

COUNCIL ASSESSMENT REPORT

Panel Reference	2018SNH025
DA Number	MOD2018/0126
LGA	City of Ryde
Approved Development	<p>Construction of a mixed use development as follows:</p> <ul style="list-style-type: none"> • Two x 20 storey towers including a shared 2 storey podium; • 357 residential units comprising of 62 x 1 bedroom, 271 x 2 bedroom & 24 x 3 bedroom apartments; • 167m² of retail space; • 4 levels of basement car parking for 362 cars; • Construction of a riparian edge with a shared pedestrian/cycle path along the northern alignment of the site; and • Landscaping works.
Proposed Modification	<p>Section 4.55(2) to modify the following:</p> <ul style="list-style-type: none"> • Reconfiguration and amalgamation of apartments resulting in a reduction of units from 357 to 334; • Modification to the basement RL, layout and footprint; and • Amended landscape design and ground floor interface to landscaped area.
Street Address	82 to 84 Waterloo Road, Macquarie Park
Applicant/Owner	<p>Owner: Romeciti Project Management Pty Ltd</p> <p>Applicant: GTA Industrial Custodian Pty Ltd</p>
Date of MOD lodgement	14 May 2018
Number of Submissions	1 submission received objecting to the development
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Modification applications for regionally significant development under Section 4.55(2) of the EP&A Act.
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979; • State Environmental Planning Policy (State and Regional Development) 2011;

	<ul style="list-style-type: none"> • State Environmental Planning Policy No. 55 – Remediation of Land; • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; • Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; • State Environmental Planning Policy (Infrastructure) 2004; • Ryde Local Environmental Plan 2014; • City of Ryde Development Control Plan 2014 • Section 7.11 Development Contributions Plan 2007.
List all documents submitted with this report for the Panel's consideration	Attachment 1: Conditions for MOD2018/0126 (this modification) Attachment 2 : Plans
Report prepared by	Madeline Thomas – Senior Town Planner
Report date	19 February 2019

Summary of Section 4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **N/A**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **No**

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

1. EXECUTIVE SUMMARY

This report considers a Section 4.55(2) application under the *Environmental Planning and Assessment Act, 1979* (EP&A Act) to modify the approved development at 82 – 84 Waterloo Road, Macquarie Park.

On the 27 July 2017, consent was granted to LDA2016/0602 following consideration of the application by the Sydney North Planning Panel. Approval was granted for:

- Two x 20 storey towers including a shared 2 storey podium;
- 357 residential units comprising of 62 x 1 bedroom, 271 x 2 bedroom & 24 x 3 bedroom apartments;
- 167m² of retail space;
- 4 levels of basement car parking for 362 cars;
- Construction of a riparian edge with a shared pedestrian/cycle path along the northern alignment of the site; and
- Landscaping works.

Generally, the modification seeks to increase the number of 3 and 4 bedroom apartments in response to current demographic trends to provide a variety of housing choices and involves the following:

- The amalgamation of several units, reducing the total number of units from 357 to 334 (i.e. 23 units). The internal layout and configuration has also been altered across all levels.
- Modification to the basement design and layout, with a decrease in footprint for Basement Levels 1, 2 and 3 and an increased footprint for Basement Level 4. Basement levels 1, 2 and 3 include slight changes to their building footprint, however, Basement level 4 has increased significantly in size to match the footprint of the other basement levels.
- Minor reduction to the number of car parking spaces from 360 to 350.
- Amended landscape strategy.
- The relocation of the electrical substation on the ground level to provide a greater distance between Waterloo Road and the substation.
- Minor changes to the architectural design, including external glazing of the building on several levels.

This application was advertised and notified in accordance with *Ryde Development Control Plan 2014* (Ryde DCP 2014) Part 2.1 and one (1) submission was received. The submission raised an issue of insufficient parking in the Macquarie Park area. This issue is discussed in this report.

The proposal modifications are considered acceptable and will not give rise to significant additional impacts to the amenity of the area and can be supported.

2. APPLICATION DETAILS

Applicant:

Romeciti Project Management Pty Ltd

Owner:	GTA Industrial Custodian Pty Ltd
Estimated value of works:	Not applicable.
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 & CONTEXT

The site is known as 82 to 84 Waterloo Road, Macquarie Park and the legal description of the land is Lot 9 in DP1046092.

The site is an irregular shaped allotment due to sharing the north-western site boundary with Shrimptons Creek as shown at **Figure 1** below.



Figure 1: Aerial view of the site (outlined in red)

The site also contains a single below ground allotment legally described as Lot 1 in DP 1046092, which serves the Epping to Chatswood Rail Line (ECRL). The ECRL lot is limited in varying depths across the north-eastern boundary of the site from between RL36.4 and RL40.

The site is currently vacant, and slopes diagonally downward by approximately 2.1m from the south-eastern to the north-western corner of the site. The site forms part of the Macquarie Park Corridor.

3. BACKGROUND

LDA2016/0602

On the 27 July 2017, consent was granted to LDA2016/0602 following consideration of the application by the Sydney North Planning Panel.

Approval was granted for:

- Two x 20 storey towers including a shared 2 storey podium;
- 357 residential units comprising of 62 x 1 bedroom, 271 x 2 bedroom & 24 x 3 bedroom apartments;
- 167m² of retail space;
- 4 levels of basement car parking for 362 cars;
- Construction of a riparian edge with a shared pedestrian/cycle path along the northern alignment of the site;
- Landscaping works

It is noted that LDA2016/0602 did not approve the demolition of the existing buildings and structures on the site. This was subject to a separate development application, (LDA2017/0204), which was approved on 17 September 2017.

MOD2018/0129

This application was lodged to Council on 14 May 2018 (MOD2018/0129) and sought approval to including the removal of five additional trees to facilitate the amended electrical substation location.

The application was approved by Council on 31 July 2018.

4. THE PROPOSAL

Application Background

The application was originally lodged on 14 May 2018 as a Section 4.55(1A) application. Given the proximity of the site to the ECRL, and that the amended basement levels were to be setback closer to the ECRL, a referral was required to be made to Sydney Trains, and the applicant was advised to amend the application to a Section 4.55(2). An amended application was subsequently received on 6 June 2018 by Council.

The applicant made changes to the proposal on 3 August 2018 that included a minor amendment to the layout and footprint of the basement levels. This amendment was not a result of a Council request for information, but rather a preference of the applicant.

These amended plans were referred to Sydney Trains for concurrence given the excavation proposed was within proximity of the ECRL. On 24 October 2018, Sydney Trains requested that further engineering analysis be provided to assess the additional excavation for the proposed basement footprint. The applicant provided this information to Council and Sydney Trains on 7 November 2018.

Sydney Trains notified Council on the 19 November 2018 that the delegations to issue concurrence near the ECRL had changed to Sydney Metro Corridor Protection, and that the application had subsequently been referred to Sydney Metro as a result.

Sydney Metro Corridor Protection issued concurrence on 31 January 2019.

Proposed Modifications

The modifications under this application include the following:

- The amalgamation and reconfiguration of 46 units into 23 units across Levels 15 to 21, resulting in the number of units being reduced from 357 units to 334 units.
- The reconfiguration of circulation areas, communal spaces and service areas.
- Changes to glazing sizes on several levels.
- Reduction of the gross floor area from 31,560m² to 31,451m² (i.e. 109m²) and subsequent floor space ratio from 3:1 to 2.99:1.
- Changes to the basement design and layout, including a reduction to the footprint of Basement Levels 1, 2 & 3 and an increase to the footprint of Basement Level 4.
- Changes to the finished floor levels for all four basement levels.
- Reduction in the number of car spaces provided from 360 to 350. This includes the deletion of two retail parking spaces in order to comply with Condition 5 of LDA2016/0602.
- The addition of a car charging station in Basement Level 4.
- Minor changes to the landscape strategy although the proposed landscaped areas remain largely unchanged from the original consent.
- The relocation of the electrical substation on the ground plane so that there is a greater distance between Waterloo Road and the substation.
- Amendments to the approved Stormwater design to respond to design changes.

Table 1 below provides a brief comparison of the key features of the approved development and the amendments proposed under this subject application.

Feature	Original Approval	Proposed Section 4.55
Building Height (max)	67.75m	67.75m
GFA	31,560m ²	31,451m ²
FSR	3:1	2.99:1
Number of Units	357	334
Car Parking required	360 spaces	350 spaces
Car parking provided	360 spaces	350 spaces

Table 1: Summary of proposed modifications.

Amalgamation and reconfiguration of units

The proposal includes the reduction of the number of units from 357 to 334. This is achieved through the amalgamation of 46 units from Levels 15 to 21 into 23 units.

The apartment mix is shown in **Table 2** below.

