

## SYDNEY NORTH PLANNING PANEL

<b>Panel Reference</b>	PPSSNH-204
<b>DA Number</b>	LDA2021/0095
<b>LGA</b>	City of Ryde
<b>Proposed Development</b>	Alterations and additions to the existing garden centre and construction of an 18-storey office building at the site including a multi-level car park and additional dining space.
<b>Street Address</b>	307 Lane Cove Rd Macquarie Park
<b>Applicant/Owner</b>	Thunderbirds Are Go Pty Ltd Atf The Gardeners Trust/ Thunderbirds Are Go Pty Limited
<b>Date of DA lodgement</b>	30 March 2021
<b>Number of Submissions</b>	246
<b>Recommendation</b>	<b>Refusal</b>
<b>Regional Development Criteria - SEPP (Planning Systems) 2021</b>	General Development over \$30 Million –  Capital Investment Value: \$155,581,524.80
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Act 1979;</li> <li>• Environmental Planning and Assessment Regulation 2000;</li> <li>• State Environmental Planning Policy Resilience and Hazards 2021 <ul style="list-style-type: none"> <li>- Chapter 4 Remediation of Land</li> </ul> </li> <li>• State Environmental Planning Policy – Biodiversity and Conservation 2021 <ul style="list-style-type: none"> <li>- Chapter 2 Vegetation in non-rural area</li> <li>- Chapter 10 Sydney Harbour Catchment</li> </ul> </li> <li>• State Environmental Planning Policy Transport and Infrastructure <ul style="list-style-type: none"> <li>- Chapter 2 Infrastructure</li> </ul> </li> <li>• State Environmental Planning Policy (Planning Systems) 2021 <ul style="list-style-type: none"> <li>- Chapter 2 State and Regional Development</li> </ul> </li> <li>• Ryde Local Environmental Plan 2014;</li> <li>• Ryde Development Control Plan 2014; and</li> <li>• Ryde Section 7.11 Development Contributions Plan 2020</li> </ul>
<b>Clause 4.6 Request</b>	No

<b>Summary of Key submissions</b>	<ul style="list-style-type: none"> <li>- No concurrence from Transport for NSW</li> <li>- No conditions from Rural Bushfire Services</li> <li>- Aboriginal heritage and no approval from National Parks and Wildlife</li> <li>- Traffic generation and shortfall of parking</li> <li>- Height, concentration of floor space</li> <li>- Visual impacts</li> <li>- Landscape impacts</li> <li>- Insufficient information</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<b>Attachment 1:</b> NSW RFS comments <b>Attachment 2:</b> Transport for NSW comments <b>Attachment 3:</b> Architectural Plans <b>Attachment 4:</b> Landscape Plans <b>Attachment 5:</b> Visual Impact Assessment
<b>Report prepared by</b>	Kimberley Kavwenje, Consultant Planner
<b>Report date</b>	9 November 2022

<b>Summary of Section 4.15 matters</b> Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
<b>Legislative clauses requiring consent authority satisfaction</b> 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 summarised, in the Executive Summary of the assessment report?	Yes
<b>Clause 4.6 Exceptions to development standards</b> 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?	No
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S7.24)?	No
<b>Conditions</b> Have draft conditions been provided to the applicant for comment?	No

## EXECUTIVE SUMMARY

This report is an assessment of a development application (DA) under Section 4.15 of the *Environmental Planning and Assessment Act 1979* (EP&A) on land at 307 Lane Cove Road, Macquarie Park (Lot 10 Deposited Plan 1071734).

The subject development application (LDA2021/0095) was lodged on 30 March 2021 and seeks consent for alterations and additions to the existing garden centre and construction of an 18-storey office building. The proposed works include:

- Retention of existing at grade parking spaces fronting Lane Cove Road and the underground parking spaces directly beneath
- Excavation works to accommodate additional underground parking spaces within the north-eastern corner of the site
- Alterations and additions to the existing main garden centre building located on the western corner of the site, including amendments to the garden centre store, café, amenities, food and beverage venue, neighbourhood shops and provision of a winter garden
- Extension of the existing function spaces in the south-west of the site
- Provision of a new outdoor garden centre, including nursery in the north-west of the site
- Construction of a multi-level car park in the mid north of the site with access from Lane Cove Road. The ground floor level accommodating storage room, loading bay, waste room, rock climbing wall
- Construction of an 18-storey office building in the centre of the site
- Construction of a new restaurant including outdoor and indoor dining spaces
- Landscaping and other ancillary works.

The proposal has a Capital Investment Value of more than \$30 million, and pursuant to Chapter 2 of State Environmental Planning Policy (Planning Systems) 2021, the proposal is required to be determined by the Sydney North Planning Panel in accordance with Section 4.7 of the EP&A Act.

The DA was notified between 14 April & 7 May 2021. The application was again notified between 14 May & 4 June 2021 to select Ku-ring-gai residents. In response, a total of 246 submissions objecting to the proposed development were received. The primary concerns raised in the submissions include:

- Traffic impacts and parking shortfall
- Height and visual impacts
- Impacts upon Lane Cove National Park
- Landscape and tree impacts
- Amenity impacts
- Heritage impacts

The DA is Integrated Development being a traffic generating development under State Environmental Planning Policy Transport and Infrastructure 2021. The application has been referred to Transport for NSW, concurrence has not been issued. Fundamental concerns remain outstanding relating to the traffic impact associated with the proposed development.

The site is bushfire affected and the proposed enlargement of the function centre is defined as 'Public assembly buildings' under the Planning for Bushfire Protection 2019 and due to the floor area being greater than 500m<sup>2</sup>, is to be treated technically as a Special Fire Protection Purpose (SFPP). The development was referred to Rural Fire Service NSW pursuant to Section 4.14 of the EP&A. Approval has not been issued by the NSW Rural Fire Service.

The NSW Government's Aboriginal Heritage Information Management System (AHIMS) indicates an Aboriginal Place is recorded in or near the subject site. Pursuant to Section 90 of the *National Parks and Wildlife Act 1974* (NPWA), an Aboriginal Heritage Impact Permit has not been issued for the proposed development and development consent cannot be granted to the DA.

There are other significant concerns with the proposed development.

The site is positioned in a prominent location on the ridge of Lane Cove Road, where surrounding land slopes away from the site. The proposed height of the 18-storey office tower and floor space concentration results in a development that has significant visual impacts upon the surrounding area and is inappropriate in the site's urban context. Throughout the assessment of the application, Council has recommended the Applicant reduce the building height to improve compatibility with the urban context. The Applicant declined to amend the proposal to address Council's fundamental concerns regarding the height of the office tower.

The proposal results in a short fall of 109 car parking spaces, and unacceptable traffic generation. Concerns are held with the submitted Traffic Impact Assessment, including the SIDRA modelling being relied upon by the Applicant. Similar concerns were also raised by Transport for NSW. The proposal relies upon extending the right-hand turn from Lane Cove Road to reduce queuing times and impacts to Lane Cove Road. Throughout the assessment of the application, the Applicant has undertaken discussions with Transport for NSW to resolve adverse traffic impact concerns. No resolution has been achieved.

The proposed removal of locally endemic trees within the site is unacceptable. The proposal has not been supported by a satisfactory tree impact assessment. The proposal results in an unacceptable visual impact upon Lane Cove National Park and is inconsistent with the National Park and Wildlife Guideline - Development adjacent to National Parks and Wildlife Service.

Having regard to the matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, it is recommended that Development Application No.

2021/095 be refused. There are fundamental reasons which prevent the Panel from granting development consent to the proposed development. It is Council's opinion that the proposed development results in unacceptable impacts, is not suitable for the site, and approval would be contrary to the public interest.

## 2. APPLICATION DETAILS

**Applicant/Owner:** Thunderbirds Are Go Pty Ltd Atf The Gardeners Trust/  
Thunderbirds Are Go Pty Limited

**Capital Investment Value:** \$55,581,524.80

**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 AND SURROUNDING DEVELOPMENTS



**Figure 1** Aerial photograph of site

The site is identified by title as Lot 10 within DP 1071734 and is located at 307 Lane Cove Road, Macquarie Park. The site is irregular in shape with an area of 24,680m<sup>2</sup>. The site has a frontage of 124.325m to Lane Cove Road (western boundary). The site has a 100.935m northern boundary and a 176.49m eastern boundary adjoining the Lane Cove National Park. The southern side boundary is adjacent to the M2 Motorway.



**Figure 2** Site as viewed from Lane Cove Road  
Source: Council Officer



**Figure 3** Looking south within the site with the garden centre to the left of frame (east),  
and at-grade parking the right (west)  
Source: CPS site inspection 2/11/2022



**Figure 4** Eastern elevation of existing garden centre with restaurant  
Source: CPS site inspection 2/11/2022



The site presently accommodates an integrated horticultural development known as Eden Gardens. The centre includes a garden centre and service areas, café comprising internal and external dining, function hire centre, display gardens, administration office and an existing underground and above ground car park (**Figures 2, 3 and 4**).

### 3.1 Adjoining properties and locality

The site is located at the north eastern corner of the intersection of the M2 Motorway and Lane Cove Road. The site's location is prominent, as it is bounded by Lane Cove Road to the west, the M2 Motorway to the south and Lane Cove National Park to the north and east. The site is located approximately 800m to the north east from the Macquarie Park Metro Station.

The site is located outside of the Macquarie Park Corridor. The Macquarie Park Corridor is located to the southwest and comprises a mix of technology focused commercial development and high-density residential development consisting of residential flat buildings.

The surrounding development consists of a mixture of residential and commercial development. No. 1 – 15 Fontenoy Road is located on the north western intersection of the Lane Cove Road and M2 Motorway and comprises four (4) residential flat buildings (**Figure 5 and 6**). The south western corner of Lane Cove Road and M2 Motorway contains is No. 4 Talavera Road which comprises a commercial building (**Figure 7**).



**Figure 5** Looking south-western from subject site towards the residential development on the opposite side of Lane Cove Road at No.1 - 15 Fontenoy Road  
Source: CPS site inspection 2/11/2022



**Figure 6** Looking north-west from the intersection of the M2 and Lane Cove Road towards the existing residential flat buildings at No.1 – 15 Fontenoy Road  
Source: google maps 3/11/2022



**Figure 7** No. 4 Talavera Road looking in a south-western direction from Lane Cove Road  
Source: google maps 3/11/2022

#### **4. THE PROPOSAL**

The proposal seeks consent for alterations and additions to the existing garden centre and construction of an 18-storey office building within the site at 307 Lane Cove Road, Macquarie Park.

The proposal as it presents to Lane Cove Road and the M2 is shown in **Figure 8** and **9**. The site plan is provided in **Figure 10**.

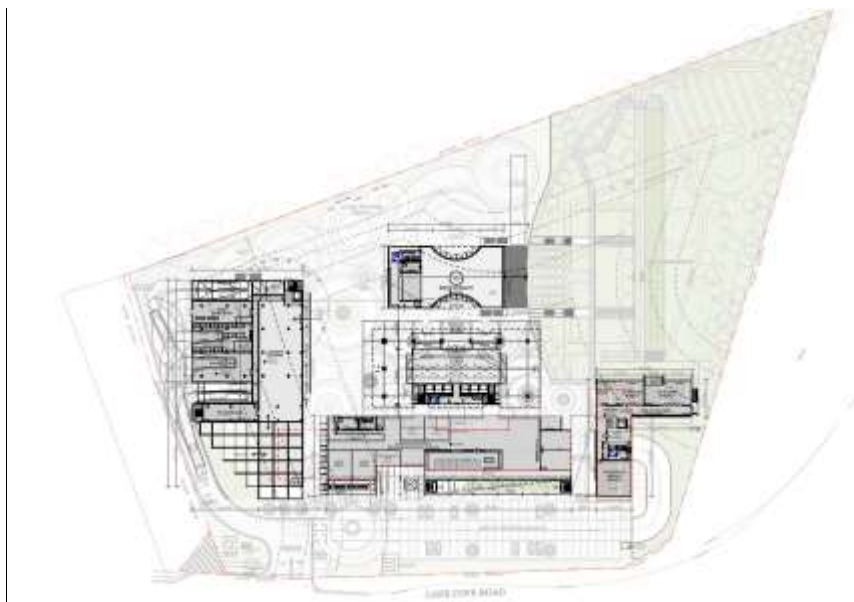




**Figure 8** Photomontage of western elevation presenting to Lane Cove Road of the 18-storey (80m) office tower  
Source: DKO Architects



**Figure 9** Photomontage of south eastern corner of the proposed 18-storey (approx. 80m) office tower  
Source: DKO Architects

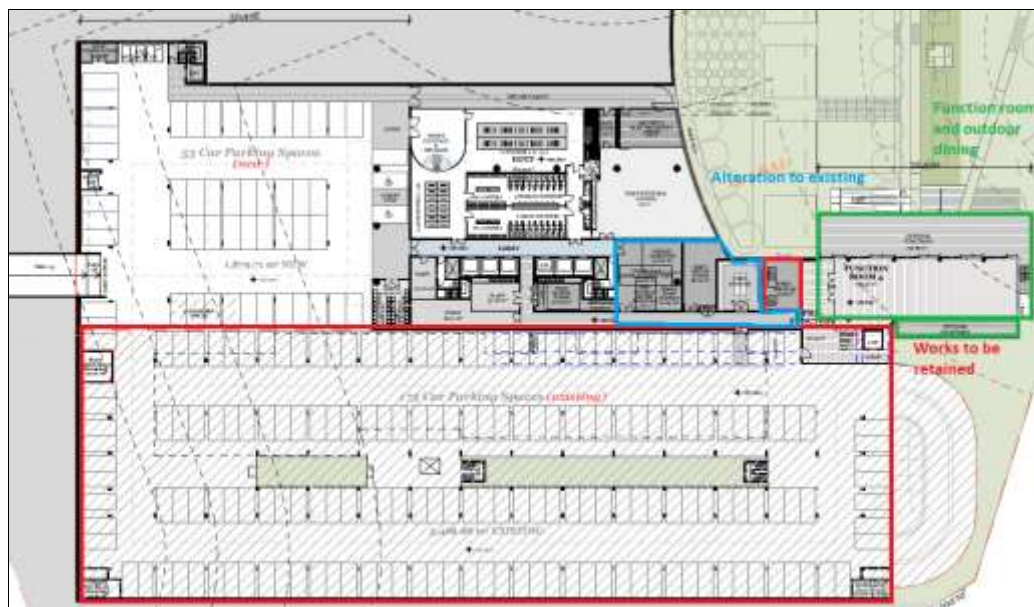


**Figure 10** Site plan  
Source: DKO Architects

The proposed works include:

#### Lower Ground Floor RL57.690 (Figure 11)

- Retention of the existing underground one hundred and seventy-three (173) parking spaces directly beneath the at-grade parking along Lane Cove Road
- Additions to the north east, extending the lower ground floor to accommodate fifty-three (53) parking spaces, motorcycle parking, main communication room, internal stair access, waste lift and lift.
- Additions to the east of the car park to accommodate waste room, end of trip facility accommodating showers and lockers, security and building manager office, mail room, staff kitchen and lounge, store rooms, and plant rooms.
- Alterations to the existing building to the south – (shown in blue in **Figure 11**) to accommodate the main switch room, prep kitchen, and existing services.
- Demolition of the existing building to the south east of the existing below ground parking space
- Addition of function room 4 and outdoor dining to the south-west of the carpark (shown in green in **Figure 11**).

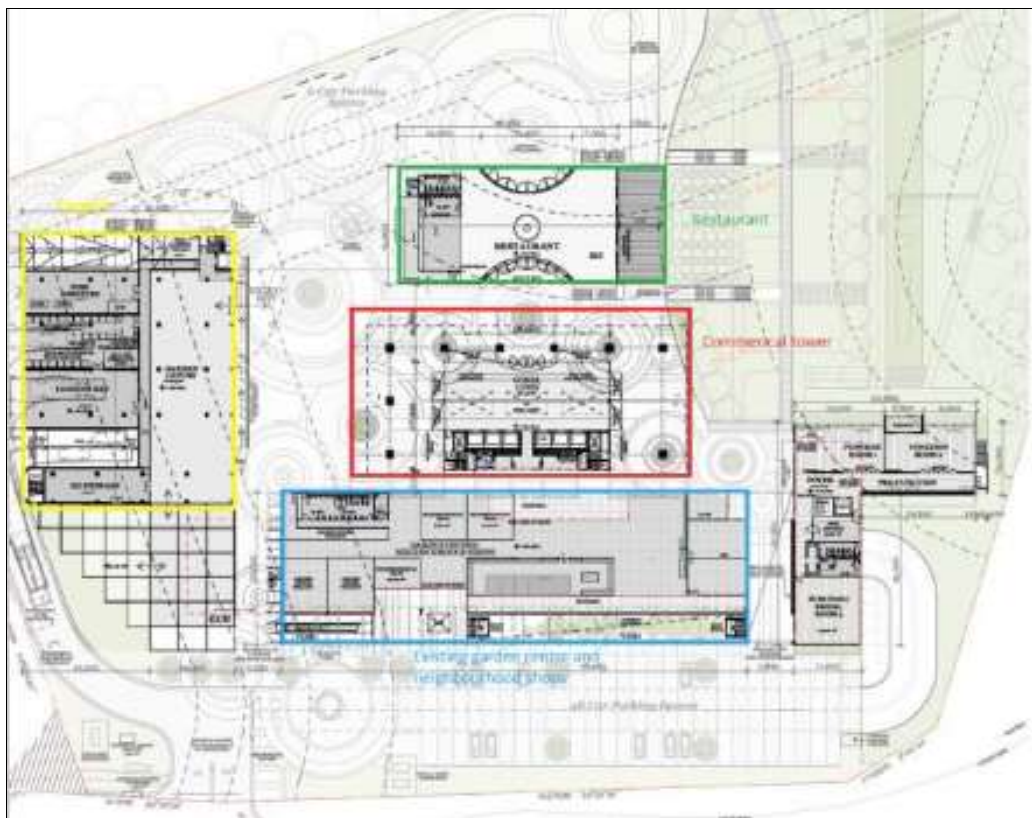


**Figure 11** Proposed Lower Ground Floor. Red outline are structures to be retained, blue outline are the proposed alterations and additions and green outline indicates the function room and outdoor dining area. Outlines undertaken by CPS. Source: DKO Architects

#### Ground Level RL60.84 (Figure 12)

- Retention of existing at-grade 48 parking spaces fronting Lane Cove Road
- Alterations and additions to the existing main garden centre building including demolition of external walls and extension
- Addition of neighbourhood shops within the garden centre and amenities (as shown in blue in **Figure 12**)
- External works including travelator within the western elevation, bamboo garden and lift and fire stairs in front of the garden centre/neighbourhood shops

- Extension of the existing function spaces in the south west of the site including three (3) function rooms, amenities, kitchen and pre function waiting room.
- Construction of a multi-level car parking to the northern side of the site with access from Lane Cove Road. The ground floor level is to accommodate a new garden centre, storage room, loading bay, waste room, and internal stair access for the sale of wall climbing tickets (shown in yellow in **Figure 12**)
- Provision of six (6) parking spaces and associated excavation works
- Construction of an 18-storey office building with a communal lobby located between the existing garden centre/neighbourhood shops and proposed restaurant to the east (shown in red in **Figure 12**).
- Construction of a restaurant and associated amenities to the east of the office building. An outdoor dining area is provided to the east (shown in green in **Figure 12**).
- Landscaping and other ancillary works.



