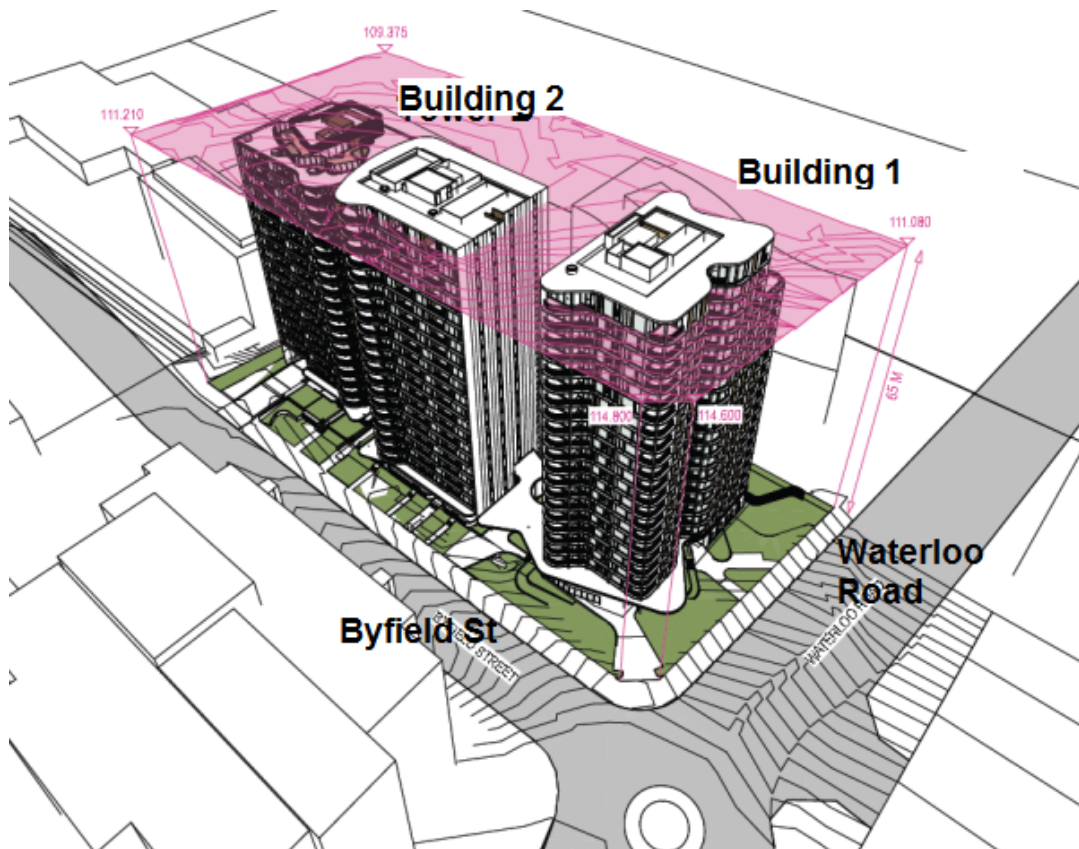


Figure 25: Height plane 3D diagram as viewed from southeast.



Figure 26: Height variation as viewed along Byfield Street.

The clause sets out the tests for establishing if the variation is 'well founded' and requires the consent authority to be satisfied of the following matters:

1. Is the planning control a development standard?

Yes, Clause 4.4 'Height of Buildings' of the Ryde LEP 2014 is a development standard under the definition of the EP&A Act 1979.

2. Whether compliance with the development standard would be unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant's written request has demonstrated that compliance with the development standard would be unreasonable and unnecessary as the development complies with the objectives of the standard. The written request has also considered the environmental planning grounds that are particular to the circumstances of the proposed development.

The applicant states that compliance with the development standard is considered unreasonable and unnecessary having regard to the circumstances of the case for the following reasons:

The original development application was designed to fully comply with each of the relevant requirements contained within RLEP 2014, including the land use zoning and built form controls. The proposed resumption of land by the RMS was only raised once the development application had been significantly progressed and in the absence of any controls, such as a rezoning or land acquisition control.

The proposed variation to the building height is solely related to the proposed land resumption. The amended plans seek only to accommodate the floorspace that has been lost as a result of the reduction to the developable area at the ground plane. It is considered important to maintain the planned floorspace for the site to enable its contribution to the planned development within the locality, including achieving the relevant housing targets that were established in the amendment of the original built form controls.

The amended proposal will result in a public benefit as it will enable the RMS to deliver planned transport improvements within the locality. Further, it has been demonstrated that the proposed variation to the building height will not result in any unreasonable impacts to the surrounding land or the amenity of the locality. Satisfactory levels of solar access will be available for both the subject site and the surrounding land. The streetscape will be enhanced by the quality built form design and the perceived visual impact will be negligible, particularly from the immediately surrounding public domain.

Overall, it is concluded that the particular circumstances of this application warrant a variation of the development standard. It is considered that strict compliance with the relevant controls would be neither reasonable or necessary in circumstances of the case.

Planner's Comments

Applying the tests established by Chief Justice Preston in *Wehbe v Pittwater Council* [2007] NSWLEC 827 and more recently in the decisions of *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009, a number of tests that need to be satisfied as follows:

1. "The applicant must satisfy the consent authority that "the objection is well founded," and compliance with the development standard is unreasonable or unnecessary in the circumstances of the case;

2. *The consent authority must be of the opinion that granting consent to the development application would be consistent with the policy's aim of providing flexibility in the application of planning controls where strict compliance with those controls would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects specified in s 5(a) (i) and (ii) of the Environmental Planning & Assessment Act 1979; and*
3. *It is also important to consider:*
 - a. *Whether non-compliance with the development standard raises any matter of significance for State or regional planning; and*
 - b. *The public benefit of maintaining the planning controls adopted by the environmental planning instrument."*

Consideration must also been given to the findings of *Four2Five Pty Ltd v Ashfield Council [2015] NSW LEC*. This case found that a Clause 4.6 must demonstrate the following:

- *That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity); and*
- *That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone which applies to site.*

The applicant's written request has demonstrated that compliance with the development standard would be unreasonable and unnecessary as the development complies with the objectives of the standard. The written request has also considered the environmental planning grounds that are particular to the circumstances of the proposed development.

In part, the applicant's submission is as follows:

"What is the underlying objective of the Standard?

The objectives for the height of buildings development standard provided at subclause 4.3(1) of the LEP are addressed below.

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

The site is a landmark site at the eastern entry to the former Herring Road Urban Activation Precinct. The proposed building height will be generally in proportion with the planned height of nearby development, including the proposed development at 82-84 Waterloo Road. The updated perspective images prepared by Turner Architects demonstrate that the amended proposal remains consistent with the existing and future character of Waterloo Road and Byfield Street.

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

The proposed built form has been modulated to minimise the potential impact of shadows on the amenity of the surrounding land. Particular consideration has been given to the proposed height variation to ensure that it will not result in any additional unreasonable impacts on shadows or the appearance of the site and the streetscape. Elevational solar studies have been prepared to demonstrate that the adjoining properties, as well as the proposed development, will achieve satisfactory levels of solar access. Both the adjoining hotel, the apartments within Building B and 50% of the communal open space will achieve at least two hours of direct sunlight on 21 June. The proposed development achieves 70.6% of solar access for living rooms in accordance with the Apartment Design Guide (ADG).

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

The proposed variation to the building height control will not have any effect on the integration of land use and transport. The proposed floor space within the amended plans is equivalent to the original proposal.

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

The proposed height variation will not result in any additional impacts to the amenity of the surrounding properties. It has been demonstrated that the solar access requirements will be achieved and the built form quality of the proposed design will be maintained.

The amended design retains the activated streetscape along Waterloo Road and a landscaped setback along Byfield Street. The proposed buildings will make a positive contribution to the streetscape and the quality of development within the locality.

(e) to emphasise road frontages along road corridors.

The built form and design of Building 1 reinforces and emphasises the importance of the Waterloo Road and Byfield Street intersection. The additional storeys on Building 1 and Building 2 do not limit the achievement of this objective.

The amended development is consistent with the aims of RLEP 2014 as it will:

- Encourage a mixed-use development including an activate retail frontage and a range of residential apartments that are consistent with adjoining and future development and will meet the needs of existing and future residents of Ryde.*
- The environmental, economic and social impacts of the proposed development have been assessed in detail and are considered acceptable.*
- The proposal will maintain the original floorspace to provide for well-designed development in walking distance of the railway station and existing services.*

The proposal also addresses each of the land use objectives for Zone B4 Mixed Use as summarised below:

- The proposal provides a mix of apartment types and land uses of which are compatible with the vision for the site and locality.*

- *The site is located in proximity to Macquarie University Station and surrounding bus stops. As such the site is highly accessible by public transport and patronage will be maximised.*
- *The proposed retail tenancies will provide additional commercial opportunities and retail options along the Macquarie Park corridor.*

The development is consistent with the objects of the Act, in respect to the following:

- *The variation to the building height will achieve a better urban design outcome for the site by maintaining adequate setbacks and the architectural character of the original design.*
- *The redevelopment of the site for higher density residential and neighbourhood scale retail uses contributes to urban consolidation.*
- *The delivery of new housing and jobs within an established urban environment, located near public transport options, without significant or unreasonable environmental impact comprises both orderly and economic use of urban land.*

The above is agreed with, with the exception to the solar requirement (see discussion in the ADG table). The proposal, despite the breach to the standard, is able to satisfy the objectives of the standard and the zone of the site. The proposal has been revised to include a reduced number of levels between the gap between Building 2, increased the building separation and provided stepped and staggered facades which has helped reduce the perception of scale and 'bulk' of the buildings.

Further the materials and finishes of the towers have been designed to enhance the articulation of the buildings to reduce the overall scale of the development.

The site is located within the Macquarie Park Corridor 'Centre' identified on the Centres Map. The proposal represents an appropriate level of development for the area given the transition of building heights and FSR between what is achievable on properties to the north, north west, the Macquarie Shopping Centre site opposite and within the 'Macquarie Park Corridor' Precinct Incentive area.

The proposal included stepped building heights with appropriate breaks and separations, open landscaped areas, modulation and use of material and finishes to enhance articulation to minimise the scale of the development. Furthermore, the additional height is located at the front of the site, (at the corner of Waterloo Road and Byfield Street) which helps to provide a visual prominence to the building and corner. Building 2 is only ½ storey over the maximum height with the western section of the building below the height plan.