Unit Type	Original Approval (LDA2016/0602)	Proposed
Studio	0	0
1 Bedroom	62	57 (-5)
2 Bedroom	271	230 (-41)
3 Bedroom	24	31 (+7)
4 Bedroom	0	16 (+16)
Total	357	334 (-23)

Table 2: Proposed changes to the apartment mix.

Changes in the basement levels, footprints and configuration

The proposal will result in an increased building footprint for Basement Level 4, a decreased building footprint for Basement Levels 1, 2 and 3, and reconfiguration of all four basement levels, as outlined below:

Basement Level 1

A reduction to the building footprint for Basement Level 1 has been proposed to facilitate the changed configuration, as detailed below.

The approved development contained 89 car spaces on Basement Level 1, including 2 retail spaces, 7 car share spaces, 44 residential spaces and 36 visitor spaces.

The proposed modification would result in 84 car spaces on Basement Level 1, including 2 retail spaces, 7 car share spaces, 42 residential spaces and 34 visitor spaces.

The overall layout is proposed to be modified to reflect the reduction in parking spaces.

The finished floor level has also been increased from RL 40.3 to RL 40.52.

Basement Level 2

A reduction to the building footprint for Basement Level 2 has been proposed to facilitate the changed configuration, as detailed below.

The approved development contained 116 car spaces on Basement Level 2, all being residential car spaces. The approved development also contained a car wash bay on Basement Level 2. The proposed modification would result in 107 car spaces on Basement Level 2. The proposed modifications result in the removal of the car wash bay from this level.

The overall layout is proposed to be modified to reflect the reduction in parking spaces.

The finished floor level has also been increased from RL 37.5 to RL 37.61.

Basement Level 3

A reduction to the building footprint for Basement Level 3 has been proposed to facilitate the changed configuration, as outlined below.

The approved development contained 117 car spaces on Basement Level 3, all being residential car spaces. The proposed modification would result in 107 car spaces on Basement Level 2.

The overall layout is proposed to be modified to reflect the reduction in parking spaces.

The finished floor level has also been increased from RL 34.7 to RL 34.8.

Basement Level 4

The building footprint for Basement Level 4 has increased significantly to accommodate the increased number of parking spaces, as outlined below.

The approved development contained 38 residential car spaces on Basement Level 4. The proposed modification would result in 52 car spaces on Basement Level 4.

The modifications also include the addition of a charging station and toilet and shower facilities.

The overall layout is proposed to be modified to reflect the increase in parking spaces and increased lobby areas. The finished floor level has not been modified, and remains at RL 31.9.

Other proposed design and layout modifications

In addition to the changes described above, a number of relatively minor resultant design amendments are proposed including:

- The relocation of the electrical substation on the ground plane so that there is a greater distance between Waterloo Road and the substation, relocating 37m to the south west. This amendment is shown in **Figure 2** below.
- Minor changes to the architectural design, including the following:
 - Minor changes to the external glazing across various levels
 - Relocation of gym from Level 3 to Level 1;
 - Addition of silent meditation room on Level 3;
 - Change from games room to business lounge on the ground floor;
 - Amended plant room areas and locations; and
 - Modification of skylight size.

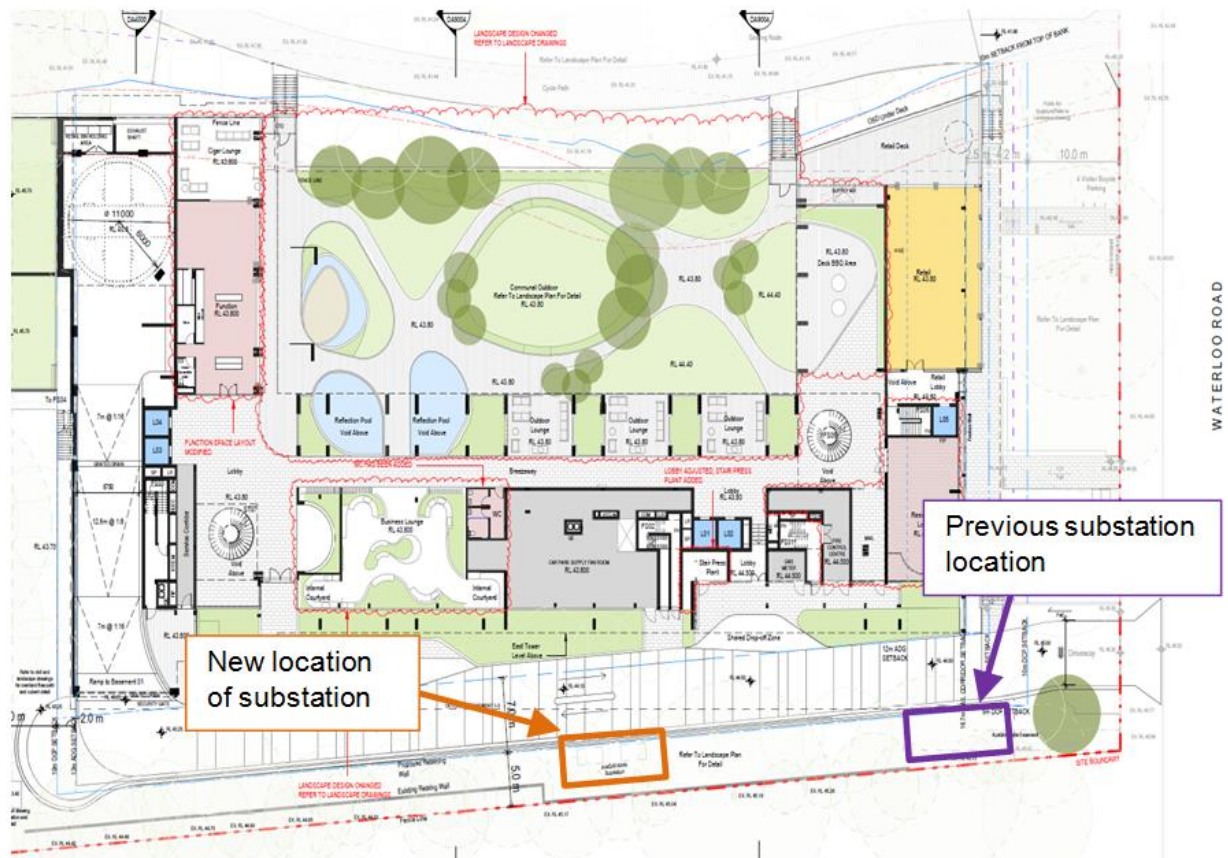


Figure 2: Relocation of Ausgrid substation.

Parking amendments

The amalgamation of the units, meaning there is a total reduction of 23 units, has resulted in a reduction in the number of parking spaces required.

The proposed modification complies with the requirement, resulting in a total reduction of parking spaces from 360 under the original approved LDA2016/0602, to 350.

Table 3 below provides a summary of the proposed parking distribution.

Type of parking space	Required LDA2016/0602	Provided LDA2016/0602	Required MOD2018/0126	Provided MOD2018/0126
Residential	315	315	307	307
Visitor	36	36	34	34
Car Share	7	7	7	7
Retail	2	2	2	2
Total	358 residential 2 retail	358 residential 2 retail	348 residential 2 retail	348 residential 2 retail

Table 3: Proposed Car Parking Summary.

Landscaping

This application does not seek to modify the proposed areas to be provided as landscaping but rather seeks to modify the landscape strategy within the proposed

site. The changes to the proposed landscape strategy extend to the Level 20/21 terraces. The proposed changes to the landscape strategy are shown in **Figure 3** below.

The amendments to the landscape strategy include amendments to the planting species, as well as a more interactive communal open area through the inclusion of a pavilion and more extensive walkways.