**Figure 12** Proposed ground floor. Commercial tower outlined in red. Garden centre outlined in blue. Outdoor dining associated with new restaurant shown in green. Multi level car park shown in yellow.  
Outline undertaken by CPS. Source: DKO Architects.

#### Level 1 RL65.84 and Level 3 RL71.64 Multi level carpark and restaurant

- Provision of fifty-five (55) commercial car parking spaces within multi-level carpark, fire stairs and lifts, two (2) motorcycle spaces
- External stairs across southern elevation of carpark
- Roof top garden above restaurant

Level 1 RL68.840, Level 2 RL72.84, Level 3 RL76.84 Level 4 RL80.84 Office tower

- Winter garden around perimeter of building
- Lift cores, amenities, fire stairs and voids.

Level 2 RL68.74 and Level 4 RL74.54 Multi level carpark

- Provision of fifty six (56) commercial car parking spaces within multi-level carpark fire stairs and lifts, two (2) motorcycle spaces
- External stairs across southern elevation of carpark

Level 5 RL84.84 Office Tower

- Central office premises, plant rooms to north and south
- Lift cores, amenities and fire stairs.

Level 6 (RL92.44), Level 7 (RL92.44), Level 10 (RL103.84), Level 11 (RL107.64), Level 13 (RL115.24), Level 14 (RL119.04) and Level 17 (RL130.44) Office Tower

- Open plan office premises lift cores, amenities and fire stairs.

Level 8 (RL96.24), Level 9 (RL100.04), 15 Level (RL122.84) and Level 16 (RL126.64) Office Tower

- Open plan office premises, lift cores, amenities and fire stairs.
- Winter gardens at the corners of the building.

Level 12 (RL111.44) Office Tower

- Open plan office premises, lift cores, amenities and fire stairs.

Level 18 (RL134.24) Office Tower

- Lift overrun, cooling towers, hot water systems, air conditioning condensers and water tanks

External works

Vehicular access to the passenger vehicle parking and heavy vehicle servicing facilities is proposed to occur via an existing driveway, which forms the eastern leg of the signalised intersection of Lane Cove Road and Fontenoy Road.

The development is to be serviced by a total site wide parking provision of 502 off-street car parking spaces. An internal loading bay designed to accommodate vehicles up to the

size of a 12.5m long Heavy Rigid Vehicle (HRV) is proposed within the north-eastern part of the site.

Landscaping works are proposed including the removal of 109 trees (as identified in the submitted Arborist report) and provision of winter gardens and roof top gardens.

## 5. HISTORY OF DEVELOPMENT OF THE SITE

### 5.1 History of the Site

12 October 2001	The site was zoned 3(f) Business Special (Research & Development) under RLEP No. 117. Permissibility by virtue of Clause 72Y of Ryde Planning Scheme Order.
3 June 2003	Development Application LDA2002/1034 for demolition, new integrated horticultural centre, comprising a retail garden centre, display gardens, horticultural educational facilities, garden related retail facilities, restaurant/cafe, outdoor green space was approved by Council.
10 February 2004	Development Application LDA2003/1191 for temporary business identification sign/ hoarding sign for the Eden Garden Construction Site was approved.
29 October 2007	Modification Application MOD2002/1034.2 for various design changes including glasshouse redesign, alterations to garden beds, tree removal, modification to Condition 19, fire pump location and internal portioning was approved.
5 March 2009	Modification Application MOD2002/1034.3 for modification of Condition 35 relating to access was withdrawn.
10 August 2017	Development Application LDA2016/0186 for digital business identification sign was approved.

### 5.2 Pre DA Meetings

12 April 2016	<p>A pre-lodgement meeting PRL2018/001 for multi storey building with commercial; retention of function centre and child care was undertaken. As part of the pre lodgement meeting, the application was referred to the Urban Design Review Panel (UDRP). The issues raised in the advice included:</p> <ul style="list-style-type: none"> <li>- Non-compliant FSR of 1.18:1</li> <li>- UDRP suggested due to the site's isolation from the business centre and direct interface to the surrounding bushland a mixed-use development may be a better solution for the site.</li> <li>- Whilst there was no height limit, design justification was required for the 16-storey tower on site. Concern was held regarding the building entry location at the back of the site and there being no clear front door for access through the site.</li> <li>- The UDRP were not convinced a point tower is an appropriate built form solution and encouraged the applicant to consider alternative strategies to create a more sympathetic edge to the bushland.</li> <li>- The proposal was not supported by the UDRP.</li> </ul>
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The submitted documentation was at a conceptual stage (**Figures 13 - 15**) and lacked sufficient details to enable a detailed review against all applicable planning controls. In addition, inadequate RLs to demonstrate the interface of the building with the existing ground level were provided. The applicant was advised it must comply with FSR standard, concerns regarding setbacks, planning for bushfire protection and tree impacts were also raised. Significant concern regarding traffic impacts as a result of the expected level of increase in traffic generation was raised, along with the non-compliant car parking.



**Figure 13** Concept ground floor plan submitted under Pre lodgement PRL2018/001



**Figure 14** Western elevation presenting to Lane Cove Road under Pre lodgement PRL2018/001



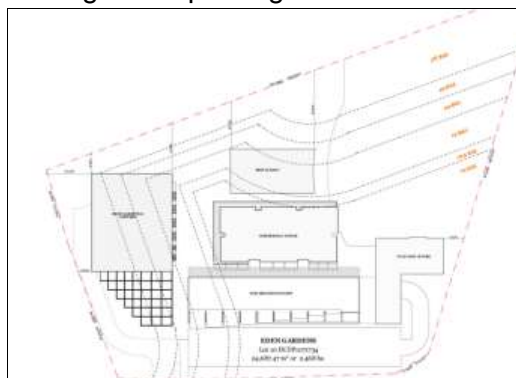
**Figure 15** Southern elevation under Pre lodgement PRL2018/001

26 November  
2020

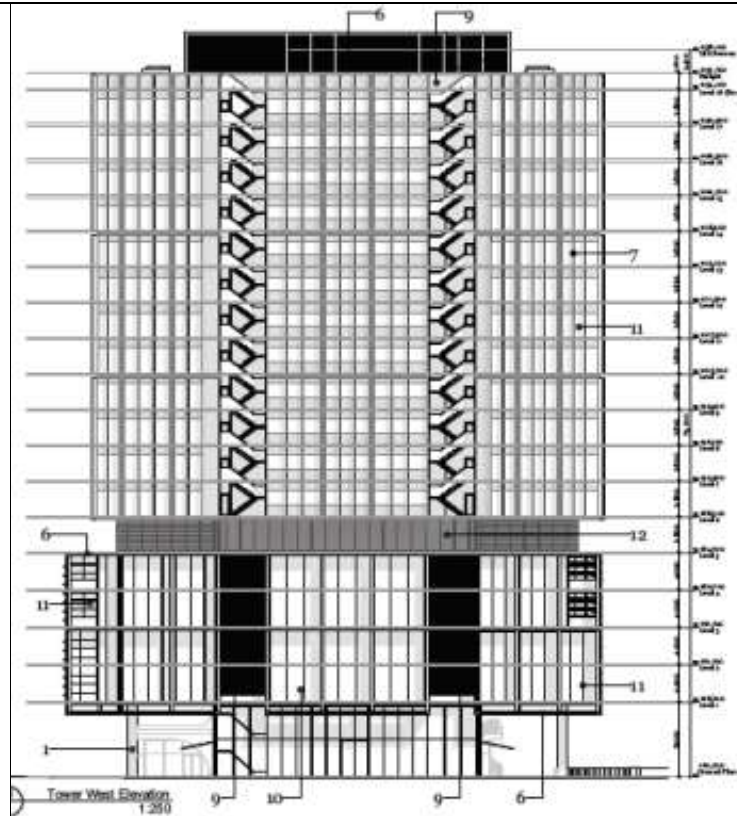
Pre-lodgement application RPL2020/43 for alteration and addition to existing Garden Centre, new multi-level carpark, expansion of function centre and construction of new 18-storey office building, multi storey building with commercial, retail, function centre and child care centre. The proposal is shown in **Figures 16 - 19**.

As part of the pre-lodgement meeting, the application was referred to the UDRP. The issues raised in the advice included:

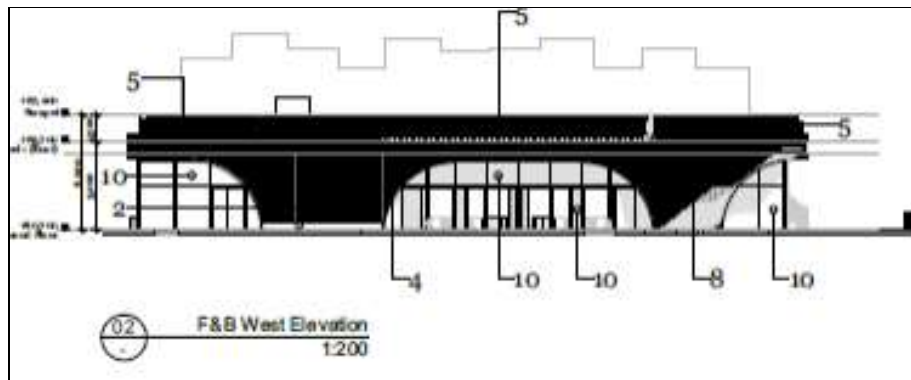
- Although sited within 800m of the catchment of the Metro rail line, the actual walking distance is greater due to the barrier created by the width of the M2, the reduced level of activity of uses on the southern side of the M2 and the hostile pedestrian environment created by the busy freeway and junction conditions.
- Concern for relatively low pedestrian accessibility and amenity available to people arriving at the site by Metro.
- A significant commercial development brings with it a series of access challenges.
- Concern regarding the sense of place and arrival with compromised access for pedestrians. There is constrained address and access for the commercial tower.
- The UDRP reinstated its concerns for the underpinning strategic logic of development intensification on this site.
- The UDRP noted the existing tower form development on the opposite side of Lane Cove Road is residential and is therefore not an entirely relevant precedent when considering potential commercial uses.
- Concern that concessions for reduced parking rates were being sought.
- If the tower form is to be retained and incorporated within the proposal the UDRP view is it needs a strong architectural identity, with depth and substance introduced into the façade elements. This is important to separate the proposal from the typical business park architecture characteristics of Macquarie Park and importance given the particular prominence and isolation of this tower form.
- Non-compliance with Clause 5.4 which limits the area of neighbourhood shop to a maximum of 200m<sup>2</sup>. The proposal included 390.8m<sup>2</sup> of neighbourhood shop and was non-compliant.
- Concerns relating to car parking and vehicle access.



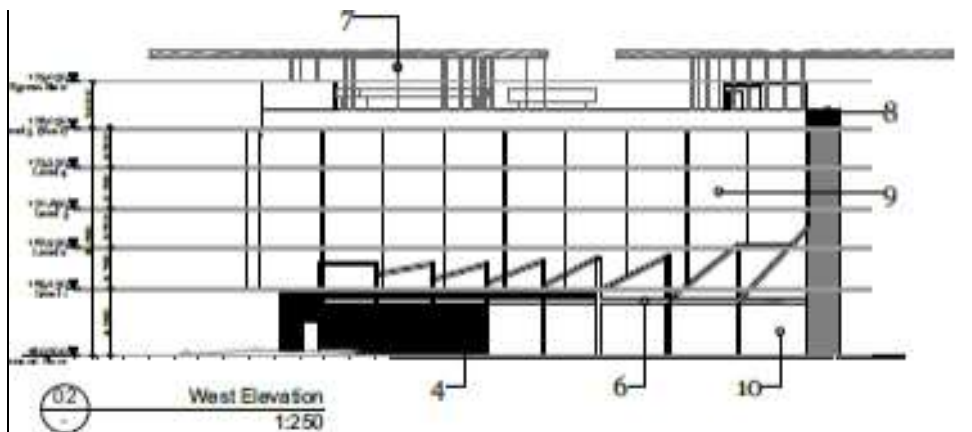
**Figure 16** Concept site plan submitted under PRL2020/043



**Figure 17** Western elevation of concept tower under PRL2020/043



**Figure 18** Western elevation of concept of garden centre under PRL2020/043

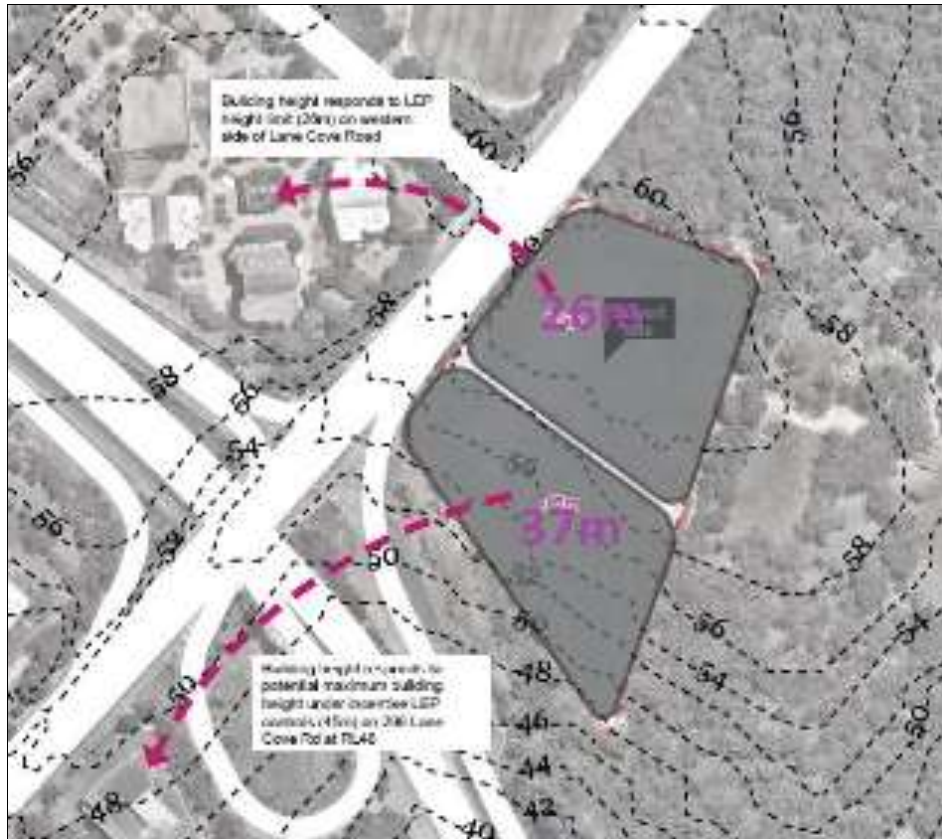


**Figure 19** Western elevation of concept car parking under PRL2020/043

## 6. HISTORY OF THE SUBJECT APPLICATION

### Application History

30 March 2021	Application lodged.
14 April – 7 May 2021	Application notified to surrounding property owners. Eighty-nine (89) submissions received.
21 April 2021	Bushfire consultant comments received advising the proposal is a Special Fire Protection Purpose (SFPP) and requires referral to NSW RFS.
3 May 2021	Transport for NSW advises it does not provide Section 87 approval for the proposed civil works on Lane Cove Road in accordance with the Roads Act 1993.
14 May – 4 June 2021	Extended notification, in response to request from Ku-ring-gai Council requesting the application be formally notified to select residents in accordance with Mayoral Memo of understanding.
17 August 2021	<p>Council provided briefing to the SNPP, recommending the application should be reported for refusal given the fundamental concerns.</p> <p>SNPP requested Council write to the applicant identifying the fundamental concerns. The Panel also requested a briefing with the applicant and Council staff in attendance in early September 2021.</p>
17 August 2021	<p>Council wrote to the applicant outlining the fundamental concerns with the proposal and recommendation to the SNPP that the application should be refused. The issues included:</p> <ul style="list-style-type: none"> <li>- Intensification of the site and height</li> <li>- Landscape and tree impacts</li> <li>- Lack of concurrence from Transport for NSW</li> <li>- Traffic impacts</li> <li>- Parking shortfall and arrangement</li> <li>- Planning for bushfire protection</li> <li>- Design matters</li> <li>- Supporting documentation</li> <li>- Public interest</li> </ul>
1 September 2021	<p>Council and the applicant attended a briefing with the SNPP.</p> <p>The Applicant advises the SNPP it will be submitting additional information addressing the matters raised by agencies and the community, in particular traffic/transport and visual impact analysis. The Panel noted that the assessment is at an early stage and requested that Council and the applicant undertake discussions on the key issues.</p>
20 September 2021	Council staff met with the Applicant to discuss concerns with the proposal. Council outlined the preferred height options for the site. Council advised preference for two (2) buildings with heights of 37 metres and 26 metres ( <b>Figure 20</b> ). The heights were based on the topography of the site, and surrounding permissible heights afforded under RLEP 2014.