The proposed height variation is not inconsistent with the character of recently approved developments such as Macquarie Shopping Centre, (which has concept approval for four towers of 90m & 120m high); 82-84 Waterloo Road; and 101-107 Waterloo Road which have recently been approved with maximum height of 65m. The proposed variation of one additional story for Building 1 and ½ storey for Building 2 are not significantly out of proportion with these adjacent developments and are in keeping with the future character of the area.

In addition, the proposal complies with the FSR control and overshadowing requirements. The additional shadow from the additional storey is not that great as to significantly impact the amenity of the adjoining properties. The adjoining properties are still able to obtain the required solar access to their site.

The proposal also encourages sustainable development in this key Centre by:

- Providing additional dwellings in close proximity to employment and high frequency public transport;
- Providing incentives for active transport encouraging a reduction in certain movements in private transport;
- Exceeding the Apartment Design Guide requirements for deep soil landscaping and communal open space; and
- Achieves all required sustainability targets as mandated within SEPP BASIX and Section J of the BCA.

Further, it is considered that the proposal will remain consistent with the objectives of the B4 zone, being:

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

The proposed development is consistent with these objectives because:

- The proposed development provides a mixture of compatible land uses that leverage from surrounding development to provide an increased number of dwellings in close proximity to employment and services.
- Public transport patronage, walking and cycling will be encouraged through the provision of housing adjacent Macquarie University Railway Station and bus interchange and
- The scheme includes retail frontage and linear park connection along Waterloo Road frontage thereby creating active uses across the ground level of the proposal which not only provides non-residential tenancies within the precinct, but also provides an active connection along Waterloo Road.

3. Environmental grounds to justifying contravening the development standard.

Clause 4.6 requires the applicant to demonstrate that there are sufficient environmental planning grounds to contravene the development standard. The applicant has provided the following:

- *The proposed land resumption will result in a broader public benefit for the locality, allowing the RMS to deliver planned public transport and improvements to the local road network.*
- *The proposal seeks to maintain the existing floorspace which complies with the relevant floor space ratio controls and the intended development yield for the site.*
- *The proposed variation to the building height does not result in unreasonable adverse amenity impacts on adjacent land, with adequate solar access, negligible visual impacts and an improved streetscape.*

The applicant has addressed the environmental grounds to justify the non-compliance as detailed in the above section. With the exception due to resumption, the above matters are supported. Despite the breach of the control, the development does not result in unacceptable impacts on the environment.

4. The applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and the exception is well founded.

The applicant has provided a written request which adequately justifies the variation to the development standard.

The justification provided for the departure from the development standard is considered well founded as the objectives of the standard are achieved notwithstanding non-compliance with the standard. Additionally the written request provides justification for the departure while also addressing how the proposal meets the objectives of Ryde LEP 2014.

In this instance, there are sufficient environmental planning grounds to justify contravening the development standard. These grounds are particular to the circumstance of the proposed development on this site. To accept a departure from the development standard in this context would promote the proper and orderly development of land as contemplated by the controls applicable to the B4 zoned land and the objectives of the EP&A Act.

5. Concurrence of the Director General.

Circular PS 08-003 issued on 9 May 2008 informed Council that it may assume the Director-Generals concurrence for exceptions to development standards.

Conclusion

Compliance with the development standard would be inconsistent with the aims of the Ryde LEP 2014 and the objectives of the EP&A Act. Refusal of the application on the basis of this non-compliance which is unique to the site, would hinder the orderly and economic use and development of the site as the development is in all other means compliant with the relevant mandatory planning controls, with this exception of the breach of the maximum height control.

In light of the above assessment, the variation to the height of buildings standard is supported

Clause 4.5B Macquarie Park Corridor – Car parking

Ryde LEP 2014 (Amendment No.13 – Macquarie Park Corridor Car Parking Controls) was notified on the NSW Legislation website on 21 April 2017. This Amendment deleted the Macquarie Park Corridor Parking Restrictions Map from Ryde LEP 2014 and Clause 4.5B (1) & (2) Macquarie Park Corridor Off street car parking controls.

As the subject development application was submitted November 2016, before the date of this amendment, the controls of the LEP relating to Macquarie Park Corridor car parking continue to apply (per Clause 1.8A Savings provision relating to development applications of Ryde LEP 2014).

Subclause (1) of Clause 4.5B relates to off street parking. The maximum number of off street parking spaces for commercial and industrial development in the Macquarie Park Corridor is the number identified on the Macquarie Park Corridor Parking Restriction map. The subject site has two rates as illustrated in **Figure 27** below. However as the commercial component is located within the red section (Part C), the rate of 1 space/80m² usable floor space will be applied.

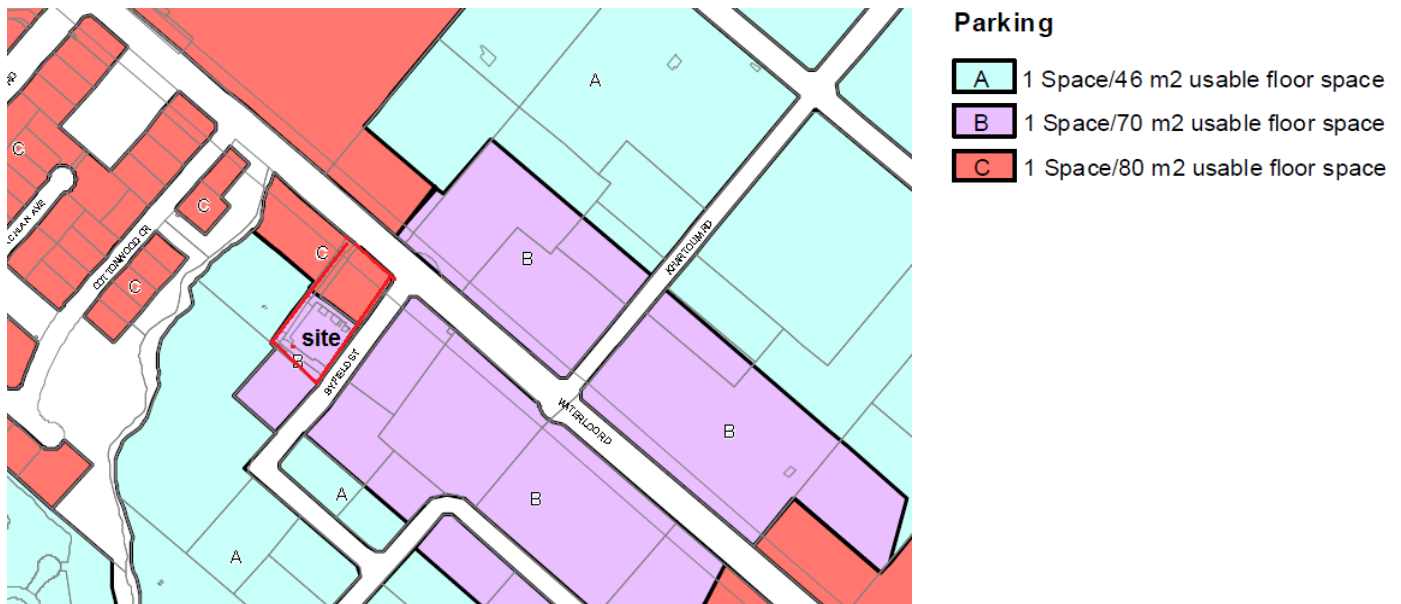


Figure 27: Excerpt from RLEP 2014 Macquarie Park Corridor Parking Restriction Map.

It is proposed to provide 259m² of retail/commercial floor space fronting Waterloo Road. Based on the above rate 3.2(4) commercial parking spaces are required to be provided. The development provides a total of 4 commercial parking spaces in the ground floor parking level.

Clause 5.9 Preservation of trees or vegetation

This clause applies to species prescribed under Council's DCP Part 9.5: Tree Preservation.

The application notes that 10 of the 30 existing trees on site will need to be removed to facilitate the development. Council's Consultant Landscape Architect has advised that *"Given the age, species diversity, locations and density of plantings of the current tree population, it is considered highly likely they are planted specimens which formed part of the landscape works associated with the current commercial building on site. Additionally, when viewing 1943 aerial imagery of the site compared to the current site arrangements it appears no vegetation is likely to be remnant."* Removal of the said trees can be supported.

Conditions are recommended on the consent requiring the protection of the existing trees on site that will not be required to be removed to facilitate the development (see **Conditions 50, 51, 142, 143, 146 to 153**).

Clause 6.1 Acid Sulphate Soils

The site is not identified on the Acid Sulphate Soils Map. This clause is not applicable to the development.

Clause 6.2 Earthworks

Development consent is required for the earthworks associated with the development. Before granting consent for earthworks the consent authority must consider the following matters:

- The likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality.
- The effect of the proposed development on the likely future use or redevelopment of the land.
- The quality of the fill or the soil to be excavated, or both.
- The effect of the proposed development on the existing and likely amenity of adjoining properties.
- The source of any fill material and the destination of any excavated material.
- The likelihood of disturbing relics.
- Proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.
- Any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

The development includes excavation for a three level basement car park. Council's Development Engineer has imposed conditions to address excavation and soil management. (See **Conditions 42, 97 & 138**).

Additionally, Water NSW has advised that the proposal is subject to a Water Supply Work Approval under the *Water Management Act 2000* for dewatering during the construction phase. WaterNSW's Terms of Approval has been imposed as **Condition 7**.

The site is not known to contain any relics or any other item of heritage significance.

Subject to the imposition of the recommended conditions of consent, the development is considered satisfactory in respect of the provisions of clause 6.2.

8.9 **Any proposed instrument (Draft LEP, Planning Proposal).**

None applicable.

8.10 **City of Ryde Development Control Plan 2014**

The following sections of the DCP are of relevance, being:

Part 4.5 – Macquarie Park Corridor
Part 7.1 - Energy Smart, Water Wise
Part 7.2 - Waste Minimisation and Management
Part 8.1 - Construction Activities
Part 8.2 - Stormwater Management
Part 8.3 - Driveways
Part 9.2 - Access for People with Disabilities

With regard to Parts 7.1 to 8.3, noting the advice received from the various technical departments within Council and the consideration of issues previously in this report, the proposal is satisfactory in relation to the above matters.