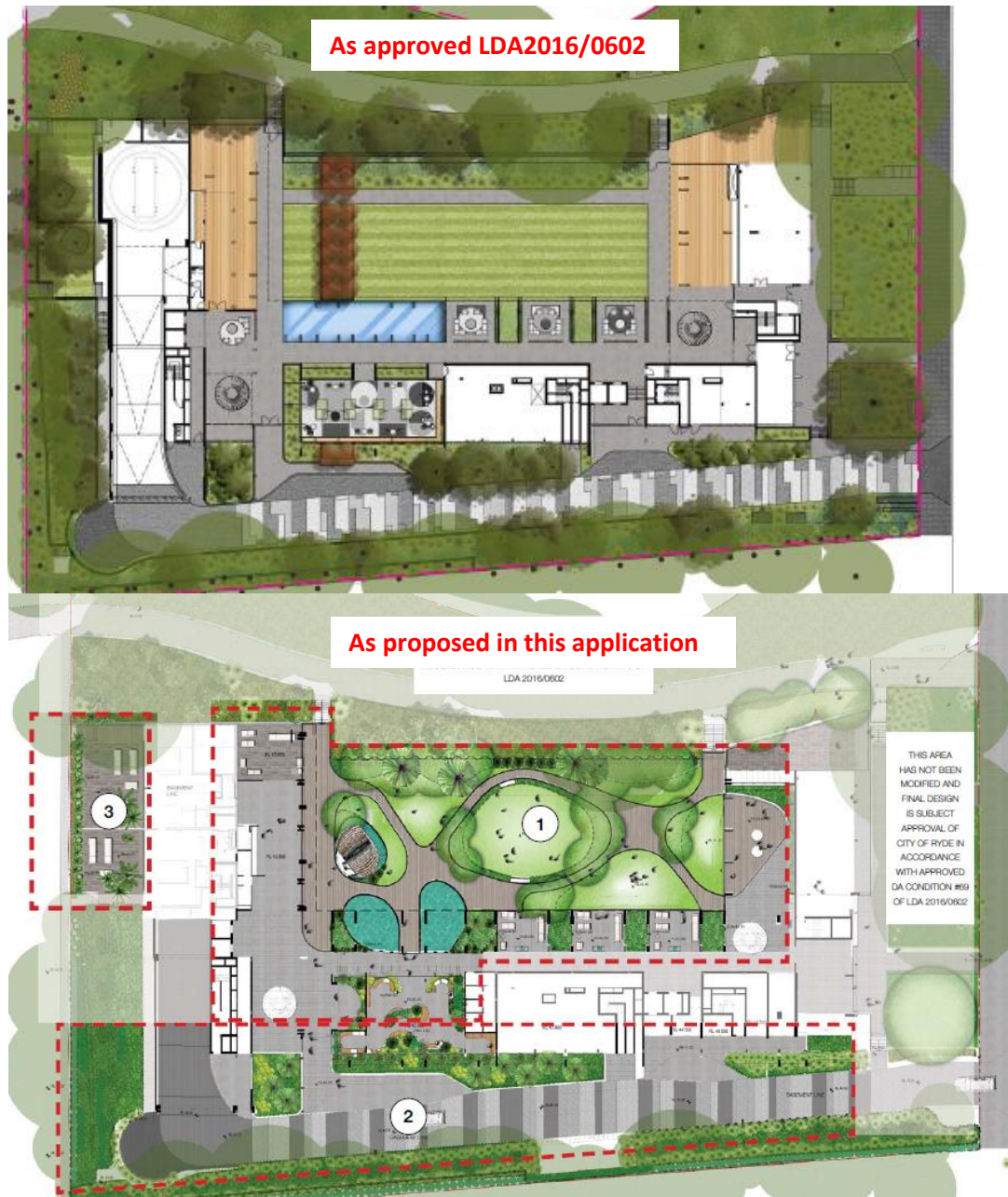


Figure 3: Overall modification to Landscape Strategy.

Conditions to be amended

The application proposes to change the following conditions:

- Amend Condition 1 – relating to the approved plans;
- Delete Condition 1a, 1b and 1c relating to the study areas. The original consent contained a condition that the studies were to be amended so that they would not be used as bedrooms. The applicant applied this design change in the proposed amended plans, and therefore, this condition is no longer required;
- Add Condition 1a to 1d and 1g relating to landscaping.
- Add Condition 1e and 1f relating to parking spaces.
- Amend Condition 3 and 154 relating to the BASIX Certificate;
- Delete Condition 5 in relation to the deletion of two retail parking spaces;
- Amend Condition 22 in relation to the Stormwater connection details;
- Amend Condition 45 in relation to the Section 7.11 Developer Contributions;
- Amend Condition 58 in relation to the Access report;
- Amend Condition 59 in relation to the number of adaptable units;
- Amend Condition 88 in relation the vehicle access and parking;
- Amend Condition 90, 146 and 147 in relation to the approved Stormwater plans;
- Amend Condition 92 in relation to the approved Geotechnical report;
- Amend Condition 96, 105 and 198 in relation to Sydney Trains/Metro;
- Amend Condition 200 in relation to the parking allocation; and
- Amend Condition 204 in relation to the communal spaces.

5. APPLICABLE PLANNING CONTROLS

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

- Environmental Planning and Assessment Act 1979.
- State Environmental Planning Policy (State and Regional Development) 2011.
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.
- State Environmental Planning Policy No. 55 – Remediation of Land.
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development.
- State Environmental Planning Policy (Infrastructure) 2004.
- Ryde Local Environmental Plan 2014.
- City of Ryde Development Control Plan 2014.
- Section 7.11 Development Contributions Plan 2007.

6. PLANNING ASSESSMENT

6.1 Environmental Planning & Assessment Act 1979

(a) Matters for consideration pursuant to Section 4.55(2) EP&A Act

The provisions of Section 4.55(2) of the Environmental Planning and Assessment Act, 1979 allow a consent authority to modify the consent where the application meets the following criteria:

- “a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

- (b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) *it has notified the application in accordance with:*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Section 4.55(2)(a)

Under Section 4.55(2)(a) the consent authority must be satisfied that the development as modified is substantially the same as was approved in the original consent.

In arriving at this determination there should be no consideration of the merits of the proposal but rather a straight before and after comparison of the original approval against the proposed modified development. If it is determined to be substantially the same, then the proposed modifications need to be assessed on their merits having regard to submissions received and any relevant council planning controls.

The proposed amendments will result in a development that has a same building footprint as the approved development, with the exception of an increased basement footprint.

The minor amendments to the external appearance of the built form and landscaping are in keeping with the amenity of the development and have no impacts as a result of the changes.

The amalgamation of units to reduce the total number of units by 23 does not result in an increase in density. It is considered that the modified development is essentially or materially the same as the original approved development.

It is also noted that the applicant for modification bears the onus of showing that the modified development is substantially the same.

In this regard the applicant has stated that:

“The modifications proposed in this application do not affect the land uses, height of building or FSR approved under LDA2016/0602. The proposed modifications are largely contained within the approved building footprint and landscaped areas:

- *The reconfiguration and amalgamation of apartments, circulation areas, communal spaces and service areas are all modifications that are confined within the approved built form, with the scale, bulk or height of the building unchanged. The façade of the building will be as approved, with minor changes to glazing sizes on level 5 resulting in minimal visual impact.*
- *Changes to the Basement Level 4 footprint and reconfiguration of basement layouts are also contained within the basement extent approved in LDA2016/0602. A supporting letter prepared by Douglas Partners details the minimal impact the additional excavation for Basement Level 4 will have on the surrounding area. Importantly, this also considers likely impacts on the additional excavation on the ECRL.*
- *The detailed landscape strategy and associated ground floor internal and external interfaces have all been proposed within the approved landscaped area and building footprint. The landscape strategy illustrates the functionality and design of the central green space, green lane, terrace courtyards, roof terraces and pool deck.*
- *The relocation of the electrical substation on the ground plane increases the distance between Waterloo Road and the substation facility, minimising the visual impact the substation would have from the public domain.*
- *Amendments to the approved stormwater design enhances the management of stormwater on the site. An amended stormwater plan prepared by WSP notes that the proposed changes are within the design intent of the original stormwater documentation undertaken by Northrop.*
- *The proposed number of residential car parking spaces amounts to 315, which, although is four (4) spaces less than what was approved under LDA2016/0602, is eight (8) spaces beyond the required maximum set by RDCP 2014. A traffic and parking assessment report has been prepared in support of this modification, which details why the proposed number of parking spaces will result in an acceptable impact on the wider road network.*
- *The total GFA for residential and commercial uses remain consistent with the approved scheme, while no additional land uses within the development are proposed. Consequently, the proposed modifications will still result in substantially the same development as previously approved.”*

It is noted that amendments to the plans submitted by the applicant has resulted in a minor reduction in the GFA (from 3:1 to 2.99:1), as well as the reduction of 8 parking spaces so that the application complies with Council’s parking controls.

It is the opinion of Council’s Assessing Officer that the points raised by the applicant in this regard are of merit and it is agreed that the modified development is substantially the same as the original and therefore the application can be considered on its merits.

Section 4.55(2)(b)

The original application was referred to the Department of Primary Industry (DPI) under the provisions of the *Water Management Act 2000*. Concurrence of the DPI was given on 13 April 2017 and 25 May 2017 to the original development.

The DPI advised on 12 September 2018 that no changes to the General Terms of Approval were required as a result of the proposed modification.

The original application was referred to the NSW Roads and Maritime Service (RMS) in accordance with Schedule 3 of the *State Environmental Planning Policy (Infrastructure) 2007*, and no objections were raised by the RMS.