**Figure 20** Recommended height of buildings shown in purple. 37m recommended along the south-western portion of the site and 26m to the north west

27 October 2021	<p>The applicant submitted further documentation including:</p> <ul style="list-style-type: none"> <li>- Façade and section diagrams</li> <li>- Shadow diagrams</li> <li>- Tower options in response to Council's preferred heights and architectural cover letter</li> <li>- Bushfire response letter</li> <li>- Arborist response letter</li> <li>- Amended stormwater management report and plans</li> <li>- Cover letter responding to agency referrals and public submissions.</li> </ul>
24 November 2021	<p>Council and the applicant attended a briefing with the SNPP. Council had undertaken a further height and site planning strategy to provide guidance to the applicant in developing a solution for redevelopment of the site. The written briefing provided a review of the tower options presented by the applicant and their indication of preference for the 18-storey single tower.</p> <p>The briefing also identified the following fundamental issues which remained unresolved:</p> <ul style="list-style-type: none"> <li>- The proposal was a place of public assembly having a floor space greater than 500m<sup>2</sup> which deems the proposal to be a Special Fire Protection Purpose (SFPP). Matters relating to bushfire remained.</li> <li>- Landscape and tree impacts. No amended arborist report or landscape plan had been submitted. The arborist response letter was disagreed with particularly regarding impacts upon existing trees.</li> <li>- Site planning strategy and the strategic justification for the height and concentration of floor space was not supported.</li> </ul>



	<ul style="list-style-type: none"> <li>- Council had not been provided with any further traffic information. Traffic generation and a shortfall of 109 parking spaces remained a fundamental concern. It is noted there is a discrepancy in the identified parking shortfall with a detailed explanation provided in Section 11 of this report.</li> </ul> <p>Council remained of the opinion the proposal could not be supported. The applicant had been provided an opportunity to respond to fundamental concerns and these had not been satisfactorily addressed. Council recommended the application be reported for determination with a recommendation for refusal.</p>
16 March 2022	Site inspection was undertaken with the SNPP, the applicant and Council staff. The applicant advised further traffic information would be submitted in June.
8 June 2022	The applicant submits SIDRA modelling to the NSW Planning Portal.
4 July 2022	<p>Council met with the NSW Planning and Development Unit, Transport for NSW and the Applicant to discuss current delays in the assessment of the current application.</p> <p>The Applicant had been meeting with Transport for NSW in relation to addressing the traffic generation concerns and impacts to Lane Cove Road raised in the response.</p> <p>Council was advised that in order to address the traffic generation a new pedestrian bridge was being considered over Lane Cove Road. The Traffic expert advised, that the feasibility of such a structure was yet to be discussed with the owner of 307 Lane Cove Road.</p> <p>At this meeting, Council raised concerns with the provision of a pedestrian bridge and advised that land owners consent (if required) cannot be given without seeing the design. Concerns were also raised that would fundamentally change the DA and a new DA should be submitted.</p>
18 August 2022	Council met again with the NSW Planning and Development Unit to discuss the design of the pedestrian bridge. Council again advised of its objection to the inclusion of a pedestrian bridge as part of the current DA.
24 August 2022	The applicant submits a request to the SNPP requesting to amend the applicant to include provision of a pedestrian bridge over Lane Cove Road.
30 August 2022	<p>The applicant submits the visual impact assessment to Council.</p> <p>Council advised the SNPP that it did not support this significant change to the application and a new DA should be lodged.</p>
14 September 2022	<p>The SNPP met with Council and the applicant to discuss the applicant's request to formally amend the DA to include a pedestrian bridge across Lane Cove Road.</p> <p>The Panel noted that the power to amend an application under Section 38 of the Regulations had been delegated back to Council. The Panel provided an opportunity for the applicant to withdraw the DA prior to Council reporting the application for determination. The applicant declined to withdraw the application.</p>

29 September 2022	A Class 1 appeal in matter of Thunderbirds Are Go Pty Ltd v Council of the City of Ryde – 2022/290936 – 307 Lane Cove Road, Macquarie Park was lodged with the NSW Land and Environment Court.
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## 7. APPLICABLE PLANNING CONTROLS

The application was lodged on 30 March 2021. At the time of lodgement the following legislation, policies and controls were of relevance to the development:

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005;
- Greater Sydney Regional Plan - A Metropolis of Three Cities, 2018;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017;
- State Environmental Planning Policy No. 19 – Bushland in Urban Areas;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- Draft Remediation of Land State Environmental Planning Policy;
- Draft Environmental State Planning Policy;
- Ryde Local Environmental Plan 2014;
- Ryde Development Control Plan 2014; and
- Ryde Section 7.11 Development Contributions Plan 2020.

On 1 March 2022, the *Environmental Planning and Assessment Regulation 2021* commenced, and the Environmental Planning and Assessment Regulation 2000 was repealed. Pursuant to Schedule 6 Savings, transitional and other provisions Part (3)(a) of the *Environmental Planning and Assessment Regulation 2021*, the subject development application continues to be subject to the provisions of *Environmental Planning and Assessment Regulation 2000*.

On 1 March 2022, consolidation State Environmental Planning Policies commenced. The following instruments repealed State Environmental Planning Instruments above:

- State Environmental Planning Policy Resilience and Hazards 2021
  - Chapter 4 Remediation of Land
- State Environmental Planning Policy – Biodiversity and Conservation 2021
  - Chapter 2 Vegetation in non-rural area
  - Chapter 6 Bushland in urban areas
  - Chapter 10 Sydney Harbour Catchment
- State Environmental Planning Policy Transport and Infrastructure
  - Chapter 2 Infrastructure
- State Environmental Planning Policy (Planning Systems) 2021
  - Chapter 2 State and Regional Development

All relevant provisions from the SEPPs are incorporated into the consolidated SEPPs and incorporated into relevant Chapters (outlined above). The SEPP consolidation does not change the legal effects of existing SEPPs with Section 30A of the *Interpretation Act 1987* applying to the transferred provisions. The SEPP consolidation was administrative only and no policy changes were made. The assessment report references the consolidated SEPPs with the relevant considerations outlined below.

## **8. PLANNING ASSESSMENT**

### **8.1 Environmental Planning and Assessment Act 1979**

#### **Section 1.3 Objects of the Act**

The objects of this Act are as follows—

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

**The proposal is contrary to the Objects of the Act for the following reasons:**

- The proposal does not promote the orderly and economic use and development of land. The development results in adverse impacts upon Lane Cove Road as a result of traffic generation and has not been designed in response to the bushfire affectation.
- As outlined on the AHIMS, the subject site includes an 'Aboriginal place.' Redevelopment of the land in the absence of an Aboriginal heritage impact assessment, and without an Aboriginal Heritage Impact Permit (AHIP), is not orderly development of land.

- The proposal has not demonstrated it does not unreasonably impact existing vegetation upon the site and adjoining properties. The arborist report incorrectly identifies tree species, provides insufficient justification for impacts and the development has not been designed in response to the site's constraints.
- The proposal does not promote good design and appropriate impacts on the built and natural environment. The concentration of floor space and strategically unjustified height of the commercial tower is not responsive to the site's topography nor surrounding urban environment. The 18-storey height of the development provides a jarring transition to the adjacent Lane Cove National Park.

#### **Section 4.14 Consultant and Development Consent – Certain Bushfire Prone Land**

The site is mapped as bush fire prone land. The application has been supported by a bushfire report prepared by Black Ash Consulting dated 12 March 2021 and subsequent response letter dated 30 August 2021.

The proposal includes an extension to the existing function centre which increases in area from 260m<sup>2</sup> to 995m<sup>2</sup>. The building is defined as being used for public assembly and is identified as a Special Fire Protection Purpose (SFPP) development under the provisions of Planning for Bush Fire 2019 and is required to demonstrate compliance with the radiant heat level exposure of 10kW/m<sup>2</sup>. The RFS advises, the Applicant was advised of the requirements under SFPP development under the provisions of Planning for Bush Fire 2018 at pre lodgement discussions.

The Applicant indicates the level of risk posed to a public assembly building is comparable to a bed and breakfast or farm stay accommodation. The NSW RFS specifically disagrees with this supposition due to the disparity in scale and intensity of use between a large function centre and isolated tourist development in their correspondence dated 20 September 2022.

The Applicant sought latitude as it is low risk, however, has provided no justification to support a merit-based assessment beyond stating that the proposed development is excepted from compliance. This forms part of the recommendation for refusal.

#### **Roads Act 1993 - Division 4.8 Integrated development**

The proposed development seeks to extend the right-hand turn lane on Lane Cove Road at the signalised intersection with Fontenoy Road (**Figure 21**) to facilitate a greater number of vehicles making a right hand turn into the subject site.



**Figure 21** Existing right hand turn into the site at the intersection with Fontenoy Road.  
Source: google maps 3/11/2022

The application was referred to Transport for NSW (TfNSW). In correspondence dated 3 May 2021, TfNSW advised that it does not provide Section 87 approval for the proposed civil works on Lane Cove Road pursuant to the Roads Act 1993. This forms part of the recommendation for refusal.

#### **Section 7.4 – Planning Agreements**

Pursuant to Section 7.4 of the Act, the Applicant has advised it proposes to enter into a Voluntary Planning Agreement (VPA) with Council. The VPA would include the following works:

- Upgrading the pedestrian footpath on the western side of Lane Cove Road between Talavera Road and the site to the same standard as the existing pedestrian footpath on the western side of Lane Cove Road between Waterloo Road and Talavera Road.
- Construction of a pedestrian safety fence on the footpath on the western side of the M2 overpass.
- Extension of the turning bay providing access to the site for traffic travelling north bound on Lane Cove Road.

The applicant has advised that these benefits are in lieu of developer contributions under Section 7.11 of the Act.

The request to offset s7.11 developer contributions for works-in-kind in relation to footpath upgrades and traffic safety pedestrian fences are not acceptable, as they are not items contemplated by the s7.11 Developer Contributions Plan and therefore do not constitute an acceptable offset.

Further the proposed extension of the turning bay to provide access to the site for north bound traffic on Lane Cove Road is not an appropriate offset for the s7.11 developer

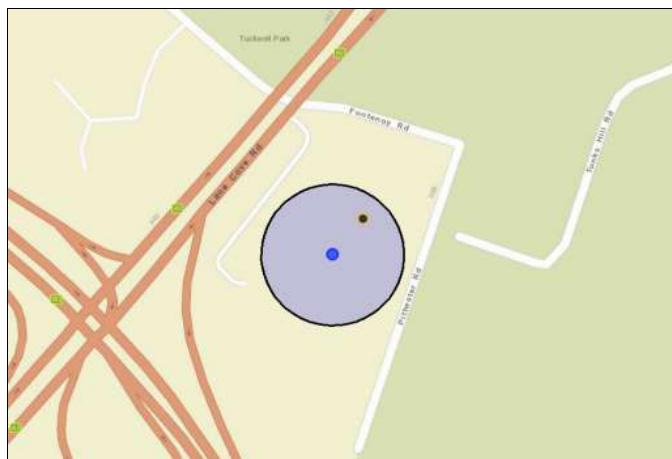


contributions either, as it is not contemplated by the s7.11 Developer Contributions Plan and is required to accommodate the development.

Council did not agree to enter into the VPA with the applicant.

## 8.2 National Parks and Wildlife Act 1974

A search of the NSW Government's Aboriginal Heritage Information Management System (AHIMS) indicates an Aboriginal Place is recorded in or near the subject site (**Figure 22**). An Aboriginal Heritage Impact Assessment has not been undertaken by the Applicant. Pursuant to Section 90, an Aboriginal Heritage Impact Permit has not been issued for the proposed development.



**Figure 22** The Aboriginal Heritage Information Management System (AHIMS) indicates an Aboriginal Place being located on the subject site.

Source: AHIMS, October 2022.

The proposal has been supported by a Statement of Heritage Impact prepared by Heritage 21. In section 1.7 Limitations, the report indicates it is beyond the scope of the report to address indigenous associations with the subject site.

As the Aboriginal Heritage Permit has not been issued, development consent cannot be granted to the development application.

## 8.3 Environmental Planning and Assessment Regulation 2000

### *Clause 50 How must a development application be made*

This DA does not satisfy Clause 50(1)(b) and Schedule 1 (1)(g) of the Regulation which requires a DA to include a list of any approvals of the kind referred in Section 4.46(1) of the Act that must be obtained before the development may lawfully be carried out. The submitted Statement of Environmental Effects under Part 4.2.3 references Section 4.46 – Integrated Development and refers only to the Infrastructure SEPP.

The SEE also does not refer to the application being Integrated Development pursuant to Section 100b Rural Fires Act 1997. The Applicant has paid the Integrated referral fee to the

NSW RFS during the assessment process and therefore acknowledges that the application is Integrated Development.

The land includes an Aboriginal Place, as documented under the AHIMS. The proposal has not been granted an Aboriginal Heritage Impact Permit pursuant to Section 90 of the *National Parks and Wildlife Act 1971*.

*Clause 98 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989*

Clause 98(1)(a) provides that works must be carried out in accordance with the *Building Code of Australia*. Subclause (3) provides that a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made. This is of reference to the National Construction Code 2022 which would now apply to the development.

The proposal includes the following Building Classifications:

Building	Building Classification	Importance Level	Storeys	Rise in storeys	Type of Construction
Retail garden centre	Class 6	3			Type A
Function spaces	Class 9b	3			Type A
Commercial office tower	Class 5 (Office tower and EOTF),	3	19	18	Type A
Multi storey carpark building	Class 7a	3			Type A
Eastern restaurant building	Class 6 (restaurant).	2	2	2	Type C
Storage	Class 7b				

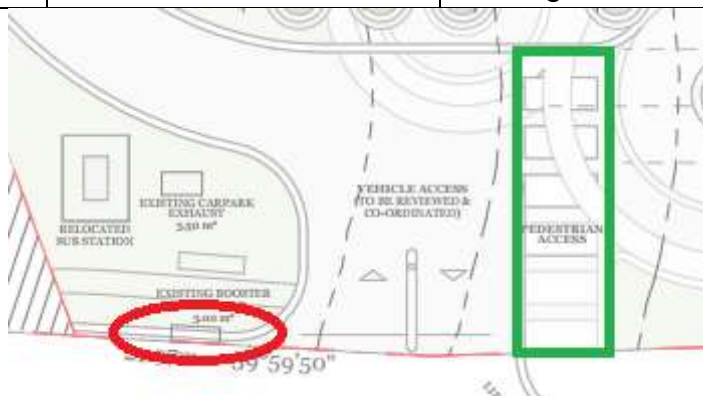
A BCA Compliance Statement has been prepared by Blackett Maguire + Goldsmith Pty Ltd dated 18 February 2021 and submitted with the DA. The Statement identifies the following concerns:

BCA (DtS) Clause	Description	Comment
C1.1, Spec C1.1	Class 6 Retail: from FRL 180/180/180 to 120/120/120  Class 7b loading bays, waste storage area: From FRL 240/240/240 to 120/120/120	A Fire Engineered Performance Solution may be required to permit the following reduced FRL.

	The proposed skylight serving the basement EOTF East corridor is located with 6m of a separate building being the restaurant on ground floor.	There is an appropriate 4m separation distance between the skylight extending along the eastern hallway beneath the commercial tower adjacent to the EOTF.
C3.3	On ground floor, the neighbourhood retail East façade and West façade of the commercial office tower are considered separate fire compartments.	The external walls are positioned 3.54m apart as such required to be fire rated and openings protected. No information has been provided on the proposed protection method.
D1.4 D1.5	<p>The proposal does not satisfy the following travel distances:</p> <ul style="list-style-type: none"> <li>- Maximum of 70m to the nearest exit from Lower Ground carpark in lieu of 40m</li> <li>- Maximum of 25m to a single exit from Function Room 3 in lieu of the DTS max of 20m</li> <li>- Maximum of 49m to the nearest exit in lieu of 40m from Ground Floor Loading Bay and Waste Room</li> <li>- Up to 122m between exits in lieu of 60m on Lower Ground carpark.</li> <li>- Up to 85m between exits in lieu of 60m on Ground Floor neighbourhood shops area</li> </ul>	<p>The proposal represents a significant redevelopment of the site and matters relating to travel distances are important, particularly in relation to exits as it has potential to necessitate redesign associated with building cores. Particularly, the distances associated with the new and existing lower ground floor parking areas.</p> <p>Whilst a Fire Engineered Performance Solution would be required to justify the extended distances, given the significant departures (in some circumstance twice the permitted distances) it is likely a redesign would be necessary. Accordingly, these departures should be considered at the DA stage rather than left to the Construction Certificate stage where the resultant-built form will need to alter.</p>

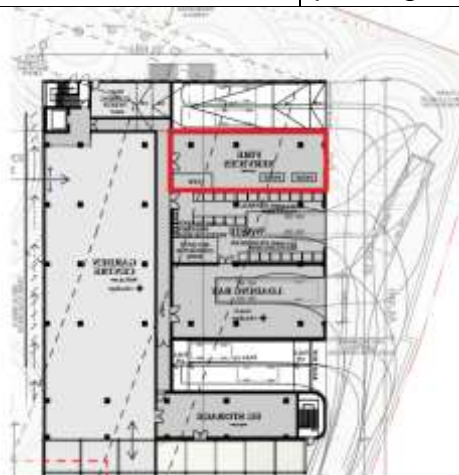
	<ul style="list-style-type: none"> <li>- Up to 63m between exits in lieu of 60m on Ground Floor Garden Centre retail</li> </ul>	
D1.7	Where path of travel necessitates passing within 6m of external wall of the building (being the commercial tower, neighbourhood shops or Garden Centre).	The wall is required to have a FRL of not less than 60/60/60 and openings protected internally.
D1.8	The proposed external stairway is not a fire isolated stairway to serve the commercial office tower in a building over 25m effective height	<p>Given the commercial tower is a new building, the core of the building (such as the fire stairway) should be adequately considered at the design stage and not be left to a Fire Engineered Performance Solution.</p> <p>The protection of the stairway to satisfy the requirements will alter the external appearance of the 18-storey building and given the reliance upon visual impact studies and photomontages to justify the acceptability of the built form, the development as it will be constructed should be represented.</p>

D1.9	The total distance from the basement carpark to road or open space via non fire isolated stair is greater than 80m (approximately 90m)	
E1.3, E1.5	The hydrant and sprinkler booster will not be located adjacent to the main vehicle entry and within sight of the principal pedestrian entry	<p>The existing booster cupboard is located to the north of the main driveway access into the site and is not considered to be within sight of the principal pedestrian entrance (<b>Figure 23</b>).</p> <p>The site is landscaped in front of the existing booster.</p>



**Figure 23** Site plan showing fire booster circled in red and main pedestrian access in green outlines by CPS  
Source: DKO Architects

E1.8	The fire control room will not be accessible from the front entrance of the building	The proposed fire services room is located adjacent to the Lane Cove National Park and to the north east of the site beneath the proposed car parking structure ( <b>Figure 24</b> ).
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**Figure 24** Proposed fire services room outlined in red by CPS  
Source: DKO architects



These issues should be addressed in the current DA as some of the BCA solutions may result in changes to the built form.