Part 4.5 – Macquarie Park Corridor

Control	Comments	Comply
4.0 Access Network		
4.1 Streets Provide new public streets and pedestrian connections in accordance with Access Structure Plan New Streets are to be dedicated to the Council. New streets are to be maintained by the landowner until dedicated to Council.	The Access Network Map does not identify any road or pedestrian path to be provided on the site.	N/A
4.3 Bicycle Network Dedicated cycle lanes are to be provided along all existing and new streets within the Corridor as shown in Figure 4.3.1. This integrated cycle strategy maximise the opportunities for cycle circulation within the Corridor.	Shared bicycle pathway is proposed along the other side of Waterloo Road, in accordance with Ryde Bicycle Strategy 2014. Council's Traffic, Transport and Development Section have advised that share bicycle line marking will be completed by Council once the pavement along this side of Waterloo Road is completed to Council's satisfaction..	Yes
4.4 Sustainable Transport. A Framework Travel Plan. (FTP) is required to be submitted to Council for approval for all development that exceeds 10,000sqm new floor space.	Proposal has a floor space of 30,552m ² . A FTP will be submitted to Council for approval prior to the issue of an Occupation Certificate. See Condition 197 .	Yes – subject to condition.
Parking Rates Bicycle parking in accordance with Ryde DCP 9.3 Parking. - In every new building, where the floor space exceeds 600m² GFA (except for dwelling houses and multi unit housing) provide bicycle parking equivalent to 10% of the required car spaces or part thereof. Car Parking within residential development to be provided in accordance with the following maximums: 0.6 space/1 bed 0.9 space/2 bed 1.4 space/3 bed 1 visitor space/10 dwelling 1 car share space per 50 parking spaces.	Require: 36 bicycle parking spaces. Proposed: 48 412 apartments comprising of: 219 x 1 bedroom, 183 x 2 bedroom & 10 x 3 bedrooms. Retail – 259m² See Full discussion under Part 9.3 – Car Parking .	Yes
5.0 Public Domain		
5.1 Open Space Network Provide public open space as shown in Figure 5.1.1 Open Space Network.	Not applicable.	N/A
5.8 Street Trees, Front Setback Tree Planting and Significant Trees. Street trees and front setback must be provided in accordance with the Street Tree Key Plan in	Council's Public Domain Section have reviewed the proposed development and included relevant conditions relating to the street trees (See Condition 84). It is noted that the front setback of the development is to	Yes – subject to condition.

Control	Comments	Comply
Macquarie Park Public Domain Technical Manual, and their health guaranteed for a minimum of 5 years. At grade parking is not permitted in the front setback <u>5.9 Community Facilities.</u> Community facilities are to be provided in accordance with the relevant documentation prepared by Council, particularly the City of Ryde: Social and Cultural Infrastructure Framework. Based on population growth statistics (available 2011) within Macquarie Park Corridor the City of Ryde. <u>5.10 Art in Publicly Accessible Place.</u> Art must be included in all new development with more than 10,000m² new floor space in the amount of 0.1% of the construction cost of the works capped at \$1,500,000. Art must be located within the site so as to be publicly accessible i.e. viewed or experienced from publicly accessible places.	be developed as a linear park with final plans to be approved by Open Space Planning and Development Team prior to the issue of the construction certificate (see Condition 86) No at grade parking is proposed within any of the setbacks. Section 94 contributions will be required to be provided. See Condition 59. The applicant has advised that the public art for the development is under review, however no details have been provided with regard to Public Art for the site. A condition has been imposed requiring a Public Art Plan to be submitted. See Conditions 71 & 187.	Yes Yes Yes – subject to condition.
6.0 Infrastructure, facilities and public domain improvement.		
Floor space ratios and height are to comply with Ryde LEP 2014.	Maximum height 65m – Proposed: Building 1: 72.9m (top of plant) Building 2: 69.8m FSR: 4:1 across the whole site Site area: 7,638m². The proposed GFA for the whole site, including the proposed building is 30,552m². Based on the above, a FSR of 4:1 is proposed.	No – Clause 4.6 variation submitted. Yes
7.0 Built Form		
<u>7.1 Site Planning and Staging.</u> Sites are to be planned to allow for the future provision of new streets and opens spaces. <u>7.2 Activity Centres</u> Macquarie Park Station Macquarie University Station North Ryde Station <u>7.2.1 Active Frontage</u> Continuous ground level active uses must be provided where primary active frontages are shown in Figure 7.3.1 Continuous ground level active uses must be provided to primary active frontages. Front door and street address is to be located on the primary frontage. Vehicular	Not applicable. Not applicable. This section of Waterloo Road is a secondary active frontage. The length of the Waterloo Road frontage includes retail tenancies. The main entrance for Building 1 is located on Waterloo Road with several pedestrian paths leading to the main lobby and port cochere. Building 2 addresses Byfield Street and has a sense of address to the building. Ground floor apartments have separate entries. Each of the	N/A N/A Yes

Control	Comments	Comply
access not to be located to a primary active frontage (Waterloo Road) unless it can be demonstrated there is no alternative. Active ground level uses are encouraged to secondary active frontages. Entries to be accessible and at same level as the adjacent footpath. Active uses must occupy the street frontage for a depth of at least 10m. Where active frontage is required a minimum of 90% of the building frontage is to be transparent ie windows and glazed doors.	Buildings has a sense of address to either Waterloo Road or Byfield Street. Vehicular access is from Byfield Street and the commercial component are accessible and at the same level of the footpath. The commercial tenancies have a depth of 8m & 5m. The proposed variation is considered acceptable as RT.03 has an internal area of 87m ² . RT.02 – 87m ² and RT.01- 40m ² . The size and area of the tenancies will not prevent it from being leased for retail or commercial functions in the future. The whole of the building frontage facing Waterloo Road is transparent (windows/glazed doors).	Yes No – variation acceptable. Yes
<u>7.3 Setbacks and Build to Lines</u> 10m setback to Waterloo Road. 5m to all new and existing streets.	Proposed: 10m setback to Herring Road. <u>Waterloo Road:</u> <u>Building 1</u> Taken from the future road acquisition boundary: 9m to 17m on the ground floor and 4m to 12.2m setback on Levels 1 and above. The proposed setback complies with the existing boundary setback however, with RMS future acquisition of land along Waterloo Road and Byfield Street there will be small encroachment at the corner of Waterloo Road and Byfield Street. This is only for a small portion of Building 1 with the remainder of the building setback well beyond 10m. Along this corner the setback requirement to Byfield Street is reduced and Building 2 has been sited to comply with the reduced setback. The proposed setbacks provide sufficient landscaping area along the frontages and Council's Open Space and Development Team has raised no objections to the proposal. Condition 86 has been imposed to align the linear park connection with 82-84 Waterloo Road. <u>Byfield Street:</u> 3.5m to 8m setback to Byfield Street. Council's DCP requires a setback of 5m from Byfield Street however due to the road acquisition, which requires a large proportion of the corner area to be dedicated, Council has agreed to a reduced setback of 3m along this section. The proposal complies with Council's reduced setback requirements. The proposal satisfies the objectives of the clause as sufficient setback is provided to enhance and provide sufficient tree planting.	No – variation at the southern end at the corner where RMS acquire a large section of the corner. This variation would not be discernible from the street. No – variation acceptable.
2m setback to pedestrian pathways.	No pedestrian pathway adjacent to the site.	N/A
Underground parking is not permitted to encroach into the	<u>Waterloo Road</u> Taken from the new boundary after acquisition	

Control	Comments	Comply
front setback areas unless it can be demonstrated that the basement is designed to support significant mature trees and deep root planting. 60% of the street setback area is to be soft landscaping. Existing mature trees are to be retained where possible. Paved areas are to relate to the materials and finishes of the adjacent streetscape. At grade car parking must not be located within this setback. Figure 7.2.2 Parking is not permitted within required setbacks, allowing for deep soil landscaping along streets	by RMS. Basement carparking setback: 12m to adjacent to the new boundary at the corner of Waterloo Road and Byfield Street. <u>Byfield Street</u> Adjacent to the new boundary at the corner of Waterloo Road and Byfield Street to 7.5m setback. The basement parking encroaches into the front setback area at the corner of Waterloo Road and Byfield Street therefore no deep soil planting can be provided along this area. No deep soil planting is proposed at the intersection and it is proposed to provide a covered paved terrace area around the shop fronts. This will activate the corner with deep soil planting being provided within the 10m setback zone along Waterloo Road and Byfield Street. The proposal satisfies the objectives of the clause as sufficient setback is provided to enhance and provide sufficient tree planting. No at grade car parking. Sufficient area for deep soil planting with no parking within this area.	No - Variation at the corner of Waterloo Road and Byfield Street.
<u>7.4 Awning and Canopies.</u> Awnings must be provided where Primary Active Frontages are shown in Figure 7.2.1 Activity Centres Structure Plan and Active Frontage Control Drawing. Entry canopies and discontinuous awnings and entry canopies are encouraged elsewhere in the Corridor.	Not a primary active frontage however awnings/canopies have been provided around the buildings.	Yes
<u>7.5 Rear and Side Setbacks</u> Buildings are to be set back 10m from the rear boundary and 5m from a side boundary unless a proposed new road is shown on the site.	<u>Building 1 (facing Waterloo Road)</u> Side western boundary: 11.5 to 11.8m	Yes
Basement car park structures should not encroach into the minimum required rear or side setback zone unless the structure can be designed to support mature trees and deep root planting.	<u>Building 2 (facing Byfield Street)</u> North west rear boundary: 21.7m to 27.3m South west side boundary (to 10 Byfield Street): 7 to 8m The basement levels extend into the rear setback zone, being setback 5m to 13.5m from the rear western boundary. The encroachment is for a length of 38m, with the rest of the basement setback 13.5m from the rear boundary. Sufficient area is available for deep soil planting – 2,640m² (35%) which exceeds the 7% requirement under the ADG requirements.	Yes No – variation acceptable, objectives achieved.
Above ground portions of basement car-parking structures are discouraged and deep soil planting is promoted. Natural ground level is to be retained throughout side and rear setbacks, wherever possible.	Due to the fall of the site, and the height requirement for the loading dock, a protrusion of the basement occurs in the north-western corner of the site. This is for a small section of the side and rear elevations and will be	No – variation acceptable.