The amended development was not required to be referred to the RMS as the development proposes no changes to any of the conditions originally required by the RMS.

The original application was also referred to Sydney Trains due to the site's proximity to the Epping to Chatswood Rail Corridor (ECRL). Concurrence of Sydney Train was given on 30 June 2017 to the original development.

As mentioned earlier in this report, the delegation to issue concurrence near the ECRL changed from Sydney Trains to Sydney Metro Corridor Protection in November 2018, and as such, Sydney Trains handed over the referral to Sydney Metro to issue concurrence.

Sydney Metro have advised that they have reviewed the submitted information and provide concurrence to the proposed modification subject to the modification of **Conditions 96, 105 and 198** as detailed below:

96. *Excavation and Construction Works - Sydney Trains Metro.* All excavation and construction works are to be undertaken in accordance with the details, methodology, advice, undertakings and recommendations detailed in the following documents:

- (a) *Structural Drawings prepared by Northrop WSP numbered as follows:*
 - ~~S010 Revision 7~~ **PS 105984 S010_01 Rev B**
 - ~~S012 Revision 3~~ **PS 105984 S010_11 Rev A**
 - ~~S013 Revision 3~~ **PS 105984 S010_12 Rev A**
 - ~~S014 Revision 3~~ **PS 105984 S010_13 Rev A**
 - ~~SK 023 Revision 1~~
 - ~~SK 024 Revision 1~~
- (b) *Vibration & Acoustic Monitoring Report Ref. TJ347-01 F02 prepared by Renzo Tonin & Associates.*
- (c) *Geotechnical Monitoring Plan, Work Method Statement and Risk Analysis Plan prepared by Douglas Partners, reference ~~85568.01.R.002.Rev0~~ dated ~~12 May 2017~~ **85568.03. R.001.Rev5, dated 24 January 2019.***
- (d) *Electrolysis Testing Report prepared by Corrosion Control Engineers P/L Ref No. W14681NJ740 dated 23 May 2017.*
- (e) *"Report on Numerical Modelling", Ref: ~~85568.01.R.001.Rev0, dated 11 May 2017~~ **85568.01.R.001.Rev1, dated 31 October 2018** prepared by Douglas Partners.*

*The Principal Certifying Authority is not to issue the Construction Certificate until the measures detailed in the documents approved/certified by Sydney Trains **Metro** under this Condition are incorporated into the construction drawings and specifications prior to the issuing of the Construction Certificate. Prior to the commencement of works the Principal Certifying Authority is to provide verification to Sydney Trains **Metro** that this condition has been complied with.*

105. Dilapidation Survey Report - Sydney Trains Metro. *In accordance with Cl.10.1 of TfNSW standard **T HR CI 12051 ST Version 2.0** "Developments near rail tunnels (issued **15 Nov 2018**)", for tunnel constructed within 30 years, a dilapidation survey report shall be submitted for Sydney Trains' **Metro's** approval prior to the issue of a Construction Certificate, **unless otherwise notified by Sydney Metro.***

198. Dilapidation Surveys - Sydney Trains Metro. *Prior to the commencement of works, prior to the issue of an Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains **Metro**, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains **Metro** and the Applicant, **unless otherwise notified by Sydney Metro.** These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed.*

Section 4.55(2)(c) and (d)

The Section 4.55(2) application was advertised and notified in accordance with *Ryde Development Control Plan 2014* (RDCP 2014) Part 2.1, Notification of Development Applications.

The application was advertised on 23 May 2018 in the *Northern District Times* and notified to 1,340 adjoining and nearby properties from 18 May 2018 to 22 June 2018. The notification area is the same as the original DA application (LDA 2016/602) and subsequent modifications notification area.

In response, one (1) submission was received, relating to the general traffic and parking concerns within the Macquarie Park area. This is discussed later in this report in Section 12 under Public Notification and Submissions.

6.2 State Environmental Planning Policy (State and Regional Development) 2011

This proposal is a Section 4.55(2) of a development consent previously granted by the Sydney North Planning Panel, in accordance with Part 4 of the Act (now Section 4.7). Consequently the Sydney North Planning Panel is the consent authority for this application.

6.3 State Environmental Planning Policy No. 55 – Remediation of Land

The requirements of SEPP 55 apply to the subject site.

In accordance with Clause 7 of the SEPP, 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.

The original application was submitted with a Preliminary Site Investigation report, which included investigations as to the conditions of the soils at the site.

The investigations revealed no contamination issues of concern. Council's Environmental Health Officer, at the time of the assessment of LDA2016/0602, concluded that the site was suitable for the proposed mixed use development, given there has been no significant previous contamination.

The subject modification will not affect the compliance of the proposal for the purpose of the SEPP.

6.4 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 as lodged was accompanied by an amended BASIX Certificate No. 754794M-02, dated 1 May 2018 which confirmed that required targets would be met.

The relevant conditions relating to BASIX are to be modified to reflect the amended BASIX Certificate (see **Conditions 3 and 154**).

6.5 State Environmental Planning Policy (Infrastructure) 2007

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

The applicable clauses under the SEPP are as follows:

Clause	Comment	Compliance
<p>Clause 85 - Development immediately adjacent to rail corridors</p> <p>The proposed development is on land that is immediately adjacent to a rail corridor and;</p> <p>(a) is likely to have an adverse effect on rail safety, or</p> <p>(b) involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, or</p> <p>(c) involves the use of a crane in air space above any rail corridor.</p> <p>Before determining this DA the Consent</p>	<p>The proposal involves the placing of a metal finish on a structure and the rail corridor concerned is used by electric trains, and involves the use of a crane in air space above any rail corridor.</p> <p>The proposal has been referred for concurrence to Sydney Metro Corridor Protection in accordance with this clause.</p> <p>Sydney Metro advised Council on 31 January 2019 that it has granted its concurrence to the development</p>	<p>Yes</p> <p>Subject to amended Conditions 96, 105 and 198</p>

Clause	Comment	Compliance
<p>Authority must:</p> <ul style="list-style-type: none"> 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 passed, 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. 	<p>application subject to Council modifying various conditions on the consent. (See Conditions 96, 105 and 198).</p>	
<p>Clause 86 - Excavation in, above or adjacent to rail corridors</p> <p>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:</p> <ul style="list-style-type: none"> 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 passed, 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 Excavation in, above or adjacent to rail corridors <p>The consent authority must not grant consent to development to which this clause applies without the concurrence of the CEO of Sydney Trains.</p>	<p>The proposal involves changes to the basement footprint of the approved development, and subsequently the excavation for the purpose of the basement levels on land within 25m (measured horizontally) of the ground directly above an underground rail corridor.</p> <p>The proposal has been referred for concurrence to Sydney Metro Corridor Protection in accordance with this clause.</p> <p>Sydney Metro advised Council on 31 January 2019 that it has granted its concurrence to the development application subject to Council modifying various conditions on the consent. (See Conditions 96, 105 and 198).</p>	<p>Yes Subject to amended Conditions 96, 105 and 198</p>
<p>Clause 104 Traffic generating development</p> <p>The proposed development, being an apartment or residential flat building with more than 200 motor vehicles is considered to be a traffic generating development.</p> <p>Before determining this DA the Consent Authority must:</p> <ul style="list-style-type: none"> 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 passed, the RMS advises that it will not be making a submission), and Take into consideration any potential traffic 	<p>A Traffic Report was provided with this application that identified a reduction in traffic generation.</p> <p>Council's Traffic Engineer has reviewed this report, and concurred that the proposed modification reduced traffic generation due to the reduction in units.</p> <p>The RMS provided concurrence for the approved development, raising no objection to the proposed development.</p> <p>Therefore, concurrence from the RMS was not required for this</p>	<p>Yes</p>

Clause	Comment	Compliance
safety, road congestion or parking implications of the development.	application.	

Table 4: Infrastructure SEPP.

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

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65) is applicable to the proposed modifications. The proposal has been assessed against the following matters relevant to SEPP 65 for consideration.

- The Design Quality Principles; and
- The NSW Apartment Design Guide (ADG).

The proposed modifications do not diminish the design quality of the building and the proposal was not referred to Council's Urban Design Review Panel.

Note: A design verification statement has been submitted in accordance with the requirements of the SEPP and the Environmental Planning and Assessment Regulation.

The principles and the ADG have been considered as part of this assessment.

Design Quality Principles

The Principles under this Policy aim to incorporate the provisions of SEPP 65 with the design guidance of the ADG. They provide nine principles for the merit based assessment of a proposal and aid the achievement of good design.