### **8.3 State Environmental Planning Policy Resilience and Hazards 2021**

#### Chapter 4 Remediation of Land

The object of this Chapter is to provide for a State-wide planning approach to the remediation of contaminated land.

The aims are to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Pursuant to Clause 4.6(1) considerations, the proposal does not introduce any use that is more sensitive than for which it is currently used. The preliminary site investigation identified common contaminants of concern based on the previous and current uses and fill that might be present on the site. The proposal has been supported by a Stage 1 Preliminary Site Investigation, Lot 10 in DP1071734, 307 Lane Cove Road, Macquarie Park, Report No. 14771/2-AA, Geotechnique Pty Ltd dated 10 December 2020.

The Stage 1 report concludes that sampling can be carried out and then if necessary be remediated and validated to be made suitable for the proposed use. The sampling and validation can be done prior to the issue of a Construction Certificate.

Given that the proposal does not introduce any use that is more sensitive than for which it is currently used, Council's Environmental Health Officer has raised no objection to this approach. If the Panel were of a mind to approve this application, conditions of consent would be required to address this issue.

### **8.4 State Environmental Planning Policy – Biodiversity and Conservation 2021**

The objective of the SEPP is to protect the biodiversity values of trees and other vegetation and to preserve the amenity of the area through the preservation of trees and other vegetation.

#### Chapter 2 Vegetation in non-rural area

The aims of this Chapter are *to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

The application has been supported by an Arboricultural Impact Assessment prepared by Birds Tree Consultancy, Revision B dated 23 February 2021. Further to Council's letter raising concerns with the proposal, a response letter prepared by Birds Tree Consultancy dated 26 October 2021 was submitted to Council.

Despite the report and letter from Birds Tree Consultancy, concern remains regarding the following:

- Impact upon existing trees

The proposed level of impact to Tree 162 (*Eucalyptus racemosa*) and Trees 183 and 184 (*Angophora costata*) is not supported. These trees are locally endemic, are of an established size and are a priority for retention.

- Inadequate Arboricultural assessment

The submitted arborist report cannot be relied upon due to several anomalies and missing pieces of information including:

- No representation of stem diameters above the root buttress (DAB) and subsequent calculation of Structural Root Zones (SRZ) as required by the City of Ryde Tree Management Technical Manual and AS4970-2009 – Protection of trees on development sites.
- Illegible Tree Location Plan with tree locations unable to be clearly ascertained. This includes Trees 36-59, 82-98, 115-141 and 173-176
- Tree 158 (*Corymbia gummifera*\*) documented as being in good health and condition and nominated for retention. This tree was observed on-site to be dead.
- Misrepresentation of the level of impact to several trees across the site, including Trees 69, 104, 105, 107, 113, 114, 137, 162, 164, 162, 163, 169, 171, 172 173, 174, 175, 194, 195 and 196
- No commentary regarding the suitability of the proposed decking structure within proximity to Trees 155, 156, 157, 158, 159, 160, 161, 167, 168, 169, 170, 171 and 172.
- Several instances of species misidentification, including Trees 22, 30, 70, 104, 178, 108, 109, 110, 111, 137, 138, 139, 140, 158, 165, 166, 180, 181, 182, 185, 186, 187 and 190
- Omission of number of protected trees which are likely to be impacted by the proposed works, including:
  - Two (2) trees to the south and west of Tree 69.
  - Four (4) trees to the north and west of Trees 146-149.
  - Ten (10) trees within and closely adjacent to the proposed 'Scribbly Gum Wellness Forest' within the south-eastern corner of the site.
  - Multiple trees within the Lane Cove National Park situated along the northern boundary of the subject site (see comment below).

The proposal is contrary to the aims of Chapter 2 in that development results in unacceptable impacts to significant trees on site and insufficient information has been submitted relating to arboricultural impact.

The site is adjoined to the north and east by the Lane Cove National Park which is zoned E1 National Parks and Natural Reserves. Reference is made to the Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 commenced on 1 December 2021. The amendment changed environmental zones (E1, E2, E3 and E4) to Conservation Zones (C1, C2, C3 and C4). Clause 6.2(2)(a) provides this Chapter does not apply to land reserved or dedicated under the National Parks and Wildlife Act 1974, as a national park.

## Chapter 10 Sydney Harbour Catchment

This Plan 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.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal. The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the above planning instrument. However, the site is not located on the foreshore, will not have any significant environmental impact on Sydney Harbour or the catchment, and there are no specific controls that directly apply to the proposal.

## **8.5 State Environmental Planning Policy Transport and Infrastructure**

### Chapter 2 Infrastructure

Pursuant to Clause 2.118(1)(b) Development on proposed classified road, the concurrence of TfNSW is required as the cost of works exceeds \$185,000.

The development is subject to the provisions of Clause 2.119 'Development with frontage to classified road'. The objectives for Clause 2.119(1) are as follows:

- (a) to ensure that new development does not comprise the effective and ongoing operation and function of classified roads, and*
- (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.*

The consent authority is required to be satisfied of the following matters pursuant to Clause 2.119(2):

- (a) where practicable and safe, vehicular access to the land is provided by a road other than the classified road, and*

- (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the development as a result of—*
- (i) the design of the vehicular access to the land, or*
  - (ii) the emission of smoke or dust from the development, or*
  - (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and*
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.*

The proposal does not satisfy Clause 2.119(2) for the following reasons:

- The proposed development is serviced by a total site-wide parking provision of 502 off-street car parking spaces. The development is required to provide 611 car spaces. This represents a 109 shortfall in the required car parking as required by Part 9.3 of RDCP 2014.
- The shortfall in off-street parking of 109 spaces is excessive and will result in parking spill over onto Fontenoy Road.
- The development originally relied upon a Traffic Impact Assessment (TIA) report prepared by The Transport Planning Partnership (TTPP) dated 2 March 2021. The applicant submitted updated SIDRA modelling in June 2022 which is still considered to be unsatisfactory.
- The amended SIDRA modelling utilises 205 AM peak hour trips and 230 PM peak hour trips. This is less than the trip generation estimated in the original traffic report which identified 314 AM peak and 262 PM peak. No justification was provided to this discrepancy in trip generation.
- The average vehicle delay for traffic exiting from Fontenoy Road onto Lane Cove Road during the weekday PM peak hour period significantly worsens from 80.4 seconds to 143.2 seconds due to the additional traffic generated by the proposed development (even with the grade separated bridge option across Lane Cove Road incorporated in the modelling).
- The additional traffic generated by the proposed development will exacerbate the existing traffic congestion and bus operations within Fontenoy Road.

The proposed development is identified as a traffic generating development in accordance with Schedule 3 and Clause 2.122 (1)(b) of the SEPP. The proposal is for a commercial development which has a gross floor area in excess of 10,000m<sup>2</sup> and proposes access to Lane Cove Road.

The application has been referred to TfNSW. On 3 May 2021 correspondence from TfNSW raised concerns with the proposal's extent of impact and proposed extension of the right-hand turn being extended within Lane Cove Road. At the time of preparing this report, concurrence has not been issued by TfNSW and forms part of the recommendation for refusal.

## 8.6 State Environmental Planning Policy (Planning Systems) 2021

### Chapter 2 State and Regional Development

The proposal has a Capital Investment Value of more than \$30 million, as such the proposal is required to be determined by the Sydney North Planning Panel (SNPP) in accordance with Section 4.7 of the EP&A Act 1979.

## 8.7 Ryde Local Environmental Plan 2014

Under Ryde Local Environmental Plan 2014 (RLEP 2014), the property is zoned B7 – Business Park. The objectives of the zone are as follows:

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To encourage industries involved in research and development.

The proposal is consistent with the objectives of the zone as the development provides for a range of office uses, encourages employment opportunities, and provides for land uses which provide facilities or services to meet the day to day needs of workers in the area.

The proposal seeks consent for alterations and additions to the existing garden centre and construction of an 18-storey office tower at the site including a multi-level car park and additional dining space. The proposed uses of ‘function centres’, ‘garden centres’, ‘neighbourhood shops’, ‘office premises’ and ‘restaurants or cafes’ are permissible with development consent pursuant to Clause 2.3(3). The proposed land uses as defined as follows:

**neighbourhood shop** means premises used for the purposes of selling general merchandise such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, but does not include neighbourhood supermarkets or restricted premises.

**Note –** See clause 5.4 for controls relating to the retail floor area of neighbourhood shops. Neighbourhood shops are a type of **shop**—see the definition of that term in this Dictionary.

**restaurant or cafe** means a building or place the principal purpose of which is the preparation and serving, on a retail basis, of food and drink to people for consumption on the premises, whether or not liquor, take away meals and drinks or entertainment are also provided.

**Note** – Restaurants or cafes are a type of **food and drink premises**—see the definition of that term in this Dictionary.

**office premises** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

**Note** – Office premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**commercial premises** means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

Pursuant to Schedule 1(10)(2) development for the purpose of a function centre, garden centre and landscaping materials supplies is permitted. The uses are defined as follows:

**function centre** means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

**garden centre** means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may include a restaurant or cafe and the sale of any of the following—

- (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,
- (b) pets and pet supplies,
- (c) fresh produce.

**Note—**

Garden centres are a type of **retail premises**—see the definition of that term in this Dictionary.

The following is a summary of the clauses under RLEP 2014 applicable to the development.

#### **Clause 4.4 Floor Space Ratio**

The site is subject to an FSR of 1:1 (24,680m<sup>2</sup>). The proposal results in a gross floor area of 24,669m<sup>2</sup> resulting in an FSR of 0.99:1 and complies with the development standard.

#### **Clause 5.4 Controls relating to miscellaneous permissible uses**



The proposal includes a 'neighbourhood shop' which is subject to the provisions of Clause 5.4(7) which provides the retail floor area must not exceed 200m<sup>2</sup>. The proposal includes three (3) neighbourhood shops with areas of 61.69m<sup>2</sup>, 61.70m<sup>2</sup> and 40.09m<sup>2</sup> and complies with the standard.

### **Clause 5.10 Heritage Conservation**

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

- (a) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, setting and views,*
- (c) To conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance*

The Aboriginal Heritage Information Management System (AHIMS) indicates an 'Aboriginal Place' is recorded in or near the subject site. The associated AHIMS mapping indicates that 'Aboriginal Place' is located on the subject site.

Clause 5.10(2)(d) provides that development consent is required for the disturbing or excavating of an Aboriginal place of heritage significance. Clause 5.10(8) provides the following:

**(8) Aboriginal places of heritage significance** *The consent authority must, before granting consent under this clause to the carrying out of development in an Aboriginal place of heritage significance—*

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

The DA has not been supported by an Aboriginal Heritage Impact Assessment or any other documentation to demonstrate appropriate consideration has been given to the Aboriginal place of heritage significance. There is also no evidence of any consultation with Aboriginal communities regarding the proposed development. As such, the consent authority cannot give adequate consideration to the effect of the proposed development on the heritage significance of the Aboriginal place.

The proposed development is inconsistent with the objectives (a), (b) and (d) of Clause 5.10 Heritage conservation as insufficient consideration has been given to the Aboriginal place of significance or the impact of the development from surrounding heritage items.

Development consent cannot be granted pursuant to Clause 5.10(8) of RLEP 2014.

## **Clause 6.2 Earthworks**

The objective of this clause is *to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

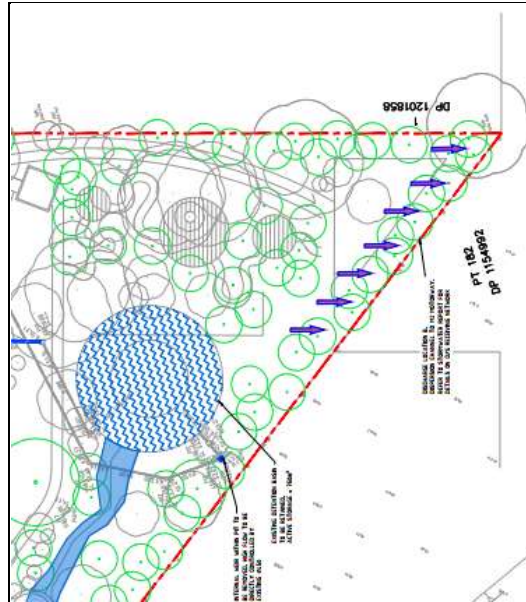
The site is located identified as including an 'Aboriginal place' of cultural or heritage significance. The proposal includes excavation and given the absence of proper consideration being given to the development's impact on the 'Aboriginal place', development consent cannot be granted pursuant to Clause 6.2(3)(f). This forms part of the recommendation for refusal.

## **Clause 6.4 Stormwater Management**

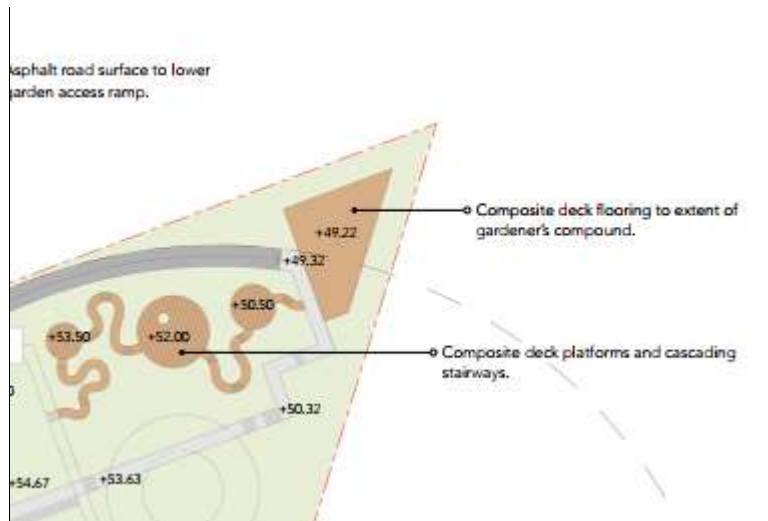
The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters. The site is adjoined to the north and east by the Lane Cove National Park. The Lane Cove National Park is located downstream of the subject site.

Pursuant to subclause (3)(c) the DA has not demonstrated the proposal has been designed to avoid significant adverse impacts of stormwater runoff on adjoining properties, native bushland and receiving waters.

The proposal relies upon a dispersal system and the stormwater management report prepared by BG&E which indicates runoff will be directed to a 35m long dispersal channel at the southernmost corner of the site. However, the submitted plans (**Figure 25**) do not detail this and there is potential conflict with the landscape plan which references composite decking and paths in this location (**Figure 26**). The proposal has been considered unacceptable by Council's Senior Development Engineer.



**Figure 25** Extract of stormwater management plan Sheet 2 of 2 prepared by BG&E showing southernmost corner of the site where the stormwater design conflicts with the proposed landscape design.



**Figure 26** Extract of landscape plan - hardscape/levels plan prepared by REALM studios showing southernmost corner of the site where the proposal conflicts with the stormwater design.