Control	Comments	Comply
Building Separation Provide building separation as recommended by the ADG. Building Bulk & Design The floor-plate of buildings above 8 storeys is not to exceed 2000m², unless it can be demonstrated that slender building forms are achieved through courtyards, atria, articulation or architectural devices. Buildings are to address the street, and are to have a street address. Facade design is to: Reflect and respond to the orientation of the site using elements such as sun shading and other passive environmental controls where appropriate. Provide building articulation such as well design roof forms, expressed vertical circulation etc. Express corner street locations by giving visual prominence to parts of the façade (eg a change in building articulation, material or colour, or roof expression).	sufficiently screened by landscaping. See discussion under the ADG in this report. The proposal complies as the floor plate for Levels 9 & above is less than 2000m². The orientation and design of Building 1 addresses both Byfield Street and Waterloo Road with pedestrian access and commercial tenancies fronting Waterloo Road. Building 2 faces Byfield Street with pedestrian access and separate ground floor apartments entrances from Byfield Street. In addition balconies provide casual surveillance.	Yes Yes Yes
Site Planning & Staging Site Planning & staging Sites are to be planned to allow for the future provision of new streets, pedestrian connections and open spaces in accordance with Figure 4.1.1 Access Network and Figure 5.1.1 Proposed Open Space Network. All sites 15,000m² or more in area should lodge a site-specific Master Plan and/or Stage 1 development application for approval Site coverage, DS areas & POS A minimum 20% of a site must be provided as deep soil area. Deep soil areas must be at least 2 m deep. For the purpose of calculating deep soil areas, only areas with a minimum dimension of 20 m x 10 m may be included. A minimum 20% of the site area is to be provided as Landscaped Area. Solar access to communal open	No new road and proposed open space required. Site area: 7,638m². The proposal has 1,988m² deep soil, representing 28% of the site area. Sufficient landscaped area is provided for the whole site. 4,121m² (58%) of the site is landscaped which is well in excess of the DCP requirement. In accordance with the ADG, communal areas have been located to provide maximum solar	N/A N/A Yes Yes

Control	Comments	Comply
spaces is to be maximised. Communal courtyards must receive a minimum of 3 hours direct sunlight between 9 am and 3 pm on the 21st of June. Appropriate shading is to be provided so that communal spaces are useable during summer. Communal open spaces are to incorporate the primary deep soil area where possible.	access to the communal spaces in the development. The main communal courtyard is located to the north western part of the site and exceeds the minimum 2 hours direct sunlight to 50% of the useable portion during mid-winter.	Yes
<u>Planting on Structures</u> Provide optimum conditions for plant growth by providing appropriate irrigation and drainage methods. Design planters to provide the largest possible volume of soil, in accordance with the recommended standards (contained in the DCP).	The deep soil area is primarily located adjacent to the north western boundary where tree planting is proposed. This will provide screening and will soften the development from the adjoining property.	Yes
<u>Topography and Building Interface</u> Level changes across sites are to be resolved within the building footprint. Where buildings are set back from the street boundary, entries are to be provided at street level wherever possible. An accessible path of travel is to be provided from the street through the main entry door of all buildings. Where necessary, stairs and ramps are to be integrated with the landscape design of front setbacks. Natural ground level is to be retained for a zone of 4 m from the side and rear property boundaries. Retaining walls, cut and fill are not permitted within this zone.	Where planting is proposed over a structure, the development is to achieve the minimum standards for soil provision as contained in the Residential Apartment Design Code. See Condition 106.	Yes – subject to condition.
<u>Site Facilities</u> <u>Commercial</u> Vehicular access to loading facilities is to be provided from secondary and tertiary streets where possible. Barrier free access is to be provided to all shared facilities. Rubbish and recycling areas must be provided in accordance with Section 6.3 Waste Management. These areas must be integrated with the development;	Various entry pathways have been proposed along Waterloo Road and Byfield Street to provide equitable access to the site. These pathways lead to the varying access points within the site to the residential buildings as well as the retail uses, internal pathways, and stairs connect each of these areas.	Yes.
	It is not proposed to significantly alter the existing topography and accessible paths of travel are provided from Waterloo Road & Byfield Street to the buildings' lobby.	Yes.
	Natural ground levels are maintained within the 4m from the side and rear boundaries.	Yes.
	Vehicular access from Byfield Street with the waste serviced from within the basement.	Yes
	The retail uses include barrier free pedestrian access from both Waterloo Road and Byfield Street. Council's Environmental Health Officers and Waste Officer have reviewed the proposal and raised no objections.	Yes
<u>Residential</u>	Individual laundry facilities are provided in	

Control	Comments	Comply
Provide either communal or individual laundry facilities to each dwelling, and at least one external clothes drying area. The public visibility of this area should be minimised. Clothes drying is only permitted on balconies that are permanently screened from view from the public domain. Provide storage to dwellings as required by the NSW Residential Flat Design Code. Lockable mail boxes are to be provided in a location visible from the public domain. Mailboxes are to be integrated with the design of building entries and to Australia Post standards. <u>Vehicular Access</u> Vehicular access is not permitted along streets identified as 'Active Frontages' (refer to Section 7.2 Active Frontages). Where practicable, vehicle access is to be from secondary streets. Potential pedestrian/vehicle conflict is to be minimised by: limiting the width and number of vehicle access points ensuring clear site lines at pedestrian and vehicle crossings utilising traffic calming devices separating and clearly distinguishing between pedestrian and vehicular access-ways. <u>On site Parking</u> Safe and secure 24 hour access to car parking areas is to be provided for building users. <u>Basement parking</u> Basement parking areas should be located directly under building footprints to maximize opportunities for deep soil areas unless the structure can be designed to support mature plants and deep root plants. Basement parking areas must not extend forward of the building line along a street. <u>Fencing</u> Fencing is not permitted on the perimeter boundary of sites. Security should be provided within buildings.	each dwelling. Each dwelling will have a balcony however clothes drying within balconies are not encouraged and Condition 12 has been imposed to prohibit clothes drying on balconies in the public view. Generally Body Corporate Management will outline rules/policies for clothes drying on balconies. Storage has been provided in accordance with the requirement. Condition 104 has also been imposed to ensure that this is complied with. No detail has been provided with regard to location of letterboxes and street/house numbering. Condition 217 has been imposed requiring all letterboxes and house numbering to be designed and constructed to be accessible from the public way. Byfield Street is not identified as "Active Frontage". Vehicular access is provided to the site from a combined ingress and egress driveway to Byfield Street in the south-western corner of the site. Byfield Street is identified as a secondary active frontage and as such a vehicular access is permitted. Council's Traffic & Development Engineer has reviewed the proposal and has not raised any objections to the proposal. A secure roller door provides 24 hour access to the basement loading dock and car park for users of the buildings only. Safe and secure parking will be provided as part of the development. Basement parking under building footprint. Deep soil areas are provided with the southern side and front setback areas. The basement parking does not extend forward of the building along Waterloo Road and Byfield Street. No fencing shown around the perimeter boundary.	Yes Yes Yes – subject to condition. Yes Yes Yes Yes Yes Yes
Environmental Performance Residential development is to comply with BASIX (Building Sustainability Index)	BASIX Certificate provided.	Yes

Control	Comments	Comply
requirements. Development is required to comply with Section 7.8 Building Bulk. <u>Wind Impact</u> Buildings shall not create uncomfortable or unsafe wind conditions in the public domain which exceeds the Acceptable Criteria for Environmental Wind Conditions. Carefully locate or design outdoor areas to ensure places with high wind level are avoided. All applications for buildings over 5 storeys in height shall be accompanied with a wind environment statement. For buildings over 9 storeys and for any other building which may be considered an exposed building shall be accompanied by a wind tunnel study report. Refer to Council for documentation and report requirements. <u>Noise & Vibration</u> An Acoustic Impact Assessment report prepared by a suitably qualified acoustic consultant is required to be submitted with all development applications for commercial, industrial, retail and community buildings, with the exception of applications minor building alterations. Development is to comply with all relevant statutory regulations. Loading and unloading facilities must not be located immediately adjacent to residential development. Retail premises must limit any spruiking and the playing of amplified music or messages so as not to disturb the amenity of other public and private places.	A Wind Report prepared by MEL Consultants has been provided with the application. The report has been amended to consider the wind affect caused by recently approved developments such as 82-84 Waterloo Road. The report states: <i>In summary, we have undertaken a desktop assessment of the cumulative wind effects of the 80 and 82 Waterloo Road developments on the 80 Waterloo Road site and surrounding streetscapes. It would be expected that the position and design of the 82 Waterloo Road Development would contribute more to the wind effects when the two developments are considered together. The mitigation strategies presented in MEL Consultants Report 39/16 were shown to mitigate the wind effects of the 80 Waterloo Road development on the surrounding streetscapes. The landscape plan has evolved since the wind tunnel study and additional trees and landscaping have been incorporated into the design. These features would be expected to mitigate the wind impacts of the combined 80 and 82 Waterloo Road developments discussed and the wind conditions would be expected to achieve the criterion for walking comfort as a minimum in and around the development site. No further mitigation strategies would be expected to be required.</i> A condition has been included to ensure the recommended treatments are provided in the subject development. See Condition 182. An Acoustic Assessment has been prepared by Acoustic Logic. The report assessed the potential noise impacts from environmental noise sources (traffic and rail) and vibration impacts from the underground rail infrastructure. The report concluded that subject to the treatments and recommendations contained with the report, the proposal will comply with the requirements of the NSW State Environmental Planning Policy. The development will comply with all relevant noise and vibration criteria. See Conditions 36, 41 & 117. The loading bay and service facilities areas are located within the basement level, away from any adjacent residential apartment. Condition 206 has been imposed to restrict any spruiking and the playing of amplified music or messages so as not to disturb the amenity of other public and private places.	Yes Yes Yes Yes – subject to condition.