The following table provides an assessment of the proposal against the relevant Design Quality Principles:

Principle	Comment
Principle 1: Context and neighbourhood character	
<p><i>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.</i></p> <p><i>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.</i></p>	<p>The proposed modifications to the approved 'Tower' apartments present high quality design which will be consistent with the desired future character for the Macquarie Park area.</p> <p>The proposal provides greater landscaping detail, improving the amenity to both future residents of the development and the corridor itself.</p>

Principle	Comment
<i>Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</i>	
Principle 2: Built form and scale	
<p><i>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</i></p> <p><i>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.</i></p> <p><i>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.</i></p>	<p>The proposed modifications do not result in any significant changes to the presentation of the building as approved. The setbacks and building height of the proposal are unchanged from the approved development. Therefore, the built form and scale of the proposal is considered suitable.</p> <p>The proposed built form is also considered to be acceptable given that the development achieves suitable compliance with the objectives contained in the ADG.</p>
Principle 3: Density	
<p><i>Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.</i></p> <p><i>Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.</i></p>	<p>The proposed modifications will not significantly add to the bulk and scale of the approved building.</p> <p>The modifications will not alter the approved height and will result in a slight decrease in gross floor area, being within the maximum permissible FSR under the RLEP 2014 of 3:1.</p>
Principle 4: Sustainability	
<p><i>Good design combines positive environmental, social and economic outcomes.</i></p> <p><i>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.</i></p>	<p>The amended proposal is accompanied by a BASIX Certificate, achieving the required energy and water efficiency targets under SEPP (BASIX) 2004.</p>
Principle 5: Landscape	
<p><i>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.</i></p> <p><i>Good landscape design enhances the development's environmental performance by</i></p>	<p>The modifications relating to the landscape strategy do not involve a change in the total landscaped area, rather, the strategy has provided further detail, including detail on the interface between the ground floor and external open space.</p> <p>The amended landscape strategy demonstrates the proposal will optimise useability, and will have minimal impact to the communal ground floor landscaped open space.</p>

Principle	Comment																					
<p><i>retaining positive natural features which contribute to the local context, co-ordinating water and soil management, solar access, micro-climate, tree canopy, habitat values and preserving green networks.</i></p> <p><i>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</i></p>	<p>The modifications to the rooftop terraces are minor, and will have minimal impact to the approved communal landscaped open space on the roof of the buildings.</p>																					
Principle 6: Amenity																						
<p><i>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.</i></p> <p><i>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.</i></p>	<p>The proposed modifications for internal amendments to the units, including the amalgamation of several units, will not result in the loss of amenity for future residents of the building.</p> <p>Each unit is of an appropriate size, and has sufficient solar access, ventilation, storage, privacy and serviceability.</p>																					
Principle 7: Safety																						
<p><i>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.</i></p> <p><i>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.</i></p>	<p>The original proposal generally complied with CPTED principles. The amended scheme will not alter this.</p>																					
Principle 8: Housing diversity and social interaction																						
<p><i>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</i></p> <p><i>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</i></p> <p><i>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.</i></p>	<p>The amended proposal comprises the following mix of apartments:</p> <table><tr><th>Unit Type</th><th>Approved</th><th>Proposed</th></tr><tr><td>Studio</td><td>0</td><td>0</td></tr><tr><td>1 Bedroom</td><td>62</td><td>57</td></tr><tr><td>2 Bedroom</td><td>271</td><td>230</td></tr><tr><td>3 Bedroom</td><td>24</td><td>31</td></tr><tr><td>4 Bedroom</td><td>0</td><td>16</td></tr><tr><td>Total</td><td>357</td><td>334</td></tr></table> <p>It is considered the proposed apartment mix is suitable to reach a wide demographic and living needs.</p>	Unit Type	Approved	Proposed	Studio	0	0	1 Bedroom	62	57	2 Bedroom	271	230	3 Bedroom	24	31	4 Bedroom	0	16	Total	357	334
Unit Type	Approved	Proposed																				
Studio	0	0																				
1 Bedroom	62	57																				
2 Bedroom	271	230																				
3 Bedroom	24	31																				
4 Bedroom	0	16																				
Total	357	334																				
Principle 9: Aesthetics																						

Principle	Comment
<i>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.</i>	The overall appearance of the building has not been significantly changed as a result of this proposal. The external changes largely relate to changing in glazing and overall landscape strategy.
<i>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.</i>	Overall the aesthetics are considered to respond suitably to the context of the site and the desired future character of the area.

Table 5: Design Quality Principles.

Apartment Design Guide (ADG)

The SEPP also requires the Council to take into consideration the requirements of the Apartment Design Guide. **Table 6** below details compliance.

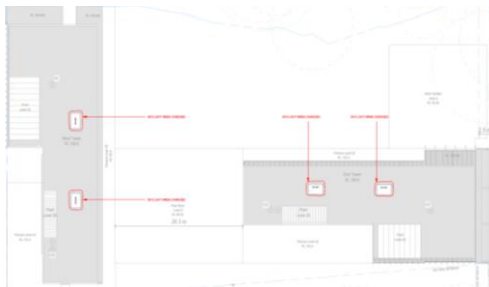
Clause	Comments	Compliance
Part 2D Floor space ratio	<p>The original application approved a floor space ratio (FSR) of 3:1 (31,560m²).</p> <p>The amalgamation of units and design changes proposed have resulted in a slight decrease in gross floor area (GFA) by 109m², giving a FSR of 2.99:1.</p> <p>Therefore, the amended proposal is still within the maximum FSR allowed and is considered satisfactory.</p>	Yes
Part 2G and 2H Front, Rear & Side Setbacks	<p><u>Front setback</u> The front setback (as measured from the ground floor) remains at 14.2m (as approved vide LDA2016/0602), as dictated by the ECRL reserve zone along the front of the site.</p> <p><u>Side and rear setbacks</u> The ground floor rear and side setbacks will not be modified as a result of this application.</p>	Yes
Part 3C Public Domain Interference	<p>This application does not adversely impact the transition between the private and public domain.</p> <p>All proposed landscaping changes relate to the private recreation areas within the site. Landscaped areas have not been reduced in size or location, rather, additional features such as the inclusion of a pavilion and more extensive walking paths have been added. These changes are all within the site, and do not impact the transition between the private and</p>	Yes

Clause	Comments	Compliance
	<p>public domain.</p> <p>The proposed modifications to the internal layout of a number of units allows for living areas and balconies of these units to face the front and west of the site, maximising the outlook for these units and maintaining safety and amenity through passive surveillance.</p> <p>The proposed Section 4.55 does not seek to modify Condition 69 in relation to the Linear Park along Waterloo Road. Consultation regarding the establishment and detail of the Linear Park between Council and the applicant is still ongoing.</p> <p>It is also noted that the proposed Section 4.55 involves the relocation of the Ausgrid substation further from the Public Domain (i.e. Waterloo Road). This relocation will improve the amenity of the public domain.</p>	
<p>Part 3D Communal and public open space</p> <p>Communal opens space has a minimum area equal to 25% of the site.</p> <p>Developments to achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (min winter).</p>	<p>The original approval provided for a total communal open space of 2,176m², being 21% of the total site area.</p> <p>The proposed landscape modifications relate generally to the reconfiguration of the outdoor spaces to provide more organic forms in terms of planting beds, lawn areas, decking and reflection pools however generally maintains the overall areas of landscape and open space. The reconfiguration of spaces has generally resulted in more intimate spaces being created rather than a large active central lawn as was originally proposed. Given the level of amenity has not been diminished and level of deep soil and soft landscaping is consistent with that approved, no significant concerns are raised in relation to the proposed modifications.</p> <p>The changes to Units W001 and W002 have increased the decking for the private open space. The decking is considered excessive and should be reduced to enable additional soft landscaping. Accordingly, a condition of consent has been imposed requiring the planting bed on the south-western edge of the private open spaces to be a minimum of 2m wide (see Condition 1a).</p>	<p>Yes Subject to Conditions 1a, 1b, 1c and 1d</p>