## Clause 6.6 Environmental Sustainability

The objective of this clause is, *to ensure that this development (being land in a business zone) embraces principles of quality urban design and is consistent with principles of best practice environmentally sensitive design.*

Clause 6.6(2) provides that consent must not be granted to development on land in a business or industrial zone exceeding 1,500m<sup>2</sup> in GFA unless the consent authority is satisfied that development has had regard to several prescribed environmental outcomes including:

- (a) *water demand reduction, including water efficiency, water recycling and minimisation of potable water usage,*
- (b) *energy demand reduction, including energy generation, use of renewable energy and reduced reliance on mains power,*

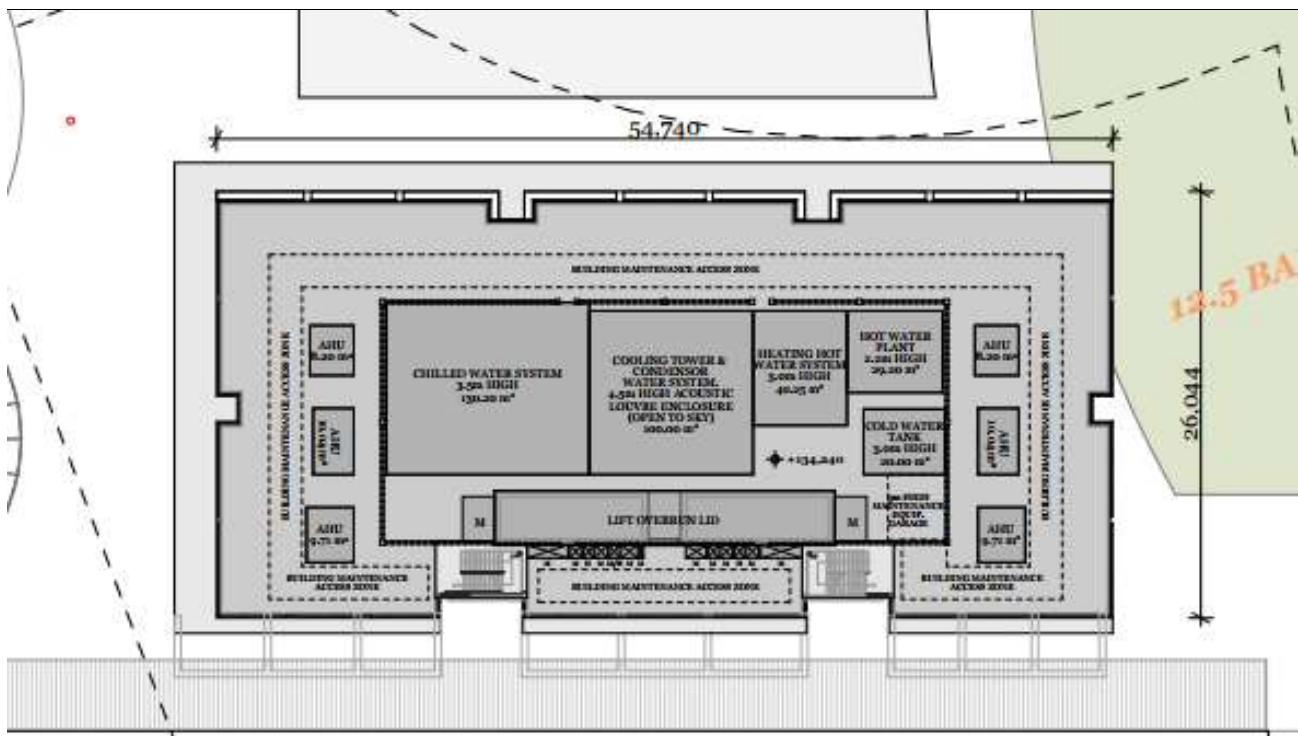
- (c) indoor environmental quality, including daylight provision, glare control, increased outside air rates, thermal comfort,*
- (d) a reduction in new materials consumption and use of sustainable materials, including recycled content in concrete, sustainable timber and PVC minimisation,*
- (e) emissions reduction, including reduced flow to sewer and light pollution,*
- (f) transport initiatives to reduce car dependence such as providing cycle facilities, car share and small vehicle parking spaces,*
- (g) land use and ecology, including reduced topsoil removal and contaminated land reclamation.*

The application has been supported by an Energy Efficiency Report prepared by ADP Consulting Engineers dated 25 February 2021 and provides a summary of the applicant's sustainable design commitments for the proposed development as follows:

- The proposed buildings will be designed in line with the NCC 2019 Section J Energy Efficiency provisions and will consider energy efficient building services and optimize façade performance
- Efficient heating, ventilation, and air conditioning (HVAC) Design this includes centralised water-cooled chiller system, efficient hot water heat pumps and provision of CO<sub>2</sub> sensors
- Energy efficient lighting
- Daylighting and shading strategies for reduced energy consumption including external glazing and shading
- Provision of solar photovoltaic panels
- A 5.5-star NABERS energy rating and 5-star NABERS water rating for the commercial tower

However, the conclusion and recommendations are based on the energy efficiency opportunities and initiatives identified in the report with the works intended to be explored following DA approval.

The submitted roof plan (**Figure 27**) references the development including a water system, heating hot water system, cooling tower, photovoltaic cells. The external elevations show external shading devices over both the car park and the ground floor of the office tower, in addition to winter gardens within the office tower. The garden centre contains external canopy areas, and solar panels are provided on the roof of the carparking building. For these reasons it is considered sufficient information has been included on the plans to satisfy the Environmental Sustainability provisions under clause 6.6 of RLEP 2014.



**Figure 27** Roof plan showing energy efficiency measures  
Source: DKO Architects

## 8.7 Ryde Development Control Plan 2014

The provisions of the Ryde Development Control Plan 2014 (RDCP 2014) have been considered in this assessment. Where strict compliance has not been achieved, in accordance with Section 4.15 (3A)(b) flexibility has been applied in those circumstances where a reasonable alternative solution achieves the objects the standard. These matters are discussed below:

### Part 7 Environment

#### *Part 7.1 Energy Smart, Water Wise*

Part 2.4 relates to new shops, industrial and commercial premises (including those contained within a mixed use development). The controls require the following:

- A total anticipated energy consumption for the base building no greater than 450 Mega Joules/annum/metre square (commercial) and 900 Mega Joules/annum/metre square (retail)
- Any hot water systems installed must consider the most efficient option available to minimise greenhouse gas emissions
- Any products installed as part of the development for energy efficient under the Australian Standards for Products and/or Minimum Energy Performance Standards (MEPS) must achieve a minimum energy rating of 4.5 stars.

- Water efficient fixtures for shower heads be at least 3 stars, water efficient 4 star dual flush toilets, 4 star taps, 3 star urinals, bathroom and kitchen taps be fitted with aerators and water closets to have a dual flush cistern.
- The installation of energy efficient lighting, motion detectors and dimmers were appropriate
- Any products installed that are regulated for water efficiency under Water Efficiency Labelling and Standards (WELS) Scheme must obtain a Minimum WELS rating of 4.5 stars.

The proposal has been supported by an Energy Efficiency Report (EER) prepared by ADP Consulting Engineers dated 25 February 2021 and a site analysis in accordance with the requirement of Clause 3.2 of Part 7.1 of RDCP 2014. The EER indicates the development is capable of achieving a 5.5-star NABERS energy rating and 5 star NABERS water rating for the office tower.

If the application was recommended for approval, conditions of consent could be recommended to ensure that water efficient fixtures and lighting are installed in accordance with the provision of the control requirements prior to the issue of a Construction Certificate.

### *Part 7.2 Waste Minimisation and Management*

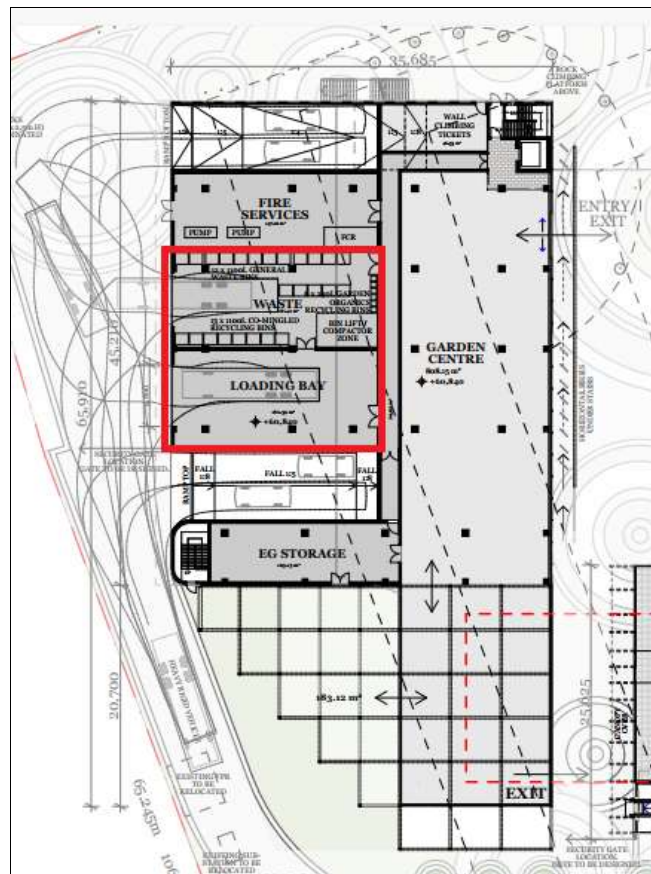
The proposal has been supported by a Site Waste Minimisation and Management Plan (SWMMP) prepared by Pitt & Sherry dated 18 February 2021 in accordance with Clause 1.7 of Part 7.2 of RDCP 2014. All development is required to provide the following in accordance with Clause 2.3:

- Provide space on site for the sorting and storage of waste in containers suitable for collection
- The size of storage areas and number of storage containers must be sufficient to handle and store the waste likely to be generated.
- The space required should be calculated in accordance with Schedule 1, 2 and 3.
- Additional space must be provided for bulk waste storage
- Storage space for green waste
- Supported by a SWMMP and location and design details of waste storage facilities on site
- Waste and recycling facilities must be appropriately located for convenient access with does not interfere with parking, landscaping, turning areas
- Access driveways and service areas for waste collection vehicles must be designed in accordance with Australian Standard AS 2890.2-2002 Parking Facilities – Part 2: Off-street commercial vehicle facilities.
- All waste facilities must comply with the Building Code of Australia (BCA) and all relevant Australian Standards (AS)
- Where commercial food preparation is carried out on the premises, the waste storage area is to be designed with a cover to exclude rainwater and a floor to be



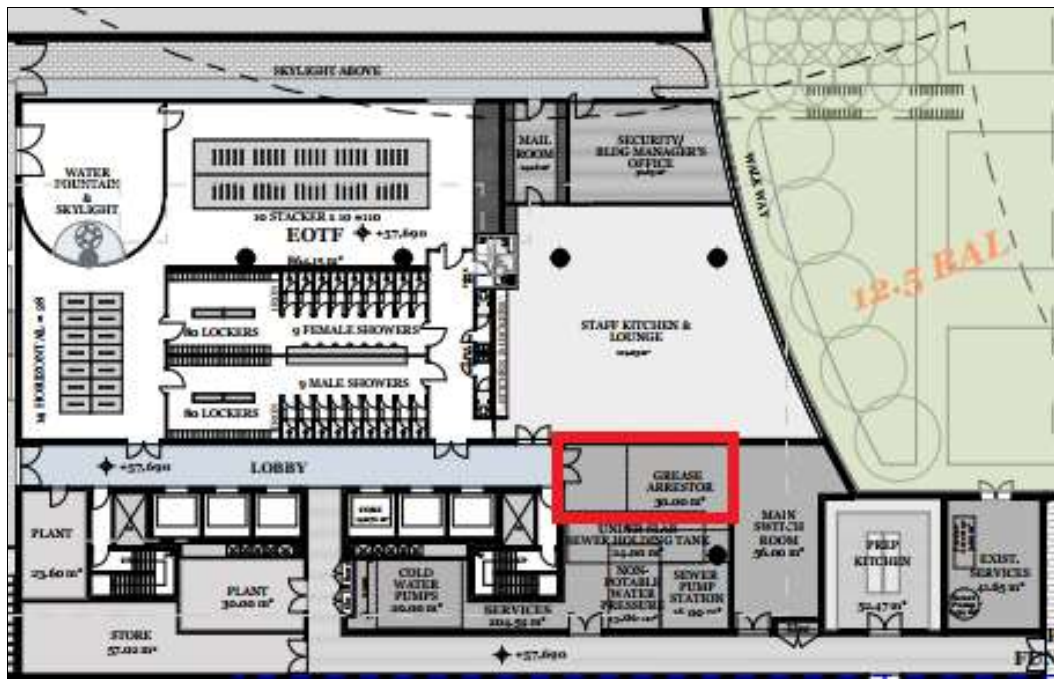
graded and drained to the sewerage system. The area is to be readily accessible for servicing and suitably screened from public view.

The SWMMP has been separated into three (3) areas associated with the nursery (with organic waste being recycled on site and reused), commercial buildings and food related waste. The SWMMP has detailed the types, quantities and disposal requirements for waste. The primary waste collection and sorting occurs within the ground level of the carparking building outlined in red within **Figure 28**. The waste room contains separate waste and recycling storage.



**Figure 28** Ground level plan of loading bay and waste room outlined in red by CPS within proposed car parking building  
Source: DKO Architects

The grease arrestor associated with the restaurant is located at the lower ground floor within a separate service room (**Figure 29**). The room is accessible from the lobby and directly from the car ark to enable accessibility for contractors.



**Figure 29** Location of grease arrestor at lower ground floor outlined in red by CPS  
Source: DKO Architects

The development proposes two (2) loading bay areas intended to accommodate two HRV design vehicles. The dock is set at the required 4.5m height in accordance with the RDCP 201 controls. The SWMMMP is considered satisfactory by Council's Senior Development Engineer.

## Part 8 Engineering

### *Part 8.1 Construction Activities*

These are matters which would ordinarily be dealt with by conditions of development consent, such as requirements for erosion and sediment controls plans, soil and waste management plans, and how the site will be managed.

### *Part 8.2 Stormwater and Floodplain Management*

This Part of RDCP 2014 relies upon the Stormwater and Floodplain Management Technical Manual and Water Sensitive Urban Design Guidelines. The proposal has been supported by a water sensitive urban design strategy plan prepared by BG&E dated February 2021. Reference should be made to the discussions under Section 8.6 of this report above in relation to Clause 6.4 Stormwater Management. The proposed dispersal system for the greater catchment ("B") in the southern most corner is not detailed / clarified on the stormwater plans. The report specifies the runoff will be directed to a 35m long dispersal channel, though the plans do not detail this. There is also conflict with the landscape plans which depict composite decking and paths in this location. This matter remains unresolved.

## Part 9: Other Provisions

### *Part 9.2 Access for People with Disabilities*

An Accessibility Compliance Statement has been prepared by Blackett Maguire + Goldsmith Pty Ltd dated 18 February 2021. The statement considers the proposal in accordance with the Building Code of Australia 2019, Amendment 1 (BCA) and The Disability (Access to Premises-Buildings) Standards 2010 (the Access to Premises Standards). The Disability (Access to Premises-Buildings) Standards 2010 (the Access to Premises Standards) requires the building to comply with the Access Code (BCA Part D3 & AS 1428.1-2009).

The Statement indicates the plans show that access for people with disabilities will be available to, and within the building, from the main points of a pedestrian entry at the allotment boundary and accessible car spaces in accordance with BCA clause D3.1. The review of the DA documentation indicates that compliance with the abovementioned provisions will be readily achievable.

The proposal can provide adequate accessibility within the development in accordance with the requirements of relevant Australian Standards, the BCA and RDCP 2014. Verification that the proposed development achieves compliance with relevant accessibility requirements would be required by conditions of consent.

### *Part 9.3 Parking Controls*

The proposed development is serviced by a total site wide parking provision of 502 off-street car parking spaces. The development is required to provide 611 car spaces. This represents a 109 shortfall in the required car parking as required by Part 9.3 of RDCP 2014. The following proposed GFA was taken from the submitted Traffic Report prepared by The Transport Planning Partnership (TTPP) dated 2 March 2021.

The car parking requirement is outlined below including the shortfall:

<b>Land use</b>	<b>RDCP 2014 Rate</b>	<b>GFA (m<sup>2</sup>)</b>	<b>RDCP 2014 parking requirement</b>	<b>Parking proposed</b>	<b>Misallocation/ shortfall</b>
Office	1 space/40m <sup>2</sup>	17,516m <sup>2</sup>	438	358	80 spaces shortfall
Garden Centre	1.5 space/100m <sup>2</sup>	1,222m <sup>2</sup>	19	87	8 excess spaces
Neighbourhood Shops (Retail)	1 space/ 25m <sup>2</sup>	1,482m <sup>2</sup>	60		
Restaurant & Café'	1 space/ 25m <sup>2</sup>	1,328m <sup>2</sup>	54		54 spaces shortfall

Function Centre	1 space/ 25m <sup>2</sup>	995m <sup>2</sup>	40	57	17 excess spaces
<b>TOTAL</b>			611	502	109

The TTPP report does not demonstrate the appropriateness of the parking allocation or how this is to be managed. The garden centre, neighbourhood shops and function centre are allocated an oversupply of parking whilst none is set aside specifically for the restaurant / café. The proposal has not been designed to segregate parking for the particular uses, and this is of importance due to the extent of shortfall in parking provided.

The development does not satisfy the parking requirement for the primary office use. The development presents a significant shortfall in 80 spaces. Whilst it is recognised some uses such as the garden centre and restaurant parking demand are likely to experience peak periods in the evening and on weekends, insufficient details have been provided to outline which spaces are to be allocated for mixed use purposes, along with the operational management of parking within the site.

The TTPP report justifies the parking shortfall for the following reasons:

- The site is in proximity to the Macquarie Park corridor and therefore those parking rates (which are lower) should be held in regard.
- The net parking demand presented by Council's RDCP 2014 does not account for potential multi-purpose trips given the multiple uses on the site. In other words, a proportion of restaurant / cafe parking demand will be offset by the commercial parking component given this function is presented as being ancillary to this primary use.
- The peak operating periods for each use do not coincide (e.g. commercial is a weekday use, whereas the garden centre is on weekends).
- There are public transport options in the vicinity of the site.
- A Green Travel Plan can be prepared incorporating onsite bus parking and car share parking.

The site is located outside the Macquarie Park Corridor and therefore the parking controls for that area do not apply. The principal objective for these parking controls is to reduce congestion within the Macquarie Park corridor, which the site is not located, and are not applicable to the proposed development. The Applicant's justification that the site is located within closer proximity to the Macquarie Park Station than other sites within the Macquarie Park Corridor fails to acknowledge the pedestrian amenity differences from within the Corridor and those having to walk along Lane Cove Road to access the site.