Control	Comments	Comply
<u>Soil Management</u> Development is to comply with the City of Ryde DCP 2014 Development is to be designed and constructed to integrate with the natural topography of the site to minimise the need for excessive sediment disturbance and prevent soil loss. Effective site management and maintenance practices are to be followed to prevent soil loss. Ensure that suspended Solid concentrations in stormwater leaving the site do not exceed more than 50 mg/litre An Erosion and Sediment Control Plan (ESCP), prepared by a suitably qualified environmental engineer, is required to be submitted in support of all development proposals requiring development consent under the Ryde Local Environmental Plan, (other than for minor building modifications) including: Demolition; Excavation; Trenching and Building. The ESCP must make reference to the entire construction and post construction period, and all devices must be installed prior to commencement of any demolition or construction works on-site. h. The ESCP is to be prepared in conjunction with the Site Stormwater Management Plan	Appropriate conditions of consent will be imposed to require the submission of an Erosion and Sediment Control Plan that meets the Council's requirements See Condition 42.	Yes – subject to condition.

Part 7.2 Waste Minimisation and Management

Waste will be serviced from within the basement and a vehicles turntable for the truck is located adjacent to the bin holding room and bulky waste room. A 4.5m clearance is required for the waste truck to enter the basement and to use the turntable. Three dual chutes will be utilised with access for residents on each floor to separate waste and recycling chutes to dispose their waste and recycling material. A bulky waste store room is located next to the bin storage room in Basement 1 alongside the garbage loading dock.

Council's City Works and Infrastructure have no objections to the proposed loading bay. **Conditions 111 & 112** have been recommended with regard to the waste room.

Part 9.2 Access for People with Disabilities

The application includes a Building Code of Australia and Access Design Compliance Report prepared by Matt Shuter & Associates which states that subject to the recommendations contained in the report the development can readily comply with the requirements of the BCA/DDA (Access for People with Disabilities).

A total of 42 adaptable units are proposed to be provided, which is in accordance with Council's requirements. **Conditions 81 & 103** have been recommended requiring compliance with the recommendations of the Report and for the required adaptable units, each with an allocated disable parking space to be provided.

Part 9.3 Parking

The following table outlines the required and proposed car parking for the development:

Activity	Required	Provided	Compliance
<u>Residential</u>			
1 Bedroom (219)	131.4	307	Yes (-13.1)
2 Bedroom (183)	164.7		
3 Bedroom (10)	14		
Visitors	41	41	Yes
Total Residential	351.1	348	Yes - Below Maximum
Retail (259m ²)	3.23 (4)	4	Yes
Car Share (353 spaces)	7.06 (8)	8	Yes
Total	363	360	Yes – Below Maximum

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

Based on the above, 36 bicycle spaces are required to be provided. The proposal provides for 48 bicycle spaces provided for residents and visitors. This is considered satisfactory.

Condition 201 also includes a requirement for a minimum of 36 bicycle spaces to be provided.

The BCA requires that 10% of the total 307 residential spaces are to be provided as disabled spaces. As such, 31 disabled spaces are required for the residential dwellings.

With 42 of the units as adaptable in accordance with the minimum 10% requirement, these 31 disabled spaces will be allocated to these units. **Condition 103** has been imposed requiring the residential disabled car spaces to be allocated to the adaptable units.

The proposed number of car parking spaces is under the maximum permitted in the DCP therefore the proposal complies with the car parking control.

Condition 201 has been imposed requiring the allocation of the car spaces.

Condition 196 has been imposed requiring an agreement with a car share provider is executed prior to the issue of any Occupation Certificate.

Section 94 Development Contributions Plan 2007

Development Contributions Plan – 2007 (Interim Update (2014)) allows Council to impose a monetary contribution on developments that will contribute to increased demand for services as a result of increased development density/floor area.

Included in the recommendation is a condition requiring payment of the relevant contribution prior the issue of any Construction Certificate. See **Condition 59**.

The proposal is for:

- 412 dwellings comprising of residential apartment mix of 219 x 1 bedroom, 183 x 2 bedroom and 10 x 3 bedroom apartments.

Note 1: Where a study has been provided, it is considered that subject to condition 1(a), (b), (c) for appropriate internal joinery for the construction of a desk and storage areas to be provided and the study rooms are under the minimum room size as set by the ADG, these rooms cannot potentially be used as bedrooms in the future. As such, they have not been considered as bedrooms for the purposes of Section 94 calculations. However Apartment 1B_08 which is a one bedroom and plus study, has the size of the study as 9.35m², which is more than the minimum spatial bedroom requirements therefore this one apartment will be counted as 2 bedroom. Accordingly the S94 will be based on the following mix:

- 218 x one-bedroom apartments;
- 184 x two-bedroom apartments;
- 10 x three-bedroom apartments; and
- 259m² (this include the Back of House areas) of commercial area.

This rate also deducts the 7261m² of existing commercial/office floor space existing on the site.

Note 2: The communal facility (56m²) on the ground floor is for residents only and not for commercial use. **Condition 8** has been imposed that communal facility area is not to be used for commercial purposes accordingly this area has not been included in the S94 calculation.

The commercial tenancy on the ground floor is shown as “retail” on the architectural plans, accordingly this area has been charged the “retail” rate.

The required contributions have been calculated as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$756,557.69
Open Space & Recreation Facilities	\$4,193,556.58
Civic & Urban Improvements	\$256,393.77
Roads & Traffic Management Facilities	\$286,764.72
Cycleways	\$35,430.16
Stormwater Management Facilities	\$31,995.16
Plan Administration	\$ 9,553.14
The total contribution is	\$5,570,251.22

9. LIKELY IMPACTS OF THE DEVELOPMENT

Impacts associated with the development (or those issues requiring further consideration) are discussed below:

Context and setting

The proposed development is considered appropriate with regard to context and setting. The subject site is strategically located for high density development with Macquarie University

and Macquarie Shopping Centre located to the north-west of the site. The site is also located close to public transport. The development will enhance the street presentation of the development to Waterloo Road through the provision of the linear park.

Built Form

The development is consistent with the built form objectives envisaged for the redevelopment of the Macquarie Park Corridor area. It provides a suitable bulk and scale for a development of this size, and provides a considerable contribution to additional housing in the area in a high-quality architectural design.

Access and Traffic

The application was accompanied by a Traffic and Parking Report prepared by Ason Group. Council's Traffic and Development Engineer has raised no objections with regard to traffic. See full discussion under "Comments from Council Departments", Section 10 of the report.

Accordingly, from a traffic perspective the development will not result in any unacceptable traffic implications to the road network.

Overshadowing and Solar Access

The extent of overshadowing is an important consideration in terms of amenity to the proposed development as well as adjoining developments.

The development does not comply with the ADG requirement of 70% of apartments to received solar access between 9am to 3pm (See full discussion under the ADG requirement). However given the site orientation and the constrained nature of the site (southern location at the corner and its narrow width) full compliance would be difficult to achieve.

The development has provided sufficient building separation and apartments layouts to maximise amenity to the occupants of the development as well as to the occupants of surrounding development.

The development will comply with the requirements of Council's codes and the ADG requirements in terms of providing acceptable amenity within the development.

The development is unlikely to result in any significant increase in overshadowing onto the surrounding residential buildings or open spaces. The subject site has an east west orientation with overshadowing occurring on the adjoining commercial property at 10 Byfield Street which contains a 9 storey building - Holiday Express Inn. Due to the orientation of the land, this adjoining site will received the required solar access in the afternoon from 12 noon onwards.

The properties to the south, opposite along Byfield Street, 3, 5, 7-9 Byfield Street and 78 Waterloo Road are commercial properties and will benefit from the morning sun. Due to the orientation of the land, these properties will not be overshadowed by the development in the morning thereby receiving the required solar access in the morning from 9am to 12 noon, the required 3 hours solar access. See solar access diagrams **Figures 28 to 30** below.

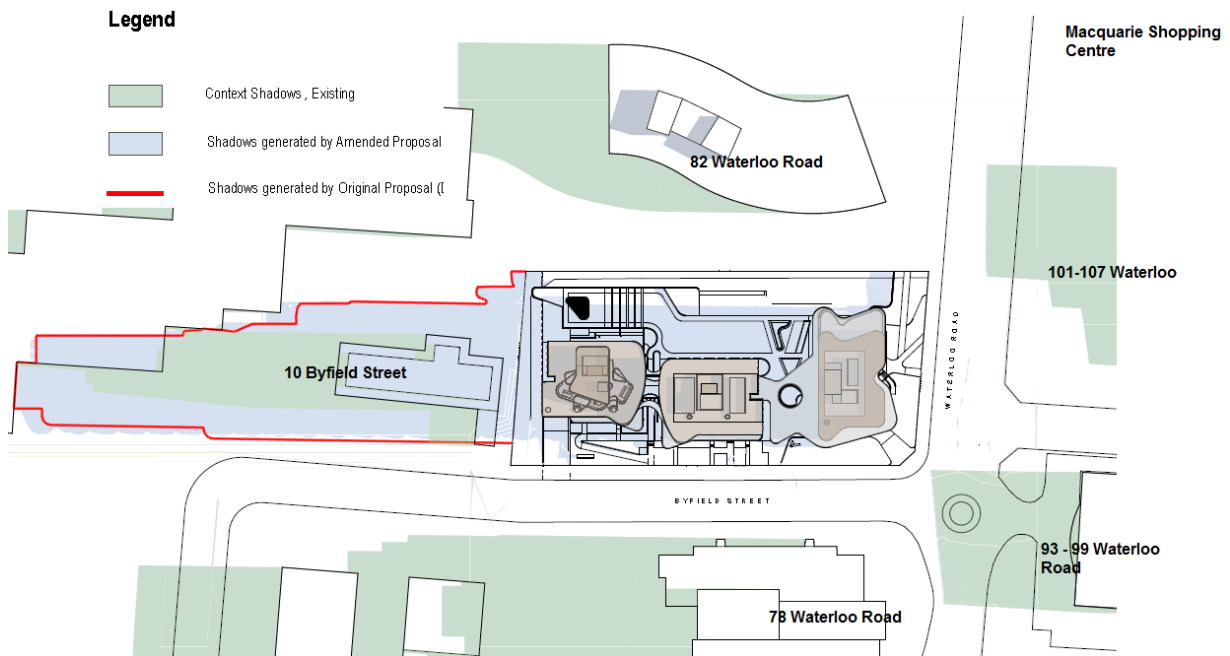


Figure 28: Shadow diagram at 21 June 9am. The red outline show the shadow cast by the original proposal which was height compliant and the light blue is the additional shadow by the added height.