Clause	Comments	Compliance						
	<p>The relocation of the electrical substation will result in some reduction in planting along the south-western boundary. The revised landscape plans do not indicate any proposed tree planting along this boundary, missing an opportunity to provide canopy trees. As such, Condition 1b has been imposed requiring a row of large growing canopy trees to be provided in this strip.</p> <p>The changes to the Level 5 roof terrace involve the inclusion of vegetable planters and reduction in garden planters size. A banquet table has also been included. To improve the amenity of the terrace, sun protection in the vicinity of the banquet table should be provided for the Level 5 terrace (see Condition 1c). The amenity of the terrace will also be increased by the provision of barbeque facilities. Accordingly, Condition 1d has been imposed that these facilities are to be provided.</p> <p>The communal open space will receive the required solar access.</p>							
<p>Part 3E Deep Soil Zone</p> <p>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.</p> <p><u>Design criteria</u> Deep soil zones are to be provided equal to 7% of the site area and with min. dimension of 3m.</p>	<p>The deep soil areas are consistent with the approved development.</p>	Yes						
<p>Part 3F Visual Privacy</p> <p>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:</p> <table border="1"> <thead> <tr> <th>Building Height</th><th>Habitable rooms or balconies</th><th>Non habitable rooms</th></tr> </thead> <tbody> <tr> <td>Up to 12m (4</td><td>6m</td><td>3m</td></tr> </tbody> </table>	Building Height	Habitable rooms or balconies	Non habitable rooms	Up to 12m (4	6m	3m	<p>The amalgamation of the units and subsequent internal floor plan amendments have not resulted in any adverse visual privacy impacts.</p> <p>The building separations between the buildings on site have not been altered.</p> <p>The changes to the landscape strategy with regard to the private open space for Units W001 and W002 results in a decrease in soft landscaping and screening.</p>	<p>Yes Subject to Condition 1a</p>
Building Height	Habitable rooms or balconies	Non habitable rooms						
Up to 12m (4	6m	3m						

Clause				Comments	Compliance
storeys				Therefore, Condition 1a has been imposed that the planting bed along the south-western edge of each Unit is to be a minimum of 2m wide and contain a series of shrub and plantings to provide increase visual privacy to the units and private open space.	
Up to 25m (5-8 storeys).	9m	4.5m			
Over 25m (9 + storeys).	12m	6m			
Part 3G Pedestrian Access and Entries Pedestrian Access, entries and pathways are accessible and easy to identify.				The proposed modifications to the building modify the residential lobby area. The changes still allow for easily accessible and identifiable entrances.	Yes
Part 3J Parking Provisions <u>Car parking</u> For development in the following locations: <ul style="list-style-type: none"> 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 proposal provides adequate parking under Council's controls under Part 4.5 of Ryde DCP 2014 (as assessed later in this report).	Yes
<u>Bicycle Parking</u> Provide adequate motorbike, scooter and bicycle parking space (undercover).				21 motorbike parking spaces and 32 bicycle parking spaces are provided at grade across all four basement levels.	Yes
<u>Basement Design for parking</u> <ul style="list-style-type: none"> 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 proposed modifications to the four basement levels do not result in a change to the external appearance of the basement, and the basement car park does not sit above ground.	Yes
Part 4 - Designing the building					
4A Solar & daylight access Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter.				The proposed unit amalgamation has resulted in an increase in the number of units receiving more than 2 hours solar access, with the approved development having 69.7% of units, and the proposed modification having 70.7% of the units having 2 or more hours solar access.	Yes

Clause	Comments	Compliance															
<p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none">3.6m for studio and 1 bedroom apartments;4m for 2 and 3 bedroom apartments.	<p>The proposed modifications comply with the minimum living/dining room minimum width.</p>	<p>Yes</p>															
<p>4E Private Open Space and balconies</p> <p>Apartments must provide appropriately sized private open space and balconies to enhance residential amenity.</p> <p><u>Design criteria</u> All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling</th><th>Area</th><th>Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>N/A</td></tr><tr><td>1 bedroom</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom</td><td>12m²</td><td>2.4m</td></tr></table>	Dwelling	Area	Depth	Studio apartments	4m ²	N/A	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	<p>The apartment balconies comply with the minimum area requirement.</p>	<p>Yes</p>
Dwelling	Area	Depth															
Studio apartments	4m ²	N/A															
1 bedroom	8m ²	2m															
2 bedroom	10m ²	2m															
3+ bedroom	12m ²	2.4m															
<p>4F Common circulation and spaces</p> <p><u>Design criteria</u></p> <p>1. The maximum number of apartments off a circulation core on a single level is 8.</p> <p>2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>	<p>The amalgamation of apartments has resulted in fewer apartments on each level.</p> <p>Therefore, the proposed modification complies with this provision.</p>	<p>Yes</p>															
<p>4G Storage</p> <p>Adequate, well designed storage is to be provided for each apartment.</p> <p><u>Design criteria</u> In addition to storage in kitchens, bathrooms and bedrooms, the following storage is to be provided:</p> <table><tr><th>Dwelling</th><th>Storage size</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> <p>At least 50% of the required storage is to be located within the apartment.</p> <p>Additional storage is conveniently located, accessible and nominated for individual apartments (show on the plan).</p>	Dwelling	Storage size	Studio	4m ³	1 bedroom apt	6m ³	2 bedroom apt	8m ³	3 + bedroom apt	10m ³	<p>The proposed modification to the apartment layout, as well as basement storage, meets the minimum storage size.</p>	<p>Yes</p>					
Dwelling	Storage size																
Studio	4m ³																
1 bedroom apt	6m ³																
2 bedroom apt	8m ³																
3 + bedroom apt	10m ³																

Clause	Comments	Compliance
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 choice of materials are used to mitigate noise transmission.	The proposed modifications do not affect the proposal's compliance with this provision.	Yes
4K Apartment mix A range of apartment types with different number of bedrooms (1 bed, 2 bed, 3 bed etc) should be provided.	The apartment mix has been altered with the proposal complying with a mixture of 1, 2, 3 & 4 bedrooms apartments.	Yes
Building functions are expressed by the façade.	The retail tenancy is still clearly defined as being separate from the residential apartments. Lobbies are easily identified from the public domain.	Yes
Privacy and safety should be provided without obstructing casual surveillance.	The proposed modifications do not result in any ground floor apartments facing Waterloo Road.	Yes
4N Roof design Roof treatments are integrated into the building design and positively respond to the street.	<p>The proposed modifications to the roof include a change in the skylight size, as shown in Figure 4 below.</p>  <p>Figure 4: Skylight changes</p> <p>The proposed roof design changes integrate with the overall design of the tower built form of the development.</p>	Yes
Opportunities to use roof space for residential accommodation and open space are maximised.	The proposed modifications do not reduce the opportunities for the roof space to be used for open space.	Yes
Roof design incorporates sustainability features.	The reduction in the size of the skylights does not prevent compliance with this objective. The change in internal layout of the units on Levels 20 and 21 ensures	Yes

Clause	Comments	Compliance
	that these units still receive sufficient solar access with the modified skylight change.	
4O Landscape design Landscape design contributes to the streetscape and amenity. Landscape design is viable and sustainable	As mentioned previously in this report, the proposed landscaping changes relate generally to the configuration of the outdoor spaces, and do reduce the total landscaped area. No changes are proposed to the Shrimptons Creek corridor or the Waterloo Road frontage, where consultation regarding the Linear Park are still ongoing.	Yes
4P Planting on structures Appropriate soil profiles are provided.	The proposal maintains planters on the ground level, level 5 and level 20. Council's Consultant Landscape Architect has raised concern that the planting bed along the south western edge of Unit W001 and W002 need to be modified to provide sufficient visual privacy and amenity to users of this private open space. As such, Condition 1a has been imposed to resolve this issue.	Yes Subject to Condition 1a
4Q Universal design Adaptable housing should be provided in accordance with the relevant Council policy.	The development includes 68 units (20%) which are designed in accordance with the Liveable Housing Guidelines.	Yes
4R Adaptive reuse New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. Adapted buildings provide residential amenity while not precluding future adaptive reuse.	A total of 34 units (10.2%) are adaptable in accordance with Ryde DCP Part 9.2. Condition 59 has been amended to reflect the change in the number of adaptable units from 39 to 34 units.	Yes Subject to amended Condition 59
4S Mixed use Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement.	The retail tenancy has not been modified as a result of this application. The retail tenancy acts as sufficient active street frontage.	Yes
4U Energy efficiency Development incorporates passive environmental design measures – solar design, natural ventilation etc.	An amended BASIX Certificate has been submitted. Conditions 3 and 154 have been amended to reflect the amended BASIX Certificate.	Yes Subject to amended Conditions 3 and 154

Table 6: ADG compliance.

6.7 Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

This Plan, now a deemed State Environmental Planning Policy, applies to the whole of the Ryde local government area.

The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

This application does not impact upon the assessment of the SREP undertaken in LDA2016/0602.

6.8 Ryde Local Environmental Plan 2014

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

Clause 2.3 - Zone Objectives

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 proposed modifications do not change the approved land use.

The development as modified is a permissible form of development and remains consistent with the zone objectives.

Part 4 – Principle Development Standards

Clause 4.3 - Height of Buildings

The maximum height of building control for the site is 65m.

The proposal has a maximum approved height of 67.75m.

The proposed modification will not alter the approved height.

Clause 4.4 - Floor Space Ratio

The maximum FSR for the site is 3:1.