In Control 2.3(a) None-residential land uses, there is a specific land use for industry and light industry (other than within the Macquarie Park Corridor) which requires 1.3 – 1.5 spaces/100m<sup>2</sup> of GFA. The note beneath this control provides:

*Note: The upper end of the range should be applied to land uses that generate more traffic such as garden supplies and business parks. The parking provision and rate is to be addressed in the Statement of Environmental Effects.*

The TTPP report has not adopted the applicable rates under the RDCP 2014, rather adopting RMS rates for the Garden Centre. The proposed development is a traffic generating development and the upper end of the required parking range should be utilised in this circumstance.

## **9.0 BUILT ENVIRONMENT**

The assessment demonstrates that the proposal will have significant adverse impacts upon adjoining properties and the environment due to the general scale and nature of the development. The development is unsatisfactory in terms of environmental impacts. Most of the impacts associated with the proposed development have already been addressed in the report. The additional impacts associated with the development or those requiring further consideration are discussed below.

### Height of Building and resultant Visual Impact

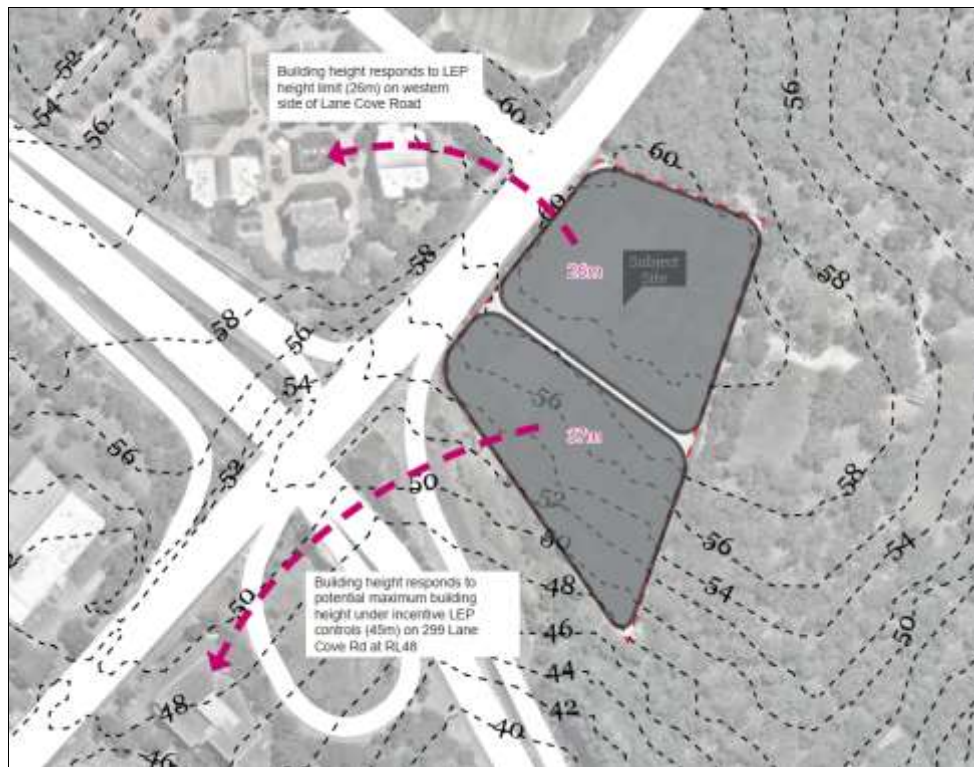
The site is not subject to a building height development standard under Clause 4.3 of RLEP 2014. It is noted however the proposed 18-storey office tower has a building height of 79.37m.

The arrangement of GFA on the site has concentrated the building mass into a single tower however. The site has an area of 2.468 hectares which provides for a FSR of 1:1 (24,680m<sup>2</sup>) and extensive development opportunities on such a large site. However, the proposed design does not maintain a suitable relationship with the surrounding urban context, and does not provide a high level of amenity for future users of the site.

The site is in a prominent position given the location on the crest of a hill and falling topography surrounding the site. The site is also prominent given its location and the juncture of major arterial roads and the Lane Cove National Park and entrance to the City of Ryde Local Government Area.

The north east of the site is located on the 60m contour line, with the south eastern corner of the site on the 48m contour (**Figure 30**).

As a result of the surrounding topography, the site is highly visible from surrounding land in each direction. The wide visual catchment of the site requires specific consideration given to the visual impact of development on the land.



**Figure 30** Site with the contours overlaid.  
Source: Council's Urban Designer with mark ups.

The visual character of the local area is a mixture that includes the natural bushland setting of the Lane Cove National Park to the north-east, east, and south-east of the site. Beyond this is low scale residential development consistency with 2 storey dwellings. These residential properties fall in a south-westerly direction down towards the Lane Cove National Park and include area within West Ryde, West Lindfield, and Killara.

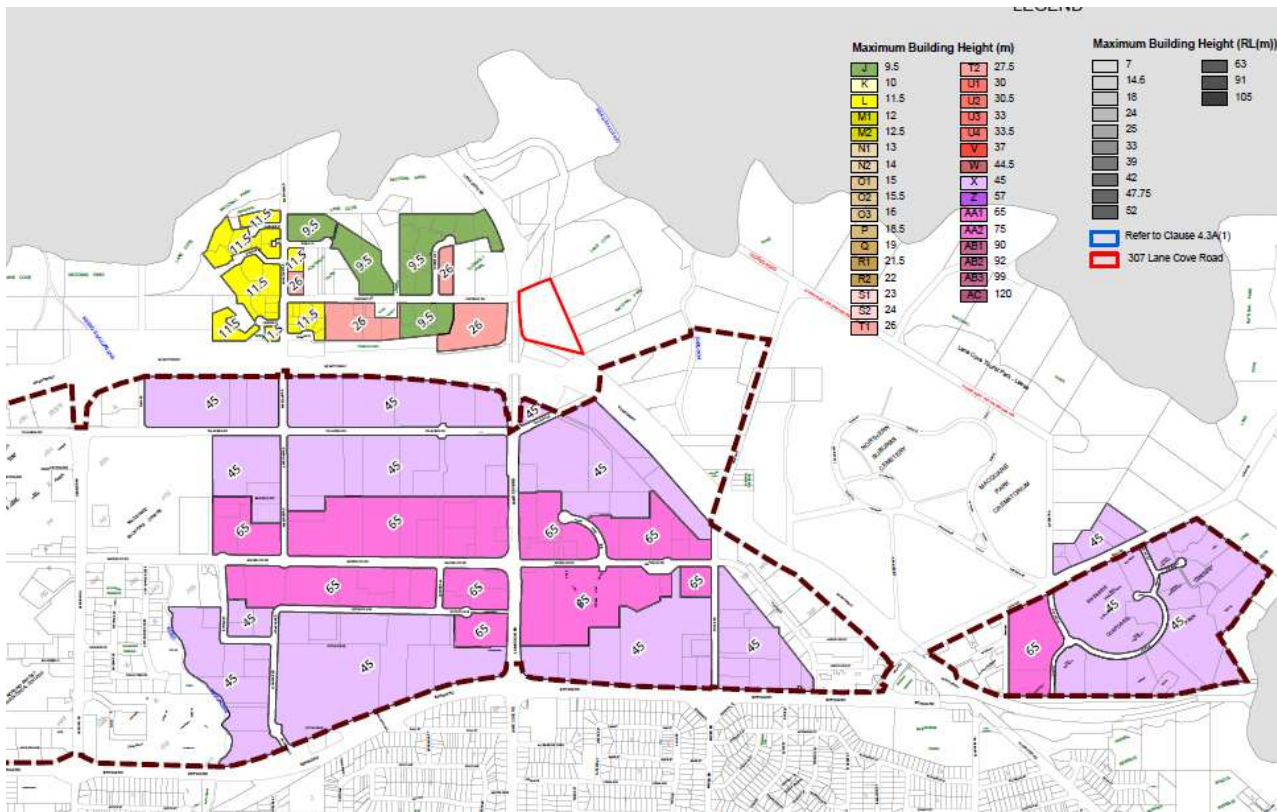
To the north-east of the site on the corner of Lane Cove Road and Fontenoy Road is Tuckwell Park. Surrounding this park is a mixture of sites zoned for low density residential and sites having a height standard up to 26 metres. These sites are not located within the Macquarie Park corridor.

The proposed 18-storey office tower will have a building height of approximately 80m.

To the southwest and southeast of the site is the Macquarie Park Corridor. Development within the Macquarie Park Corridor benefits from potential of FSR and height uplift by Clause 6.9 of RLEP 2014.

The maximum heights of buildings in relation to the site are demonstrated in **Figure 31**.





**Figure 31** Height of Buildings Map 007 of RLEP 2014. The subject site is demonstrated in red. Macquarie Park Corridor is shown in the dotted line. The heights shown in Macquarie Park are the maximum heights permitted by Clause 6.9 of RLEP 2014.

The scale of the proposed office tower is considered in the context of surrounding developments and the development potential envisaged by the RLEP 2014 controls.

Located on the opposite side of Lane Cove Road at 1 – 15 Fontenoy Road is four residential flat buildings that are 9 storeys in height (refer to Part 3.1 of this Report **Figures 5 and 6**). This development is located on the corner of Fontenoy Road and the M2. This development is visible from within the subject site (**Figure 32 and 33**). The scale of this development is 54 metres lower than the proposed office tower.



**Figure 32** Looking west from within the subject site from elevated pedestrian walkway access from existing garden centre/restaurant. Outlines undertaken by CPS.  
Source: CPS site inspection 3/11/2022.



**Figure 33** Looking north west from brick tower within the subject site.  
Source: CPS site inspection 3/11/2022

To the south west of the subject site are developments located along Lane Cove Road within the Macquarie Park Corridor. Visible from the subject site (**Figure 34**) is No.45-61 Waterloo Road in a south western direction. This building has a height of 45.3 metres and is 10 storeys.

Visible from the subject site (**Figure 35**) is No.299 Lane Cove Road, which is located on the southern side of Lane Cove Road, and to the south of M2 Motorway and 5 Talavera



Road. 299 Talavera Road has a height of 46.32 metres and are 6 storeys. This building was constructed in the early 2000's and since this time the maximum building height has been amended to 45 metres under RLEP 2022.



**Figure 34** Looking in a south-western direction from the elevated walkway within the site towards No. 45-61 Waterloo Road which has a building height of 45.3m and is 10 storeys.  
Source: CPS site inspection 3/11/2022



**Figure 35** Looking in a south eastern direction from the elevated walkway within the site towards No. 299 Lane Cove Road and No. 5 Talavera Road. 299 Talavera Road has a building height of 46.32m.  
Source: CPS site inspection 3/11/2022.

The proposal has been supported by a Visual Impact Assessment (VIA) prepared by OG Urban dated 10 August 2022 which demonstrates the visibility of the proposal, at 1km, 2km, and 4km distances from the site. The following is noted:

- The proposal will be visible from immediate surrounds at a distance of 1km from the site and from elevated locations and local streets including those within Ku-ring-gai

Local Government Area. The proposal will also be visible from the Lane Cove National Park and existing low density residential areas to the north and east. The proposal will be visible from the northern portions of the Macquarie Park Cemetery and existing commercial and high-density residential areas to the north-east, east and south-east.

The VIA has taken view analysis from Tunks Hill Picnic Area, Tuckwell Park, Lane Cove Road to the north, Lane Cove Road to the south, Macquarie Park Cemetery and St Crispens Green. The visibility from these areas would be high and represent a significant change to the current visual catchment. The impact to these areas would be high. This is of particular concern to the Tunks Hill Picnic Area within the locally significant heritage item of Lane Cove National Park, and also Tuckwell Park where the visual impact to the landscape setting will be detrimental.

The Lane Cove National Park shares a boundary with the subject site and there is presently very limited visibility of the existing built form (**Figure 36**). The visibility of the development will significantly impact the outlook in a south-eastern and south-western direction from Tunks Hill Picnic Area. The applicant has submitted a photomontage of the proposal as viewed from Tunks Hill (**Figure 37**).



**Figure 36** Site as viewed from Tunks Hill Park looking in a south-western direction. The outline circles the existing built form presently screened by vegetation. This is a two-storey structure. Outline made by CPS.

Source: CPS site inspection 3/11/2022





**Figure 37** Photomontage submitted to reflect proposed visibility from Tunks Park  
Source: DKO

A number of the submissions received have raised concerns regarding the visual impact from Tuckwell Park, located on the north-western corner of Lane Cove Road and Fontenoy Road. The proposal is shown in **Figure 38** as does represent a significant change and visual impact from Tuckwell Park.



**Figure 38** Photomontage submitted to reflect proposal's visibility from Tuckwell Park  
Source: DKO Architects

The Applicant has justified the building height based on it not being inconsistent with the scale of development within the Macquarie Park Corridor. The permitted heights for the Macquarie Park Corridor within the vicinity of the site are shown in **Figure 31**, all of which are below the proposed development's 80m building height. The proposal as viewed from Lane Cove Road looking north is shown in **Figure 39**.



**Figure 39** Photomontage of the proposal as viewed from Lane Cove Road, to the south of No. 4 Talavera Road  
Source: DKO Architects

The scale of the proposal will not be replicated within the vicinity of the site given the development standards prescribe a much lower building height under the RLEP 2014. The maximum permitted height will be 37 metres. As such, the proposed scale will transform the visual catchment and skyline to the north of the Lane Cove Road and M2 intersection.

- At 1km – 2km, the proposal would be visible from low-density residential areas in all directions, including from the Macquarie Park Corridor and Macquarie Park University. The proposal would also be visible from the Lane Cove National Park.
- Whilst at 3km, the visibility of the proposal reduces it will still be visible from some low density residential areas, open space recreation areas and the Macquarie Park Corridor.

The VIA at 2 – 3kms has considered visibility from Macquarie University Library, Westbourne Road, Killara, and Lovat Street, West Pymble.

The proposal's scale will significantly and unreasonably alter the urban context of the site and surrounds. Concentrating GFA within the office tower results in an unreasonable development with adverse impacts upon the surrounding area.

## Impacts upon Lane Cove National Park

The site is located adjacent to the Lane Cove National Park. Consideration has been given to the guidelines – Development adjacent to National Parks and Wildlife Service land dated 21 August 2020. The application was referred to the National Parks and Wildlife Service and a detailed submission was received.

The guidelines have been prepared for use by councils and other planning authorities when they assess DAs that may impact on land and water bodies managed by the National Parks and Wildlife Service (NPWS). In recognition of the land commonly being located within 'environmentally sensitive areas' under local planning instruments, the Lane Cove National Park is zoned C1 National Parks and Nature Reserves, following the recent Standard Instrument Amendment. The guidelines require councils and other consent authorities to consider the following issues, particularly their impacts on the park, its value and NPWS management of the park:

- Erosion and sediment control
- Stormwater runoff
- Wastewater
- Management implications relating to pests, weeds and edge effects
- Fire and location of asset protection zones
- Boundary encroachments and access through NPWS lands
- Visual, odour, noise, vibration, air quality and amenity impacts
- Threats to ecological connectivity and groundwater dependant ecosystems
- Cultural heritage
- Road network design and its implications for continued access to the park

In this regard, the following issues have been identified as concerns relating to the impacts upon the Lane Cove National Park:

- Inconsistency in the stormwater and landscape plan in relation to water run off particularly at the southern corner of the property where it adjoins the Lane Cove National Park
- Insufficient arboricultural impact assessment relating to the vegetation along the shared boundary with the National Park.
- Bushfire management of the site. Significant concerns have been raised by the NSW Rural Fire Service. The proposal is not in accordance with the Planning for Bushfire Guidelines and Section 4.14 of the EP&A.
- The visual impact of the development from the Lane Cove National Park, such as the Tunks Hill Park.
- Light spill impacts from the office tower and surrounding buildings at night when viewed from the Lane Cove National Park. There has been no consideration of impacts upon fauna within the Park.
- The NSW Department of Planning and Environment's State Heritage Inventory identifies Lane Cove National Park as a locally significant heritage item for its



historic, aesthetic, social and research significance, as a natural habitat for rare and threatened species and as an important recreational area.

- Rock engravings heritage item 259 – Lane cove road near Lane Cove National Park (near de Burghs Bridge) were previously identified under RLEP 2014.

### Traffic Impacts

The proposal development is a traffic generating development. Lane Cove Road is a State Road and forms one of the major north-south arterial links in the north and north-western suburbs. Fontenoy Road is a local road which intersects with Lane Cove Road. Lane Cove Road and Fontenoy Road meet at a four-way traffic signal controlled intersection. Pedestrian access is provided at the southern side of the intersection from Fontenoy Road (Figure 40).



**Figure 40** Site as viewed from intersection with Fontenoy Road existing pedestrian access  
Source: Council site inspection

The existing vehicular access to the site is proposed to be maintained. The entrance to the subject site is provided to the east of the intersection. The site presently relies upon an approximately 35m long right turn bay from Lane Cove Road into the site.

There is significant traffic congestion along Lane Cove Road during weekday peak periods. Residents from the surrounding area rely upon the local roads such as Fontenoy Road to avoid Lane Cove Road and to access the subject site.

The application as lodged relied upon a Traffic Impact Assessment (TIA) prepared by The Transport Planning Partnership (TPPP) dated 2 March 2021. The proposal is inconsistent with the generation rates established within the *Guide to Traffic Generating Developments*

and its *Technical Direction*. Concerns were raised regarding the calculations relied upon for traffic generation.

The proposed development results in an increased delay for vehicles entering and exiting the site. There would be a queue of up to 109 metres turning right into the site from Lane Cove Road. The existing right hand turn lane length cannot accommodate the resultant queues. This results in overflow to the adjoining through lane. The development therefore proposes to extend the right hand turn within Lane Cove Road by 61 metres to a length of 96 metres as shown in **Figure 41**.