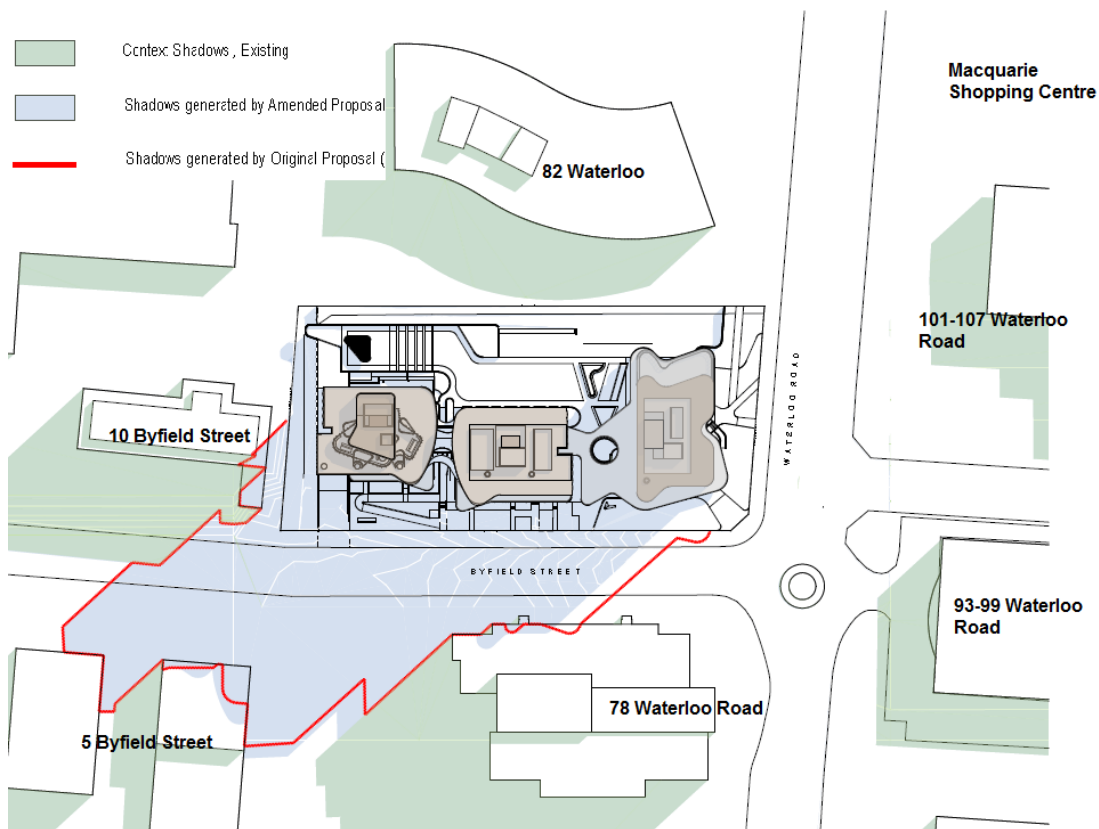


Figure 29: Shadow diagram at 21 June 12 noon. The red outline show the shadow cast by the original proposal which was height compliant and the light blue is the additional shadow by the added height.

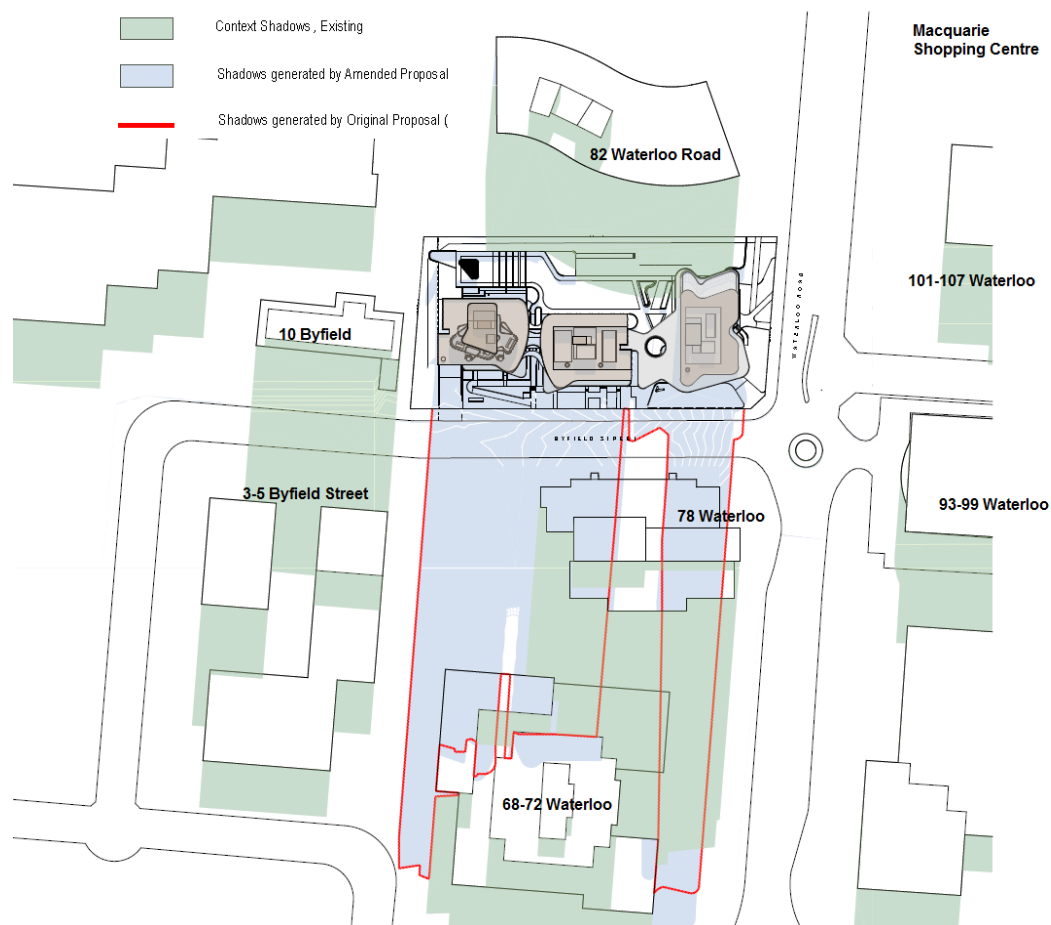


Figure 30: Shadow diagram at 21 June 3pm. The red outline show the shadow cast by the original proposal which was height compliant and the light blue is the additional shadow by the added height.

Construction Impacts

Construction impacts are addressed under Part 8.1 of the Ryde DCP 2014. Council's standard conditions of consent have been imposed to control the impact of the construction activities. Similar to any major redevelopment work, some level of inconvenience/impact may result once the construction commences. However, to address the issue and to minimise traffic impact, a Construction Traffic Management Plan (CTMP) will be required to be submitted and approved by Council's Traffic and Development Engineer. See **Condition 109**.

Public Domain

Council has a Public Domain Technical Manual that applies to Macquarie Park Corridor. This document specifies the landscaping, paving and street furniture required to be provided as part of an upgrade of the existing public domain. **Conditions 84 & 85** have been imposed to ensure that the public domain is upgraded as part of this development

10. COMMENTS FROM COUNCIL DEPARTMENTS

Internal Referrals:

Senior Coordinator - Development Engineering Services: 20 September 2017:

Council's Senior Coordinator Development Engineering Services has made the following comments:

The proposed stormwater management system for the development discharges to an existing inground public drainage infrastructure located within an easement at the most downstream point of the site. A review of the proposal notes;

- The stormwater management system has incorporated an onsite detention system designed in accordance with the detailed methodology, which limits the post development discharge from the site to be no greater than that arising from the 5yr event.
- The system incorporates a proprietary WSUD device to address this component. A condition concerning the ongoing maintenance of these items is advised.
- The development will discharge to an existing public drainage infrastructure located within the easement on an adjoining lot. A condition concerning access to this land is applied.

These can be dealt within the standard condition of consent regarding stormwater management.

Vehicle Access and Parking

A review of the proposed vehicle access and parking areas with respect to the requirements of AS 2890.1 and the DCP requirements notes;

- The applicant's traffic report has provided a driveway profile section of the entry ramp demonstrating ramp grades and clearance heights compliant with the requirements of AS 2890.2 for a HRV design vehicle. The consultant has identified that the base of the ramp presents very minimal clearance however could be refined by curving the base of the ramp and is addressed by condition.
- The loading bay area has incorporated a vehicle turning circle for waste / service vehicles. As there operation is straightforward, there is no objection concerning the use of this device however given that it is likely to be utilised by those unfamiliar with its operation, the installation warrants clear signage to be displayed explaining how to operate the device and so on. To facilitate ease of use, the device should be pre-programmed to perform a 180 degree manoeuvre and is addressed by a condition of consent.

The parking area otherwise is generally designed in accordance with AS 2890.1 and considered acceptable.

With respect to the provision of parking, the parking requirements are noted as follows as per the DCP;

Unit Type	Quantity	Maximum Resident.	Visitor	Bicycle
1 Bedroom	219	131.4		
2 Bedroom	183	164.7		
3 Bedroom	10	14		
TOTALS	412	310.1	41	31.01
		(311)	41	(32)

The development has provided 308 resident spaces which satisfies the parking requirement of the DCP Part 9.2 (Parking) and 41 visitor spaces. Whilst the visitor parking presents a technical non-compliance of 0.2 spaces, this is considered to be very relatively minor and could be tolerated.

With a total parking provision of 352 parking spaces, the development will warrant 7.02 car share spaces in accordance with Council's DCP rate of 1 car share space per 50 spaces. The development provides 8 car share spaces thereby complying with this.

The development is noted to provide 259m² of retail space which warrants a maximum of 4 parking spaces. The applicant has elected to provide 4 spaces thereby complying with this requirement.