The original application had an approved FSR of 3:1 (31,560m² GFA).

Through the amalgamation of units and various internal floor plan changes, this Section 4.55 application proposes to reduce the FSR to 2.99:1 (31,451m² GFA).

The proposal will have a FSR of 2.99:1 which complies with this control.

Other Relevant Clauses

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 proposed modifications include an increase in the approved basement footprint area. Council's Development Engineer has raised no objection in regard to the increase in excavation required for the modified basement levels.

Additionally, Council's Consultant Structural Engineer has considered the extent of proposed excavation to be satisfactory subject to compliance with the *Douglas Partners Geotechnical Investigation Report* dated August 2018 (See **Condition 92**).

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.

Clause 6.3 - Flood Planning

This clause applies to land identified as “Flood Planning Area” on the Flood Planning Map, and other land at or below the flood planning level.

The site is not identified on the Flood Planning Map, however being adjacent to Shrimpton’s Creek, the site is identified as a floodway area. The proposed modifications do not prevent the development from being compatible with the land’s floor hazard.

Council’s Development Engineer and Drainage Engineer have both reviewed the development and have raised no objection to the proposal.

Clause 6.4 Stormwater Management

Development consent must not be granted to development on land within residential, business and industrial zones unless the consent authority is satisfied that the development:

- *is designed to maximise the use of water permeable surfaces on the land having regard to the soil characteristics affecting on-site infiltration of water, and*
- *includes, if practicable, on-site stormwater retention for use as an alternative supply to mains water, groundwater or river water, and*
- *avoids any significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters, or if that impact cannot be reasonably avoided, minimises and mitigates the impact.*

Council’s Development Engineer has advised that the proposed stormwater management system for the development has the same volume and location , with the rainwater tank being re-orientated. The private access road has also been amended to provide grated drains instead of kerb inlet pits.

No objection has been raised in this regard subject to a condition of consent that the directional fall to the kerb and gutter east of the site is maintained (See **Condition 90**).

6.9 Ryde Development Control Plan 2014

The following sections of the Ryde DCP 2014 are of relevance to the proposal:

- 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	Compliance
4.0 - Access Network		
4.4 – Sustainable Transport Parking is to be in accordance with Ryde DCP 9.3 Parking. Part 9.3, Section 2.7(a) of the RDCP 2014 specifies that, in every new building, where the floor space exceeds 600m ² GFA (except for dwelling houses and multi-unit housing) provide bicycle parking equivalent to 10% of the required car spaces or part thereof. Part 9.3, Section 2.2 of the RDCP 2014 specifies the following parking rates: <ul style="list-style-type: none"> • 0.6 space/1 bedroom • 0.9 space/2 bedroom • 1.4 space/3 bedroom • 1 visitor space/10 dwellings • 1 car share space per 50 parking spaces 	Require: 36 bicycle parking spaces. Proposed: 32 spaces for residents and 4 for visitors (total = 36 spaces) <u>Required</u> Total residential units: 307 car spaces Visitors spaces: 34 visitors Total Residential: <u>341 residential spaces</u> Car Share: 7 car share spaces Retail: <u>2 retail spaces</u> per Clause 4.5B of Ryde LEP 2014. Total Required = <u>350 spaces maximum</u> . <u>Proposed</u> Proposed: 350 car spaces comprising of: <ul style="list-style-type: none"> - 307 residential parking spaces - 34 visitor parking spaces - 2 retail spaces - 7 car share spaces The proposed number of car parking spaces is compliant with the relevant controls. The approved development imposed a condition (Condition 5) that required the number of retail car spaces to be reduced from 4 spaces to 2 spaces. The proposed modification has resolved this, and therefore, Condition 5 is to be deleted. Condition 200 has been modified to reflect the new parking rates.	Yes
5.0 - Public Domain		
5.9 Community Facilities 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.	Given the change in the apartment mix, the Section 7.11 contributions will be required to be amended. Condition 45 has been amended to reflect the new contribution rates.	Yes
6.0 - Infrastructure, facilities and public domain improvement.		
Floor space ratios and height are to comply with Ryde LEP 2014.	This proposal will not alter the approved building height. The approval resulted in an FSR of 3:1	Yes

Control	Comments	Compliance
	across the whole site. The proposed modification will reduce the FSR to 2.99:1.	
7.0 - Built Form		
<p>7.4 Setbacks and Build to Lines</p> <p>Underground parking is not permitted to encroach into the front setback areas unless it can be demonstrated that the basement is designed to support significant mature trees and deep root planting.</p> <p>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. Parking is not permitted within required setbacks, allowing for deep soil landscaping along streets.</p> <p>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.</p>	<p>The revised basement footprint does not encroach into the front setback area. The revised Basement Level 4 footprint does not extend beyond the basement footprint above.</p> <p>Basement levels do not encroach into the rear or side setback zones.</p>	Yes
<p>7.8 Building Bulk & Design</p> <p>Buildings are to address the street, and are to have a street address.</p> <p>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.</p> <p>Provide building articulation such as well design roof forms, expressed vertical circulation etc.</p>	<p>Whilst the lobby areas have been modified, they are still in the same location, and the entry to these lobbies is maintained from the internal driveway area.</p> <p>The minor changes to the façade design, including a change in glazing on Level 5, does not affect the development's compliance with this control.</p>	
8.0 – Site Planning and Staging		
<p>8.2 Site coverage, DS areas & POS</p> <p>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.</p> <p>A minimum 20% of the site area is to be provided as Landscaped Area.</p>	<p>The deep soil areas are consistent with the approved development. The reconfiguration of the open space does not reduce the amount of landscaped areas provided.</p>	Yes

Control	Comments	Compliance
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.		
8.3 Planting on Structures 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).	<p>The modifications to the Level 5 roof terrace involve the reduction in planting providing shade. Whilst the overall design is considered to be acceptable, it is considered additional amenity should be provided to this roof terrace area including sun and all weather protection as well as outdoor cooking facilities.</p> <p>Condition 1d requires additional all weather protection to be provided.</p> <p>The proposal maintains planters on the ground level, level 5 and level 20. Council's Consultant Landscape Architect has raised concern that the planting bed along the south western edge of Unit W001 and W002 need to be modified to provide sufficient visual privacy and amenity to users of this private open space.</p> <p>As such, Condition 1a has been imposed to resolve this issue.</p>	Yes Subject to Condition 1a & 1d
8.5 Site Facilities <u>Commercial</u> Vehicular access to loading facilities is to be provided from secondary and tertiary streets where possible. Rubbish and recycling areas must be provided in accordance with Section 6.3 Waste Management. These areas must be integrated with the development; <u>Residential</u> 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.	<p>Vehicular access from internal driveway remains off Waterloo Road and waste collection area on Basement 1. No issues have been raised in regard to the amended Basement Level 1 layout from Council's Waste officer.</p> <p>Individual laundry facilities are provided in each modified apartment. Storage has been provided for the modified apartments in accordance with the requirement.</p> <p>Condition 60, as imposed on the original consent, remains to ensure compliance with this control.</p>	Yes Subject to Condition 60
8.7 On site Parking Safe and secure 24 hour access to car parking areas is to be provided	The modifications do not prevent the basement parking from being safe and secure for building users.	Yes

Control	Comments	Compliance
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.	The modified basement levels remain under building footprint. Deep soil areas are provided with the southern side and front setback areas.	
9.0 – Environmental Performance		
Environmental Performance Residential development is to comply with BASIX (Building Sustainability Index) requirements.	An amended BASIX Certificate has been provided (See Condition 3 and 154 in Attachment 1)	Yes Subject to Condition 3 & 154

Table 7: DCP compliance.

Part 9.3 – Parking Controls

The amalgamation of the units, resulting in a reduction of 23 units, has resulted in the development requiring less than the approved 360 car parking spaces (358 residential and 2 retail).

Compliance with Part 9.3 of the RDCP 2014 has been assessed in **Table 7** above under Part 4.5, Section 4.4 of the RDCP 2014.

6.10 Section 7.11 Development Contributions Plan 2007

Condition 45 was imposed in the original consent, requiring a Section 7.11 payment of \$4,567,846.95 based on the following:

- 62 one-bedroom apartments;
- 271 two-bedroom apartments;
- 24 three-bedroom apartments; and
- 167m² of commercial area.

The proposed modifications change the above apartment mix as follows:

- 57 one-bedroom apartments;
- 230 two-bedroom apartments;
- 31 three-bedroom apartments;
- 16 four-bedroom apartments; and
- 167m² of commercial area.

Development Contributions Plan – 2007 (2014 Amendment) 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.

The new contributions have been calculated as follows (a concession for the existing commercial office space of 11,123.28m² has been given).