**Figure 41** Right turn bay proposed extension  
Source: Figure 5.4 within TIA prepared by TTPP

Significant concerns regarding the traffic impact are held by Council and Transport for NSW (TfNSW). Part of the significant concerns raised were in relation to trip generation and how the rates were determined. Information and data relating to the SIDRA modelling were identified as concerns.

The proposal has not considered the trip generation based on the entire development, with no consideration of the trips generated by the new garden centre and the expansion to the existing garden centre which is proposed to provide a GFA of 1,222m<sup>2</sup>.

The proposal relies upon assumed peak hour trips and the assumed rates that are inconsistent with the existing traffic generation rates of the centre. The TIA indicates that 10% of the traffic generated by the proposal is expected to originate from the west via Fontenoy Road based on the existing traffic flow distributions at the site access intersection with Lane Cove Road/Fontenoy Road. Presently, 38% of the AM peak hour traffic and 16% of the PM peak hour traffic originate from Fontenoy Road. There is expected to be a 60% southbound and 30% northbound split along Lane Cove Road and vice versa in the PM peak periods.

The difference in calculations and exclusion of GFA does not demonstrate the actual trip generation which will occur as a result of the proposed development. The requirement to accurately calculate the implications for the development is a necessity, and the application has not demonstrated satisfactorily the traffic generation resulting from the proposal.

The proportion of traffic travelling to/from the site via Fontenoy Road is expected to be much higher than adopted in the TIA due to people opting to use the local road network to avoid the congestion on Lane Cove Road. This has not been satisfactorily considered or reflected in the submitted TIA.

An updated Traffic Modelling Technical Note prepared by Colston Budd Rogers & Kafes Pty Ltd dated 1 June 2022 was submitted in response to the matters raised by TfNSW. The modelling relies upon the following intersection modifications of Lane Cove Road and Fontenoy Road:

- Removal of signalised pedestrian crossing along the southern leg of the intersection with Lane Cove Road, Fontenoy Road and Eden Gardens
- Replacing the existing at-grade pedestrian crossing with a pedestrian bridge over Lane Cove Road
- Extending the right turn bay from Lane Cove Road into the Site from 30 metres to 80 metres
- Reconfiguring the Eden Gardens access to provide a shared left and through lane and a short designated right turn lane.

These measures were developed by the Applicant in order to ensure the development does not result in an adverse traffic impact. The modifications relied upon to minimise the traffic impact are outside of the application presently submitted to Council. The application results in an unacceptable traffic impact and forms part of the recommendation for refusal.

### Pedestrian Access

The proposed parking shortfall is partially justified on the proximity of the site to the Macquarie Park Station, which is located 900m from the site. The proposal would rely upon works along the western side of Lane Cove Road to facilitate pedestrian access to the site from the station. Insufficient details have been provided and the Applicant seeks to reduce the Section 7.11 contributions based on providing such works. In the written advice received from TfNSW, it is specifically stated that *all building and structures, together with any improvements integral to the future use of the site are wholly within the freehold of the property along Lane Cove Road and M2 Motorway boundaries.*

The subject site abuts a declared tollway, being the M2 Motorway, as shown in purple in **Figure 42**. The TfNSW advice states that no access is permitted across this boundary. The north-western corner of the M2 Motorway and adjacent development at 1–15 Fontenoy Road is where pedestrian access would be sought. The reliance upon pedestrian access along the western side of Lane Cove Road from the station is compromised and the proposal has not adequately dealt with the limitations to rely upon works along the road reserve.





**Figure 42** Extract of map provided in Transport for NSW correspondence dated 3 May 2021

## 10. SITE SUITABILITY

The site is zoned B7 Business Park. The proposal is for alterations and additions to the existing garden centre including construction of an 18-storey office tower. The proposal relies upon external works including the extension of the right hand turn from Lane Cove Road into the site being extended, and upgrading of the pedestrian footpaths along the western side of Lane Cove Road to facilitate access to the site.

The assessment has demonstrated the proposal is not consistent with the statutory requirements as TfNSW, Rural Fire Service and an Aboriginal Heritage Impact Permit has not been obtained.

The assessment demonstrates the proposal will result in significant adverse impacts upon adjoining properties, the streetscape and the surrounding traffic network. The proposal is not considered to be suitable for the site.

## 11. REFERRALS:

### 11.1 Internal Referral Comments

**City Works – Traffic.** Council's Traffic Engineer has reviewed the DA documents and the following comments were provided:

### **REFERENCED DOCUMENTS**

- *Eden Gardens Redevelopment Traffic Impact Assessment (TIA) report and supplementary SIDRA model file prepared by The Transport Planning Partnership (TTPP) dated 2nd March 2021;*
- *Architectural plans prepared by DKO Architecture (Vic.) Pty Ltd dated February 2021; and*
- *Updated Technical Note and SIDRA Modelling prepared by Colston Budd Rogers & Kafes (CBRK) dated 1 June 2022.*

### **1.1 Trip generation and distribution**

#### **TTPP's Traffic Study**

- *TTPP's traffic study has not considered the trips generated by the new garden centre and the expansion to the existing garden centre which is proposed to provide a total internal floor space of 1,222m<sup>2</sup>.*
- *The Guide to Traffic Generating Developments and its Technical Direction (TDT2013/04a) does not specify traffic generation rates for a function/reception centre. In this regard, the peak hour vehicle trips associated with this facility is to be based on surveys of an existing function/reception centre with similar operational characteristics to the proposed development (e.g. staff and patronage levels during peak operations, etc.), as mentioned in the pre-lodgement meeting on 23 November 2020.*
- *Section 5.2.2 of the report has assumed that 10% of the traffic generated by the proposed development is expected to originate from the west via Fontenoy Road based on the existing traffic flow distributions at the site access intersection with Lane Cove Road/Fontenoy Road.*

*Based on current inbound flows generated by the existing development during weekday peak hour periods (16 and 25 vehicle movements during the AM and PM peak hour period respectively), it is evident that 38% of the AM peak hour traffic and 16% of the PM peak hour traffic originate from Fontenoy Road. The significant traffic demands along Lane Cove Road during weekday peak periods is such that the proportion of traffic travelling to/from the site via Fontenoy Road is expected to be much higher than the trip assignment adopted in the traffic report due to people opting to use the local road network (in particular regular occupants of the site) to travel to/from the site to avoid the congestion on Lane Cove Road.*

- *It is unclear how the inbound and outbound traffic generated by the proposed development has been assigned for the various proposed land uses forming the proposed mixed use development (e.g. evenly split for the retail component, 70/30 split for the commercial office component, etc.).*

### CBRK's Technical Note & SIDRA Modelling

- *CBRK's Technical Note and SIDRA modelling has adopted a weekday peak hour trip generation of 205 AM and 230 PM vehicle movements to and from the site. This level of traffic generation is less than the development traffic volumes (being 314 AM and 262 PM vehicle trips to and from the site) adopted in TTPP's Traffic Study. Clarification on the traffic volume differences therefore needs to be justified.*

### **1.2 Traffic Impacts**

- *Pre-Covid observations of Fontenoy Road during weekday peak periods have identified queuing within this local road, which exceed the queue lengths reflected in the SIDRA output. There is an existing bus zone/bus stop along the northern side of Fontenoy Road situated approximately 60m west of its intersection with Lane Cove Road/Site access driveway. The additional traffic generated by the proposed development will exacerbate the existing traffic congestion and bus operations within Fontenoy Road. The applicant is therefore required to consider appropriate mitigation measures to minimise the traffic impact on Fontenoy Road due to the proposed development.*
- *The output from the SIDRA modelling prepared by CBRK confirms that the additional traffic generated by the proposed development will worsen the congestion on Fontenoy Road during weekday peak periods, in particular during the PM peak, whereby the average vehicle delay within the shared right and through lane is anticipated to increase from 80.4 seconds (existing) to 143.2 seconds (post-development). The applicant is therefore required to consider appropriate upgrades (e.g. lane configuration changes) on Fontenoy Road at Lane Cove Road to ease congestion within Fontenoy Road caused by the proposed development*
- *The architectural plans indicate that 150 bicycle parking spaces are to be provided the site. Whilst footpaths are generally provided along Lane Cove Road and Fontenoy Road, there is a lack of cyclist infrastructure in the immediate vicinity of the site to assist with the safety and efficiency of cyclists travelling to/from the site. The applicant is therefore required to consider appropriate improvements in the surrounding public cyclist facilities to improve cycling connectivity/links to the site, whilst also encouraging more people to travel to the site by active transport rather than private vehicle means.*

### **1.3 The layout of the site entrance**

- *The width of the internal roadway along the northern property boundary connecting the site access driveway with the basement and loading dock appears to be inadequate to support two-way traffic. A security gate is also proposed across this internal road to the immediate west of the basement and loading dock entrance. In the event that the security gate is closed, an errand vehicle would have difficulties in being able to turn around and exit the site. The architectural design is therefore required to be amended to address this issue.*

**City Works – Public Domain.** Council's Public Domain section provided the following comments:

- *Footpath: The development proposed upgrading of the pedestrian footpath on the western side of Lane Cove Road between Talavera Road and the site. However, no footpath detail has been submitted for assessment.*

- *Provide a concept plan showing the location, extent, alignment of the proposed footpath and any changes to the verge within the site frontage and in the vicinity.*
- *Pedestrian safety fence on footpath: provide a plan showing location and extent on the proposed pedestrian safety fence on the footpath on the western side of the M2 overpass.*
- *Turning bay: the development proposed extension of the turning bay providing access to the site for traffic travelling north bound on Lane Cove Road. Provide detail on the location, extent and alignment of the proposed turning bay.*
- *Telecommunication and utility services: In the case that any telecommunication or/and utility services are required to be modified or relocated, provide the followings:*
  - *A plan showing the existing and proposed telecommunication and utility services that will require to be modified or relocated*
  - *Section views to show the depth of the proposed telecommunication and utility services to the surface levels*
- *Stormwater drainage: Clarify and show on the plan the stormwater connection to Council's stormwater drainage system.*

**Senior Development Engineer:** Council's Development Engineer provided the following comments:

#### *Stormwater Management*

*The site is noted to have a moderate fall commencing from the north western corner of the lot and cascading to the southernmost tip of the property which adjoins the M2 motorway and Lane Cove National Park.*

*In general, the downstream area is mostly virgin bushland and so any errant runoff from the lot does not present any significant concern.*

*A review of the submitted stormwater report and proposed stormwater management system notes the following key points:*

- *The system has proposed a number of WSUD measures which are to be implemented in the landscaping features out the garden area in the southern portion of the site. The applicant has submitted music modelling of these measures demonstrating compliance with councils DCP controls for water quality standards. Also noted is that the design incorporates extensive level*



*of rainwater storage which will assist in attenuating any runoff to the National Park.*

- The proposed plans generally maintain the existing stormwater regime which disperses to the point of discharge downstream of the detention basin in the southern corner site.*
- A DRAINS model has been provided and yet to be reviewed (awaiting on software version from IT). The design principle in the report is not clearly expanded accept the system has achieved a lower site discharge than the current configuration, which sought to achieve runoff rates no greater than greenfield conditions (ie grassland). Subject to confirmation of the DRAINS analysis with the presented results, this component does not warrant further concern.*
- Notwithstanding the above, the proposed dispersal system for the greater catchment ("B") in the southern most corner is not detailed / clarified on the stormwater plans. The report specifies the runoff will be directed to a 35m long dispersal channel though the plans do not detail this. There is also potential conflict with the landscape plans which depict composite decking and paths in this location. This matter must therefore be clarified prior to consent.*

#### *Vehicle Access and Parking*

*With respect to the proposed vehicle access, the following matters are noted:*

- The entry configuration has remained generally the same as existing though the access leading south has been restricted by a boom gate. There is concern that such a system would warrant installation of a median and pass terminal for access (not shown) and any vehicles queuing to enter would cause congestion at the entry and potentially impose on traffic in Lane Cove Road. Details of the system and implementation of an adequate queuing area are required.*
- Further to the above, there would appear to be security gate across the ramp on the north side. This matter needs to be clarified.*
- The plans and Traffic report are unclear in terms of parking allocation. It is noted that the parking levels above the garden centre accommodate 222 commercial spaces yet the applicant nominates 358 commercial parking spaces to be allocated. This would require 133 spaces to be allocated in the lower basement level however there is no clear segregation of parking on this level. Details as to how this is to be managed are to be provided.*
- The northern access to the lower ground parking level requires drivers to undertake a hook turn to enter. With entering drivers likely to have a propensity to cut the corner, the location would warrant some clear delineation to minimise vehicle swept paths which could be addressed by condition.*

- *The access to the upper commercial levels passes the entry to the two loading bay areas and manoeuvring area. This is potentially unsafe arrangement as service vehicles would be undertaking reverse manoeuvring in these locations. The applicant is to clarify the degree of servicing and hours in which these manoeuvres occur. Ideally it needs to be demonstrated the servicing periods are outside peak periods for which this parking area is accessed.*

*The applicant has provided a parking demand analysis partly based on the Council DCP control rates and RMS data.*

*The following parking requirements considered appropriate and the quantity proposed are summarised as follows:*

Land Use	Parking Requirement			Parking Proposed
	Ryde DCP Rate	Size (m <sup>2</sup> GFA)	DCP Parking Requirement	
Commercial (Office)	1 space / 40m <sup>2</sup>	17,516	438	358
Garden Centre	1.5 space / 100m <sup>2</sup>	1,222	19	87
Neighbourhood Shops (Retail)	1 space / 25m <sup>2</sup>	1,482	60	
Restaurant & Café	1 space / 25m <sup>2</sup>	1,328	54	
Function Centre	1 space / 25m <sup>2</sup>	995	40	57
<b>Total</b>			611	502

*NOTE: GFA figures above were taken from Traffic Report.*

*The development has a net shortage of 109 parking spaces and by the proposed allocation, presents the following misallocation;*

- *80 spaces short for commercial*
- *8 excess spaces for the Garden Centre/ Neighbourhood shops*
- *57 spaces short for restaurant / café.*
- *17 excess spaces for the Function Centre*

*The Traffic report has presented a case for the proposed parking configuration, broadly based upon;*

- *The site is in proximity to the Macquarie Park corridor and therefore the parking rates should be held in regard.*

- *The net parking demand presented by Council's DCP does not account for potential multi-purpose trips given the multiple uses on the site. In other words, a proportion of restaurant / cafe parking demand will be offset by the commercial parking component given this function is presented as being ancillary to this primary use.*
- *The peak operating periods for each use do not coincide (eg commercial is a weekday whereas garden centre is weekend).*
- *There are public transport options in the vicinity of the site.*
- *The proposal is prepared to implement a Green Travel Plan incorporating onsite bus parking and car share parking.*

*In consideration of this the following matters are to be noted:*

- *Council's Planning staff have confirmed the site is located outside the Macquarie Park Corridor and therefore the parking controls for that area do not apply. As the principal objective for these parking controls is to reduce congestion in the Macquarie Park corridor which the site is located outside of, they are not considered to be applicable.*
- *The applicant has adopted an RMS rate for the Garden Centre however there is an applicable rate under the DCP for "Industry and light Industry" (1 to 1.5 spaces per 100m<sup>2</sup>) which stipulates in a note under the control "The upper end of the range should be applied to land uses that generate more traffic such as garden supplies..."*
- *The submitted report does not fully clarify the appropriateness of the parking allocation or how this is to be managed. Noting the figures in the table above, the garden centre, neighbourhood shops and function centre are allocated an oversupply of parking whilst none is set aside for restaurant / café. There are also very little traffic control points internally to segregate parking for the particular uses and further detail should be provided on how this is to be managed.*
- *Some consideration could be given to multipurpose trips however this would warrant that the parking demand of the primary use (ie commercial) be satisfied. It is foreseeable that the garden centre and restaurant parking demand is likely to experience peak periods in the evening and on weekends. Accordingly, the parking allocation should satisfy the commercial component and allow a portion of spaces allocated for mixed use (part commercial, part restaurant / garden centre)*

### Waste and Service Requirements

*The development proposes two loading bay areas intended to accommodate two HRV design vehicles. This is considered adequate for the development. It is noted that there is no other opportunity for this to be taken from the public domain and therefore little concern is raised in this regard.*

### Recommendation

*Assessment of the engineering components of the proposed development has revealed the following matters need to be addressed:*

#### Stormwater Management

- *The proposed dispersal system for the greater catchment ("B") in the southern most corner is not detailed / clarified on the stormwater plans. The report specifies the runoff will be directed to a 35m long dispersal channel though the plans do not detail this. There is also potential conflict with the landscape plans which depict composite decking and paths in this location. This matter must therefore be clarified prior to consent.*

#### Vehicle Access and Parking

- *The development is considered to provide an inadequate level of parking to accommodate the primary function of the site being for commercial use. It is to be noted that the parking controls for development in the Macquarie Park Corridor do not apply to the site. The objectives for such controls seek to minimise traffic congestion in the Macquarie Park Corridor which the site is not located in.*
- *The plans and Traffic report does not clarify the appropriateness of parking allocation and how this will be managed. For example, the parking levels above the garden centre accommodate 222 commercial spaces yet the applicant nominates 358 commercial parking spaces to be allocated. This would require 133 spaces to be allocated from the lower basement level however there is no clear segregation of parking or traffic control points on this level. The Traffic report presents a parking accumulation assessment which is depicted in a simplified coloured graph however the actual data would be warranted for review and clarification. Details are to be provided on this is to be managed and further clarity to be provided on the parking allocation.*
- *The entry configuration has remained generally the same as existing though the access leading south has been restricted by a boom gate. There would also appear to be a security gate across the ramp to the lower level on the north side of the garden centre. There is concern that such a system would warrant installation of a median and pass terminal for access (not shown) and any vehicles queuing to enter would cause congestion at the entry. Any congestion is likely to have traffic congestion issues which could impact Lane Cove Road. Details of the system and implementation of an adequate queuing area are required.*