*There are no objections to the proposed development with respect to the engineering components, subject conditions. See **Conditions 92 to 99, 136 to 139, 163 to 169 & 204 to 205.***

City Works and Infrastructure – Public Works: 7 August 2017

Traffic Engineer: Council's Traffic Engineer has reviewed the proposal and has made the following comments:

Traffic generation for the proposed development (i.e. 412 residential units and 259m² retail area) is expected to be in the order of 83 (AM) and 67 (PM) vehicle trips per peak hour. The existing commercial office buildings currently generate 77 (AM) and 44 (PM) vehicle trips per peak hour. Therefore, the net increase in traffic is expected to about 6 (AM) and 23 (PM) additional vehicle trips per hour.

Intersection assessment at Herring Road/Waterloo Road and Waterloo Road/Byfield Street was undertaken for existing and post development conditions. Traffic report indicated that there will be no change to existing Level of Service with all intersections continuing to operate within capacity post development of the site.

Proposed development is permitted to provide up to 357 car parking spaces including 42 residential visitor spaces and 3 retail spaces. The proposal consists of 352 car parking spaces in total, which would comply with Council's DCP. However, refer to Development Engineer's comments/conditions regarding the adequacy of car parking provision and compliance of car park layout.

From a Traffic perspective there are no objections for the approval of this application subject to the following conditions:

No objections subject to **Conditions 44, 45, 109, 110, 122,123, 134 & 141.**

Waste: Council's Waste Officer has reviewed the proposal and has advised:

The waste will be serviced from within the basement and a turntable for the truck to turn is located adjacent to the bin holding room and bulky waste room. A 4.5 head clearance is required for the 11m waste truck to enter the basement and access the turntable. Three dual chutes will utilised with access for residents on each floor to separate waste and recycling chutes to dispose their waste and recycling material. A bulky waste store room is located next to the bin storage room in Basement 1 alongside the garbage loading dock.

*There will be no compaction permitted and the bin configuration will be:
16 x 1100L waste bins serviced three times per week
25 x 660L recycling bins serviced twice per week*

General Waste conditions have been imposed. See **Conditions 111 to 114, 199 & 200**

Public Domain: From a Public Domain perspective there are no objections to approval of this application subject to conditions. See **Conditions 84 & 85**.

Note: Public Domain has considered the proposed road acquisition along Byfield Street and the noted that the public domain works associated with this development are dependent on the RMS proposed upgrade of the road infrastructure. **Condition 85** requires the Developer to approach Council's City Works and Infrastructure Directorate prior to preparing the public domain design plans.

Drainage Engineer: Overland Flow Study and Stormwater Management Report dated 31 May 2017 prepared by Northrop have been submitted together with Stormwater Management Plans DA3.01 and DA 3.02, Revision 4, dated 1 June 2017. The proposed drainage connection works to the existing Council drainage pipe located at the rear of the property are acceptable and can be approved subject to the conditions. See **Conditions 20, 70, 128, 155, 179 & 183**

Environmental Health Officer: 29 July 2017: Council's Environmental Health Officer has reviewed the proposal and has made the following comments:

Any food related retail tenancies will require the provision of solid inter-tenancy and internal walls, a grease trap and provision for kitchen exhaust ventilation.

Retail waste is shown to be stored in separate storage areas and will be collected from within the loading dock. Adequate turning area and provision for overhead space for emptying waste containers will need to be made. Internal servicing of all waste will be essential to avoid noise problems to adjacent premises.

The application was accompanied by a detailed site investigation report, eiaustralia, Report no. E22998AA_Rev2, 11 October, 2016 (D16/147948). It showed that there is no significant contamination on the site. One test sample returned a minor exceedance of the environmental investigation levels for nickel though it was well below the health investigation levels for this type of use. There was some concern that an underground petroleum storage tank might be on the site. However, radar investigations failed to find any evidence of it. There remains a low chance that it might be discovered during excavation. Any removal and remediation can take place at that stage. Validation of the site generally will be required.

Noise emissions from the site once operational will most likely come from plant and equipment, waste servicing and possibly activities associated with the retail tenancies. Plant and equipment if properly selected, installed and managed should not cause any issues. Noise transmission through the building from the loading dock waste collection should be considered particularly as it may occur during normal sleeping hours. Noise from the demolition, excavation and construction will impact on the adjacent hotel and the development at 82 Waterloo Road if it is constructed prior. The submitted noise report Acoustic Logic, Ref No. 20160577.2/0106A/R1/YK (D16/147913) has not considered this aspect of the development.

A submission from the Holiday Inn adjacent to the site, regarding the noise from both the development and operational stage of the development, highlighted their concern about disturbance to their guests. They wish to see a construction noise management plan

(including vibration) be developed and implemented. Also, they are concerned that the location where the noise measurements were taken for the applicant's report is not representative of the noise environment adjacent to the Holiday Inn's boundary, which they consider to be quieter and that any noise management plan developed from the higher measured noise levels will not provide adequate protection for the Holiday Inn.

Additionally, they request that the construction is restricted to the standard work hours in the EPA's Interim Construction Noise Guidelines which are:

Between 7.00am – 6.00pm Monday to Friday; Between 8.00am – 1.00pm Saturdays; and no work Sunday or Public Holidays.

These are different to Council's standard work times which allow slightly longer hours. It may be difficult to restrict this site specifically more than Council's standard hours as many similar sites in the area would be working to these hours. Though it would be prudent to prohibit work outside of Council's work times without providing justification and seeking approval

A further submission from the Holiday Inn, regarding the generation of dust during demolition/construction phase should be addressed in the general demolition and building conditions used by the assessment team.

It is reasonable that a development of this size has in place, prior to the commencement of any work, a construction management plan dealing with issues such as noise or dust or other issues that may arise during the construction phase.

*Accordingly, Conditions for these construction issues have been imposed requiring Construction Noise Control and Vibration Management Plan, Sediment Control Plan and Dust Control Plan to be submitted prior to demolition commencing: See **Conditions 41, 42, 43, 53 to 58, 65 to 67.***

External Referrals:

Consultant Landscape Architect: 31 August 2017. Council's Consultant Landscape Architect has made the following comments regarding the proposal:

Tree removal proposed on the subject site has been supported given those to be removed are likely to be planted specimens that have been suitably replaced as part of the new landscape scheme. Neighbouring trees located on the adjoining allotments will require detailed protection to ensure impacts are mitigated to a sustainable level. As such, a suite of detailed conditions has been provided to ensure appropriate protection measures are in place and Arborist supervision is carried out and where necessary.

The submitted landscape plan is generally considered to be satisfactory with appropriate planting, species selection, communal and private open space areas. It is noted that conditions have been recommended relating to the provision of a detailed outdoor lighting scheme and irrigation to the podium planter areas. Additionally a condition has been recommended the area located under the proposed shade structure at the ground level is to be partially paved and include amenities such as seating and BBQ facilities.

Further information has also been provided in relation to the privacy screens, planting and fencing to the ground floor dwellings facing Byfield Street and the internal

pedestrian thoroughfares of the development as well as screen planting to the external walls of the underground carpark which extend above the finished ground level.

The entries to the ground floor private courtyards are to include 1.2m high ornate fencing in combination with masonry walls which combined with the level difference at the adjacent footpath level will provide a suitable level of screening to the courtyard areas. In additional screen planting is to be provided in front of the fences to provide increased screening and is therefore considered acceptable.

With regards to the areas adjacent the internal pedestrian thoroughfares, whilst the provision of large leaf shrub species to the planters which separate the private and common open spaces will result in some degree of privacy, some concerns are raised in relation to the lack of security this design solution will provide. Accordingly, a condition is recommended so as to provide additional security through fencing to the central portion of the planter adjacent the courtyards of Unit C.G.01 & B.G.02.

See **Condition 1(a)**.

Roads & Maritime Services: 27 March 2016: In accordance with Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007 the proposal was referred to RMS.

On 17 February 2017 RMS advised that they do not support the proposal in its current form as RMS required a strip of land in Byfield Street and Waterloo Road fronting the subject site to provide traffic control signal at the intersection of Byfield Street and Waterloo Road.. All buildings and structures are to be outside of the land required for future road works.

The applicant has agreed to the future road widening and this has been indicated on amended plans (proposed land acquisition area to RMS marked in blue on the architectural plans) submitted to Council on 13 June 2017. The amended plans with the future road dedication were referred to RMS who raised no objections to the amended development subject to conditions. RMS **Conditions 5, 6 & 181** have been imposed.

NSW Police: 25 January 2017: NSW Police have raised no objections to the development however they have provided comments and recommendations with regard to:

- Surveillance
- Landscaping
- Lighting
- Territorial Re-enforcement
- Environmental Maintenance
- Landscaping
- Access Control
- Other matters

Generally, the proposed development is capable of addressing each of the above criteria in an acceptable manner and conditions have been imposed as recommended. See **Conditions 189 to 195**.

Sydney Trains: In accordance with Clause 86(1) of the SEPP (Infrastructure) 2007, the proposal was referred to Sydney Trains. Sydney Trains has reviewed the proposal and has *grant its concurrence to the development proposed in Development Application LDA2016/0567 subject to Council imposing the deferred commencement condition provided*

and operational conditions that will need to be complied with upon satisfaction of the deferred commencement condition.

*Should Council choose not to impose the deferred commencement condition in Attachment A and the operational conditions provided in Attachment B (as written), then concurrence from Sydney Trains has not been granted to the proposed development. See **Conditions Part 1 (A) 1 (a),(b), (c), (d) and (e).***

NSW Department of Primary Industries - Office of Water: 24 August 2017: The proposal was referred to Office of Water for comments and to ascertain whether Dewatering Licence under the Water Management Act 2000 is required. Office of Water has advised:

WaterNSW has determined that the proposed development will encounter groundwater during the excavation process, and is subject to a Water Supply Work Approval under the Water Management Act 2000 for dewatering during the construction phase. This determination is subject to appropriate construction methods to be employed to minimise volume of groundwater take during the construction phase. WaterNSW provides General Terms of Approval attached

Condition 7 has been imposed requiring the development to comply with the General Terms of Approval granted by WaterNSW.

11. PUBLIC NOTIFICATION AND SUBMISSIONS

In accordance with DCP 2014 Part 2.1 Notice of Development Applications, the proposal was advertised in the Northern District Times on 16 November 2016 and owners of surrounding properties were given until 7 December 2016 to make a submission. In response, one submission was received from Landerer & Company on behalf of Pro-Invest Australian Hospitality (Holiday Inn Express at 10 Byfield Street).