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$474,461.49
Open Space & Recreation Facilities	\$3,707,185.85
Civic & Urban Improvements	\$77,795.81
Roads & Traffic Management Facilities	\$83,494.56
Cycleways	\$10,755.95
Stormwater Management Facilities	\$9,521.73
Plan Administration	\$2,899.90
The total contribution is	\$4,366,115.30

Condition 45 is to be amended to reflect the revised contribution rates.

7. LIKELY IMPACTS OF THE DEVELOPMENT

7.1 Built Environment

The original application (LDA2016/0602) provided an assessment of the likely impacts of the development.

The proposed amendments under this application largely relate to the increase in the basement footprint and amalgamation of several units so that the number of apartments is reduced by 23.

The setbacks of the building have not been modified, and the FSR has been modified from 3:1 to 2.99:1.

A reduced number of parking spaces has been proposed, however, this correlates to the reduced number of units, and remains compliant with the parking rate required under the relevant parking controls.

Accordingly it is not considered that the proposal will give rise to any additional impacts which were previously considered acceptable under the original consent, and is consistent with the built form objectives envisaged for the redevelopment of the Macquarie Park Corridor.

7.2 Natural Environment

The proposed modification does not result in any impacts to the natural environment that already been considered and approved under the original consent or other previous modifications.

The development is therefore considered satisfactory in this regard.

8. SUITABILITY OF THE SITE

The proposed modifications relate largely to the amalgamation of the approved apartments so that the number of apartments is reduced by 23, as well as an increased basement footprint and revised landscape strategy.

The modifications do not increase the overall scale of the development to what was originally approved.

As such, the site is considered to be suitable for the development as amended.

9. THE PUBLIC INTEREST

The proposed amendments largely relate to the internal changes to the approved development.

The use, being residential and commercial, has not changed as a result of this application. The floor space ratio has been slightly reduced, and therefore, the residential density has not increased as a result of this application.

The modified development will not result in any significant environmental impacts and having regard to the assessment contained in this report, it is considered that approval of the development is in the public interest.

10. REFERRALS

The following provides a summary of internal and external referrals undertaken for this application.

External

Sydney Trains

The application was initially referred to Sydney Trains for concurrence, given the proposed excavation within proximity to the Epping to Chatswood Rail Corridor. Sydney Trains advised Council on 19 November 2018 that the delegations to issue concurrence near ECRL had changed to Sydney Metro.

Sydney Trains forwarded the referral to Sydney Metro, who raised no objections to the proposed modifications subject to the amended to **Condition 96, 105 and 198**.

Natural Resources Access Regulator (NRAR)

Integrated development approval was required under Clause 91 of the EP&A Act.

General Terms of Approval under s91 of the Water Management Act 2000 were issued for the approved development (see Condition 220 to 258 in original consent), and NRAR have advised no changes to the General Terms of Approval are required.

Internal

Development Engineer

Council's Development Engineer has raised no objections to the proposed modifications, however, has noted that the following minor non-compliances may be resolved by conditions of consent:

"Stormwater Management

The private access road has been amended where grated drains have replaced the initial proposed kerb inlet pits. No objection is raised to this provided that a one directional fall to the kerb and gutter east of the site is maintained. This will ensure that the runoff is still collected by the kerb inlet pit located furthest south of the private road if the grated drains were to fail.

This can be dealt with an amended condition of consent regarding stormwater management.

Vehicle Access and Parking

1. *The reduction of car spaces has resulted in a maximum of 307 residential spaces, thus meeting the requirements of Council's DCP.*
2. *The small car spaces non-compliance has been rectified. It is recommended that the small car spaces be designated as a secondary space for units that attain 2 car spaces.*
3. *Considering the ample space provided within the basement levels and that there are 2 additional disabled spaces provided, it is recommended that all disabled spaces are designed to be compliant with AS2890.6. A condition of consent will be imposed to deal with this.*

There are no further objections to the proposal. All minor non-compliances will be dealt within the modified conditions of consent."

City Works

Traffic

Council's Senior Traffic Engineer has raised no issues with the proposed modifications.

Public Domain and Drainage

No objections have been raised, with no amendments proposed to the approval as previously modified.

Waste

No objection has been raised by Council's Waste Officer in regard to the proposed modifications.

Sustainability and Environment

No objection to the development has been raised by Council's Senior Coordinator of Environment.

Consultant Structural Engineer

No objection to the development has been raised by Council's Consultant Structural Engineer subject to compliance with the revised Geotechnical Report.

Consultant Landscape Architect

The following comments have been provided by Council's Consultant Landscape Architect:

"This assessment considers Section 4.55(1A) modifications to the existing approved landscaping and open space arrangements under LDA2016/0602 relating to the construction of two x 20 storey mixed use buildings with four levels of basement car parking at 82-84 Waterloo Road, Macquarie Park.

Based on the information received, the proposed landscape modifications relate generally to the reconfiguration of the outdoor spaces to provide more organic forms in terms of planting beds, lawn areas, decking and reflection pools however generally maintains the overall areas of landscape and open space. The reconfiguration of spaces has generally resulted in more intimate spaces being created rather than a large active central lawn as was originally proposed. Given the level of amenity has not been diminished and level of deep soil and soft landscaping is consistent with that approved, no significant concerns are raised in relation to the proposed modifications. It is noted that some minor conditions have been recommended in relation to additional planting area, additional canopy tree plantings, sun and all-weather protection to the roof terrace and additional outdoor cooking facilities to the roof terrace.

No changes are proposed as part of this application to the Shrimptons Creek corridor which is to remain as per the approved design. Similarly, the design of the Waterloo Road frontage is to be maintained as per the approved design.

Subject to the conditions contained within this assessment, there are no objections to the proposed modifications from a landscape perspective."

Conditions 1a, 1b, 1c, 1d and 1g have been imposed to resolve the minor non-compliances identified by Council's Consultant Landscape Architect.

11. PUBLIC NOTIFICATION AND SUBMISSIONS

The Section 4.55(2) application was advertised on 23 May 2018 in the *Northern District Times* and notified to neighbours in accordance with Ryde DCP 2014 from 18 May 2018 to 22 June 2018.

Council received one (1) submission objecting to the development.

The submission is from a resident within the Macquarie Park area raising concerns with off-street parking and the insufficiency of parking provided within the proposed development.

Council's Development Engineer has reviewed the proposal and advises that the amended development complies with the relevant parking rates under Council's controls and is adequate for the propose use.

The issues raised in the submission do not warrant refusal of this application.

12. CONCLUSION

This report considers a Section 4.55(2) application under the EP&A Act to modify the approved development at 82-84 Waterloo Road, Macquarie Park.

The original approval under LDA2016/0602 granted consent for the construction of a mixed use development consisting of two x 20 storey towers and a shared 2 storey podium, consisting of a total of 357 residential units and 167m² of retail space. The approval also consisted of four levels of basement parking, the construction of a riparian edge with a shared pedestrian/cycle path along the northern alignment of the site and landscaping works.

The proposed amendments relate to the amalgamation of several units so that the total number of units is reduced to 334 units. The number of parking spaces has reduced by 10 spaces, however, the basement footprint has increased for Basement Level 4 and been reduced for Basement Level 1, 2 and 3 to facilitate the amended parking configuration and layout. The proposal does not change previously approved access arrangements to the site, and complies with the relevant parking provisions. The proposal also involves an amended landscape strategy and the relocation of the electrical substation on the site. The amended landscape strategy generally maintains the overall areas of landscaping and open space, and has been reconfigured to provide more organic forms in terms of planting beds, lawn area and reflection pool features. The substation has been relocated further from Waterloo, improving the presentation of the development to Waterloo Road.

The proposal is generally compliant with the ADG, with the exception of minor variations in respect to planting on terraces and the functionality of the communal open space. These variations can be addressed via conditions of consent.

The application has demonstrated that the development is consistent with the relevant provisions of Ryde DCP 2014.

The proposed modification of the approved development will not give rise to significant or unreasonable additional impacts on the amenity of the neighboring residential properties, with any concerns raised in the submissions addressed in this report.

It is therefore recommended that the Section 4.55(2) application be approved subject to conditions.

13. RECOMMENDATION

Pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979*, the following is recommended:

- A. That the Sydney North Planning Panel grant consent to the Section 4.55 application No. MOD2018/0126 to modify Local Development Application No. LDA2016/0602 at 82 to 84 Waterloo Road, Macquarie Park, subject to the conditions of consent in Attachment 1 of this report;
- B. That those persons making a submission be advised of the decision; and
- C. That Sydney Metro Corridor Protection and Natural Resources Access Regulator are advised of the decision.

Report prepared by:

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Report approved by:

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Liz Coad
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