Amended plans received 13 June 2017 (in response to the proposed road acquisition) were notified from 21 June 2017 to 28 July 2017. In response, one additional submission was received.

The submissions raised the following issues:

- Traffic, Construction and development impacts

Issues raised in the submission relate to construction management, specifically the impacts of construction traffic, noise and air quality on the operations and amenity of the hotel as a result of the proposed development.

Council's Environmental Health Officer has reviewed the proposal in consideration of the construction noise, vibration and dust issues raised in the submission, and provided the following assessment:

Noise emissions from the site once operational will most likely come from plant and equipment, waste servicing and possibly activities associated with the retail tenancies. Plant and equipment if properly selected, installed and managed should not cause any issues. Noise transmission through the building from the loading dock waste collection should be considered particularly as it may occur during normal sleeping hours. Noise from the demolition, excavation and construction will impact on the adjacent hotel and the development at 82 Waterloo Road if it is constructed prior. The submitted noise

report Acoustic Logic, Ref No. 20160577.2/0106A/R1/YK (D16/147913) has not considered this aspect of the development.

A submission from the Holiday Inn adjacent to the site, regarding the noise from both the development and operational stage of the development, highlighted their concern about disturbance to their guests. They wish to see a construction noise management plan (including vibration) be developed and implemented. Also, they are concerned that the location where the noise measurements were taken for the applicant's report is not representative of the noise environment adjacent to the Holiday Inn's boundary, which they consider to be quieter and that any noise management plan developed from the higher measured noise levels will not provide adequate protection for the Holiday Inn.

Additionally, they request that the construction is restricted to the standard work hours in the EPA's Interim Construction Noise Guidelines which are:

Between 7.00am – 6.00pm Monday to Friday; Between 8.00am – 1.00pm Saturdays; and no work Sunday or Public Holidays.

These are different to Council's standard work times which allow slightly longer hours. It may be difficult to restrict this site specifically more than Council's standard hours as many similar sites in the area would be working to these hours. Though it would be prudent to prohibit would outside of Council's work times without providing justification and seeking approval

A further submission from the Holiday Inn, regarding the generation of dust during demolition/construction phase should be addressed in the general demolition and building conditions used by the assessment team.

It is reasonable that a development of this size has in place, prior to the commencement of any work, a construction management plan dealing with issues such as noise or dust or other issues that may arise during the construction phase.

Accordingly, Conditions for these construction issues have been imposed requiring Construction Noise Control and Vibration Management Plan, Sediment Control Plan and Dust Control Plan to be submitted prior to demolition commencing.

It is considered that the hours requested in the submission would unreasonably restrict the development of the subject site in comparison to other development in the Macquarie Park Corridor area. Conditions are included on the consent to restrict the potential impacts of construction including **Condition 41** (Construction Noise Control), **Condition 42** (Erosion and Sediment Control), and **Condition 43** (Dust Control) to be submitted prior to demolition and **Condition 13** (Hours of work).

In relation to traffic impact concerns, Council's Traffic Engineer has advised that:

Traffic generation for the proposed development (i.e. 412 residential units and 259m2 retail area) is expected to be in the order of 83 (AM) and 67 (PM) vehicle trips per peak hour. The existing commercial office buildings currently generate 77 (AM) and 44 (PM) vehicle trips per peak hour. Therefore, the net increase in traffic is expected to about 6 (AM) and 23 (PM) additional vehicle trips per hour. Given minor increase in additional trips generated by the proposed development, Traffic Department has no issue with the methodology adopted.

With regard to submission of a CTMP prior to DA approval, it is not a standard procedure to request CTMP approval during DA stage unless Council is concerned about constructability of the proposed development. The subject site is large enough to store equipment etc and for this site, Council has no particular concerns. This DA will have a standard CTMP condition similar to other nearby approved DAs.

In addition, the proposed driveway is considered acceptable as to provide a separate entry and exit driveways to accommodate HRV access, total width of the driveway will be in the order of 20m, which is considered too excessive. This will result in undesirable outcome for pedestrians accordingly the proposed driveway is acceptable.

- Car parking numbers

The submission raised concerns about the car parking rates. Senior Coordinator Development Engineering Services has provided the following response:

"The submission has expressed a concern regarding the level of parking provided, noting it exceeds the requirements of the RMS document, "Guide to Traffic Generating Developments" (GtTGD). The Department of Planning's advice concerning the application of parking requirements under the SEPP (Design Quality of Residential Apartment Development) stipulates that the minimum parking level is the lesser of the rates stipulated in the GtTGD or Council's DCP. In this case the GtTGD minimum applies however the maximum (Council's DCP) would also be applicable. Whilst there is merit in the submission to opt for a lesser rate, the applicant has complied with the requirements of both the GtTGD and the DCP and therefore is accepted."

The submission also raised concerns about the parking rate for the retail component and requested clarification of the rate used (1 space per 80m²). As discussed earlier in the report under Clause 4.5B Macquarie Park Corridor – Car Parking, the car parking rate of 1 space/80m² was applied to the retail component as the application was lodged with Council in November 2016, before the date of amendment to RLEP 2014.

- Privacy

The balconies from unit B01 and C01 allow serious overlooking into adjacent units (B07 & C07), and the units below. According to the plan, when a person stands at the widest part of the balcony, he/she can see the bedroom, balcony, and living area of the adjacent units.

The applicant has advised that this can be addressed by the imposition of another blade adjacent to the bedroom window. This will help with privacy from the balconies whilst still maintaining the design intent. **Condition 1(c)** has been imposed to address this issue.

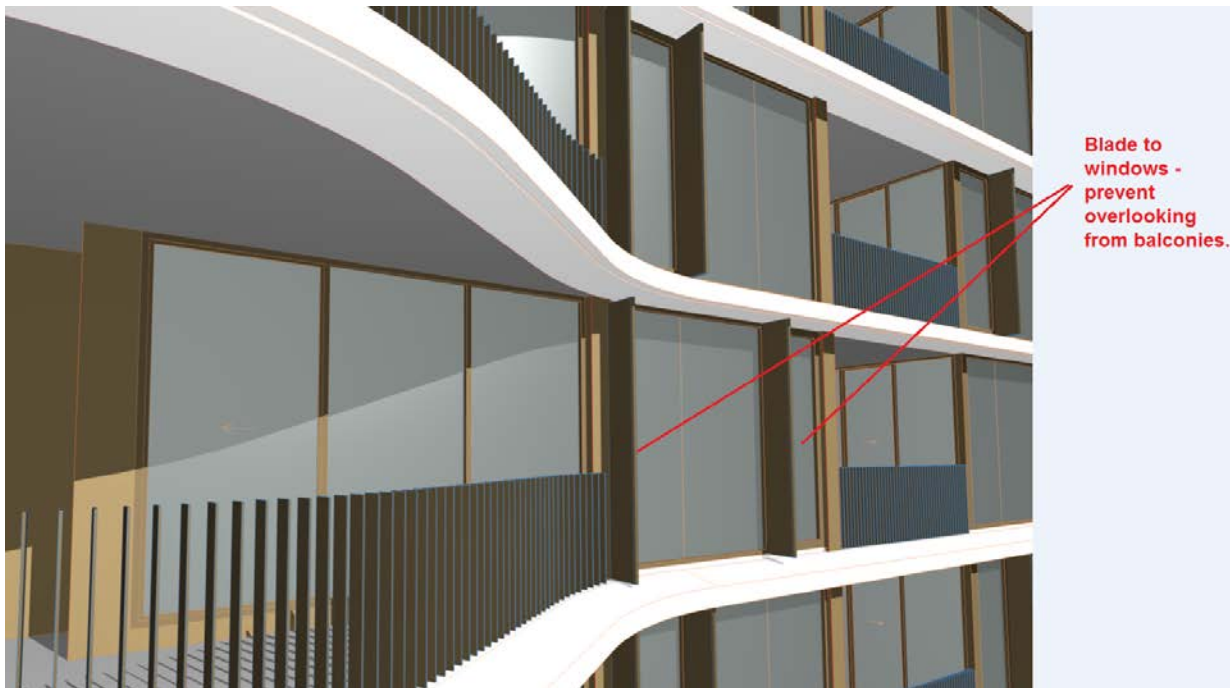


Figure 32: Additional blade added to minimise overlooking from the balcony area to the bedrooms.

12. SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The proposed development is considered to be a suitable development for the site, being permissible in the zone and being generally compliant with the relevant planning controls relating to the built form. As detailed earlier in this report, the development is consistent with the emerging character of the area and appropriately responds to the natural and built environmental assets and constraints of the site.

13. THE PUBLIC INTEREST

The development is considered to be in the public interest as it is reasonably consistent with the relevant planning controls. Where variations to the planning controls occur in terms of height and the ADG, any potential impact on the community is adequately compensated through construction of the new pedestrian link and the linear park on the site. The development complies with the objectives of the planning controls.

14. CONCLUSION

This report considers an application for the construction of a mixed use development containing retail and residential uses at 80 Waterloo Road and 16 Byfield Street Macquarie Park.

The site is zoned B4 Mixed Use under Ryde LEP 2014 and the development results in one variation to the development standards contained in Ryde LEP 2014 in respect to the overall height of the building. The height exceedance is not considered to have an unreasonable impact to adjoining properties in terms of overshadowing or overlooking nor is it out of character with the immediate area. Accordingly, given the circumstance of the case, the applicant has provided a Clause 4.6 variation which is supported.

The development generally complies with the relevant planning controls however a number of minor variations have been identified such as building depths, building separation, basement design and number of lifts provided servicing the apartments. Each of these

variations are supported on planning grounds, with the variations considered to be minor or capable of being addressed via conditions of consent.

The development is recommended for approval subject to appropriate conditions of consent provided in **Attachment 1** of this report.

15. RECOMMENDATION

Pursuant to Section 80 of the Environmental Planning and Assessment Act, 1979, the following is recommended:

- A. That the Sydney North Planning Panel grant consent to development application LDA2016/524 for the construction of a mixed use development at 80 Waterloo Road and 16 Byfield Street, Macquarie Park, subject to the Conditions of Consent in Attachment 1 of this report; and
- B. That a copy of the development consent be forwarded to the Roads and Maritime Services, NSW Office of Water and Sydney Trains; and
- C. That those persons making a submission be advised of the decision.

Report prepared by:

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Report approved by:

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