- *The access to the upper commercial levels passes the entry to the two loading bay areas and manoeuvring area. This is potentially unsafe arrangement as service vehicles would be undertaking reverse manoeuvring in these locations. The applicant is to clarify the degree of servicing and hours in which these manoeuvres occur. Ideally it needs to be demonstrated the servicing periods are outside peak periods for which this parking area is accessed.*

The applicant submitted further information in respect of the stormwater design. The following comments were received from the Senior Development Engineer:

*The updated SW Report had an amendment addressing the NPWS concerns of runoff potentially being dispersed over the NE boundary. Additional pits were added along this boundary frontage (which I have no objection to) but this was not raised as an issue in the Dev Engineering review and they have not addressed anything in relation to the dispersal system in the south eastern corner.*

**Environmental Health:** Council's Environmental Health Officer provided the following comments:

***Contamination:***

*The proposal does not introduce any use that is more sensitive than for which it is currently used. The primary site investigation identified common contaminants of concern based on the previous and current uses and fill that might be present on the site.*

*It concludes that sampling can be carried out and then if necessary be remediated and validated to be made suitable for the proposed use. The sampling and validation can be done prior to CC in this instance.*

***Waste:***

*Operationally, waste management has to be basically broken into 3 areas. Nursery, commercial and food related. The waste management plan has detailed the types, quantities and disposal requirements as required by the DCP. Organic waste from nursery itself will be recycled on site for continued nursery use.*

*Separate waste and recycling storage has been provided adjacent to the dedicated waste loading dock. The dock is set at the required 4.5m height. Design and construction details in the waste management plan are more detailed and specific to the site than our own general requirements. As such the plan should be referred to in the consent conditions.*

*Grease arrestor, located on the lower ground floor within its own service room, can be serviced by specific contractors in this location, however fixed pump out lines maybe required by Sydney Water to facilitate easy servicing. This requirement can be included in the consent conditions.*

**Food outlets:**

*Includes a function room on the lower ground floor connecting with the outdoor garden spaces and has an associated prep kitchen. Ground floor function areas also have an associated prep kitchen. New restaurant is located on the ground floor level on the eastern side of the office building. Reconstructed café will be put in similar place to existing and will be adjacent to new wintergarden. Conditions for compliance with Act and Code can be included in the consent.*

**Noise:**

*It is not expected that there would be much change in the nature of the noise emanating from the proposal since the use is essentially the same. The office building may introduce additional plant noise. It is a relatively isolated site and separated from the closest residential apartments in Fontenoy Road by Lane Cove Road. Distance is approx. 90m. It is also adjacent to the M2 motorway. These roads will affect the background noise levels.*

*Function activities are already carried on at this location. The reconstructed function area is in the same location on the site. The new restaurant is located such that the office building is between it and the Fontenoy Road Apartments and should effectively block any noise.*

*There will be additional noise from the plant that will service the office building but given the distance to the Fontenoy Road residences compliance with standard noise control requirements should not cause any issue.*

*Noise from the operation of premises has not been raised as a current concern in submissions received.*

*The acoustic report details the noise readings taken and found, given Lane Cove Road and the M2 motorway are adjacent to the site, the high traffic project amenity criteria can be used.*

*If there was to be any noise concerns it likely would be around function noise at night. Since this is a licenced premises the requirements of NSW Liquor & Gaming will be a constraining requirement. The report considers this using a relatively high overall source level of 95db(A) during the night time operating period (to 11pm) and the compliance levels, once calculated for distance to the nearest residences, are achieved.*

*It would be prudent to include compliance with NSW Liquor and Gaming requirements in the consent conditions.*

*Internal noise levels have been set though detailed construction requirements not yet determined.*

## **CONCLUSION**

*The proposal satisfies the requirements of Council's controls and can be supported, subject to standard and/or special conditions of consent.*

**Consultant Landscape Architect and Arborist:** Council's Consultant Landscape Architect and Arborist provided the following comments:

*In order to ensure a positive outcome for the proposed development, it is recommended that the following content be included in a letter to the applicant requesting additional information:*

**Impact to Existing Trees.** *The proposed level of impact to Tree 162 (Eucalyptus racemosa) and Trees 183 & 184 (Angophora costata) is not supported. These trees are locally endemic, are of an established size and are a priority for retention. Architectural, Landscape and Stormwater design changes are to be undertaken in consultation with a suitably qualified AQF Level 5 Arborist to reduce the level of impact to these trees to a sustainable level.*

**Arboricultural Impact Assessment.** *The Arboricultural Impact Assessment (AIA) prepared by Birds Tree Consultancy, Revision B dated 23 February 2021 cannot be relied upon due to several anomalies and missing pieces of information. Specifically, this includes the following:*

- 1. No representation of stem diameters above the root buttress (DAB) and subsequent calculation of Structural Root Zones (SRZ) as required by the City of Ryde Tree Management Technical Manual and AS4970-2009 – Protection of trees on development sites.*
- 2. Illegible Tree Location Plan with tree locations unable to be clearly ascertained. This includes Trees 36-59, 82-98, 115-141 & 173-176.*
- 3. Tree 158 (Corymbia gummifera\*) documented as being in good health and condition and nominated for retention. This tree was observed on-site to be dead.*



4. *Misrepresentation of the level of impact to a number of trees across the site, including Trees 69, 104, 105, 107, 113, 114, 137, 162, 164, 162, 163, 169, 171, 172 173, 174, 175, 194, 195 & 196.*
5. *No commentary regarding the suitability of the proposed decking structure within close proximity to Trees 155, 156, 157, 158, 159, 160, 161, 167, 168, 169, 170, 171 & 172.*
6. *A number of instances of species misidentification, including Trees 22, 30, 70, 104, 178, 108, 109, 110, 111, 137, 138, 139, 140, 158, 165, 166, 180, 181, 182, 185, 186, 187 & 190.*
7. *Omission of number of protected trees which are likely to be impacted by the proposed works, including:*
  - a. *Two (2) trees to the south and west of Tree 69.*
  - b. *Four (4) trees to the north and west of Trees 146-149.*
  - c. *Ten (10) trees within and closely adjacent to the proposed 'Scribbly Gum Wellness Forest' within the south-eastern corner of the site.*
  - d. *Multiple trees within the Lane Cove National park situated along the northern boundary of the subject site (see comment below).*
8. *No assessment of the level of impact to trees located within Lane Cove National park which are situated along the northern boundary of the subject site. Due to their close proximity to the boundary, a number of these trees are likely to be impacted by proposed kerbs, gutters, internal road widening/reconfiguration works and fire water tanks within their Tree Protection Zones (TPZs). Despite this, these impacts cannot be quantified or assessed for suitability given their lack of inclusion in the report.*

*Accordingly, the AIA is to be updated to resolve each of these issues and submitted to Council for further assessment. The author of the report will note that accurate incursions into Tree Protection Zones (TPZs) and Structural Root Zones (SRZs) must be provided as an exact percentage.*

**Landscape Plans.** *The landscape documentation prepared by Realm Studios, Revision B, dated 12 February 2021 do not provide a sufficient level of detail to enable a full assessment to be carried out. The following issues must be addressed and revised Landscape Plans submitted to Council for assessment:*

1. *The design of the 'Restaurant Rooftop' and 'Active & Wellness Rooftop' has not been sufficiently detailed to enable a clear understanding the proposal. Further detailed design resolution and information of these spaces must be provided. The includes design of all shade structures, seating, play and fitness equipment, walls, fences, balustrades, surface finishes, materiality, podium planters, planting set downs and green walls. In addition, consistency*

*between the architectural and landscape plans must be achieved with regards to layouts and access.*

- 2. The architectural renders contained within the Urban Design Report show the commercial tower as having prominent 'wintergardens' on multiple levels, however no details of their design has demonstrated in the landscape package. Further details and design resolution is necessary to assess the proposal.*
- 3. The under-croft area to the commercial tower and lobby is considered to have a poor level of amenity and useability which has not been appropriately activated. The extensive areas of open hardstand require further refinement to ensure a design that is compatible with the type and scale of the development and provides functional spaces that relate to the intended use.*
- 4. Information pertaining to levels, grading and accessibility across the site is insufficient and does not allow assessment of the workability of the open space areas. Given existing gradient and multiple level changes across the site, further resolution of all retaining walls, stairs, ramps and batters must be provided including additional spot levels, top of wall heights, ramp gradients and depths of any podium planters.*
- 5. Given the scale of the development, a full planting plan must be provided to demonstrate the suitability of species selection, location and layout. Consideration should be given to the provision of locally native species, in particular canopy trees, across the site to ensure a sympathetic planting palette given the sites context adjoining Lane Cove National Park.*
- 6. Tree planting to the Lane Cove Road frontage and Lane Cove National Park boundary should be enhanced to provide more substantial buffers and ensure planting is commensurate with the scale of the development. This includes the provision of large, locally endemic canopy trees capable of achieving the above.*
- 7. The tree retention and removal plan are to be amended to achieve consistency with the recommendations of the to-be-amended Arboricultural Impact Assessment.*

The applicant submitted further correspondence in relation to the landscaping concerns raised. The following comment was provided by the Consultant Landscape Architect and Arborist:

*Upon review of the amended plans and documentation, it is noted that no amended AIA or Landscape Plans have been provided. The only information received which has any bearing on Landscape and Arboricultural matters is a letter prepared by Birds Tree Consultancy dated 26 October 2021 which attempts to justify the unsupported level of impact to **Tree 162** (*Eucalyptus racemosa*) and **Trees 183 & 184** (*Angophora costata*). In this regard, the letter incorrectly asserts that **Tree 162** will be unaffected by the proposal when it is in-fact within the footprint of a proposed*

*garden vehicle access ramp. In relation to **Trees 183 & 184**, the letter simply states that these trees are within the footprint of the proposed ground level carpark and appears to ignore the request for design changes to facilitate their retention. It is important to note that design changes to enable retention of these trees would be of a minor nature only.*

*Taking this into account and given the limited information provided to address other concerns, all issues previously raised by CPS remain outstanding.*

**Contribution Officer:** Councils' Contribution Officer reviewed the proposed development and provided the following comments:

*The request to offset s7.11 developer contributions for works-in-kind in relation to footpath upgrades and traffic safety pedestrian fences are not acceptable, as they are not items contemplated by the s7.11 Developer Contributions Plan and therefore do not constitute an acceptable offset.*

*Further the proposed extension of the turning bay to provide access to the site for north bound traffic on Land Cove Road is not an appropriate offset for the s7.11 developer contributions either, as it is not contemplated by the s7.11 Plan.*

**Heritage Advisor:** The application was referred to Council's Heritage Adviser who provided the following comments:

**Ryde LEP – Clause 5.10 (Heritage Conservation)**

*It is noted that that Clause 5.10 (Heritage Conservation) provides for both specific and generally heritage conservation consideration of non-Aboriginal heritage items and conservation areas, in particular, and as follows:*

*Clause 5.10 (5) (Heritage assessment),*

*The consent authority may, before granting consent to any development—*

- (a) on land on which a heritage item is located, or*
- (b) on land that is within a heritage conservation area, or*
- (c) on land that is within the vicinity of land referred to in paragraph (a) or (b).*

*require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.*

*Regarding Aboriginal heritage,*

*Clause 5.10 (8) **Aboriginal places of heritage significance,***

*The consent authority must, before granting consent under this clause to the carrying out of development in an **Aboriginal place** of heritage significance—*

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*
- (b) notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

### **Assessment of heritage impact**

#### **(a) The Site - Statement of Cultural Significance – LEP 2014**

*The site is not a heritage item, or part of a heritage conservation area, nor an archaeological site listed in Schedule 5 of Ryde LEP 2014.*

*Other heritage registers (Government and non-government) were also consulted and showed that the site was not listed: NSW State Heritage Register, the National Heritage List, the Commonwealth Heritage List, the National Trust Register (NSW) or the former Register of National Estate.*

*The supporting work of the HIS is noted, which provides an evaluation of the heritage value of the site (indicates of local historical value) and comments on heritage and other impacts of the proposal e.g neutral impact on heritage, improve amenity and useability (p.33). The heritage evaluation work of the HIS is noted and should only be given minimal weight in the development assessment process for the proposal for the following reasons:*

- 1) The site is not a heritage item nor in the vicinity of a heritage item,*
- 2) No recommendation to progress the assessment of the local heritage value of the site, to progress heritage significance evaluation (possible heritage item);*
- 3) The HIS comments about other aspects of the proposal are not relevant and should be addressed via the other technical reports and the referrals comments of Council's technical staff and the expertise of Council's development officers e.g. landscape, trees, urban design, visual setting.*
- 4) Given that it has been established since the DA was lodged that the Lane Cove National Park is not a heritage item in Ryde 2014, it is unlikely that I (in HA position) would require a HIS for a similar development application (i.e. oversight in mapping of a heritage item), as commentary in a SEE could address the matter.*

#### **(b) Vicinity of the Site - Statement of Cultural Significance - LEP 2014**

*The site is not in the vicinity of a heritage item, a heritage conservation area, nor an archaeological site in Schedule 5 of Ryde LEP 2014. It is noted that the Heritage*

*Map associated with Schedule 5 shows Lane Cove National Park as a heritage Item (60), but it is not shown in Schedule 5. It is further that also noted:*

- *Schedule 5 prevails over a heritage map by definition, and this should be referred to in the development assessment;*
- *Council is in the process of addressing the planning provisions oversight in Ryde LEP 2014, via the current House Keeping Planning Proposal, which will remove the mapping of Lane Cove National Park as a heritage item, and this should be referred to in the development assessment;*
- *Planning legislation (available to local government) does not provide the ability for local environmental plans to make national parks' local heritage items. The heritage significance of a National Parks is provided for in the NPW Act and the Heritage Act.*

*Other heritage registers (Government and non-government) were also consulted and showed that the site was not listed: NSW State Heritage Register, the National Heritage List, the Commonwealth Heritage List, the National Trust Register (NSW) or the former Register of National Estate.*

*Regarding the Section 170 (Heritage and Conservation Register) of the Heritage Act, a government instrumentality (agency) must have a heritage and conservation register. The National Parks and Wildlife Services' Historic Heritage Information Management System was consulted and indicates Lane Cove National Park, nor any part of the park, is on its Section 170 Register.*

*Of interest, the Tunk Hills Day Use Area - closest part of Lane Cove National Park to the site – has two items of potential significance (Tunks Hill Day Use Area and Tunks Farm Barn), BUT they have not been assessed, and therefore are not on the Section 170 Register. The NPWS Section 170 Register was consulted for completeness of heritage listing investigation and to demonstrate that the State Government, does not consider the park, or part thereof, to be on heritage significance and management under its State legislation (NPWS Act, Heritage Act).*

**(c) The Site – Aboriginal heritage**

*It is unfortunate that Aboriginal heritage was not considered and identified earlier in the DA process.*

*It is noted that the proposal's SEE and HIS has only considered non—Aboriginal cultural significance. I'm of the view that the view that the SEE should have addressed Aboriginal heritage as a matter of process in preparing the statement, and while the HIS's is focus is on non-Aboriginal heritage, the potential for Aboriginal Heritage on site should have been flagged in discussion (having highlighted the traditional owners of the lands, Wallumedegal or Wallumattagal People, Dharug language group).*

*The principal legislations that provide for the protection and management of Aboriginal heritage are:*

- *National Parks and Wildlife Act (lead legislation),*

- *Heritage Act, and*
- *Environmental Planning and Assessment Act (caters for Aboriginal heritage issues within new development projects).*

*Works and activities that are likely to have an impact (harm) on Aboriginal heritage may need approval or an exemption or exception to needing an approval under the NPWS Act .i.e. Aboriginal heritage impact permit (AHIP), and further assessment is required to ensure the appropriate permit is obtained or observed.*

*See Applying for an Aboriginal Heritage Impact Permit: Guide for applicants (former OEH) and [Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW](#).*

*An Aboriginal Heritage Information Management System (AHIMS) website search has been undertaken for 307 Lane Cove Road, Macquarie Park with a buffer of 50 metres and reveals within the search area (28.10.2022 Client Services ID: 727711):*

- ***Aboriginal sites are recorded in or near the above location.***
- ***Aboriginal places have been declared in or near the above location. \****

*The applicant needs to comply with AHIP requirements, which assess if harm will result from works or activities. Harm is defined to mean destroying, defacing, damaging or moving an object from the land.*  
<https://www.environment.nsw.gov.au/topics/heritage/apply-for-heritage-approvals-and-permits/aboriginal-objects-and-places>

*Comments made are:*

- 1) The nature of the Aboriginal sites or places is unknown and further investigation by the applicant is required to address AHIP requirements and the development assessment process,*
- 2) It is unknown if the Proposal would cause harm to the Aboriginal sites or places on site or nearby and further investigation by the applicant is required to address AHIP requirements and the development assessment process,*
- 3) It is unknown if a AHP and other matters were addressed when the current use was approved and constructed. It is possible that the Aboriginal heritage is disturbed or concealed, but this needs to be addressed in the Proposal and AHIP.*
- 4) The Proposal should have identified the Aboriginal heritage of the site, early in the development conceptualisation, DA process and SEE as a matter of planning matters investigation. The AHIMS website, NWS Heritage website and the NPWS website provide relevant information.*

### ***Recommendation***

*Having considered the Proposal, the recommendations are:*

1. **Non-Aboriginal heritage.** *That the Proposal is not considered for non-Aboriginal heritage as the site is not a heritage item nor in the vicinity of a heritage item or conservation area listed in Schedule 5 of Ryde LEP 2014.*
2. **Aboriginal heritage.** *That the applicant be advised of the Aboriginal heritage on the site, requested to address the AHIP process with NSW Heritage and National Parks and Wildlife Service as a matter of urgency, as Aboriginal Heritage was not addressed in the development application.*

## 11.2 Urban Design Review Panel

The application was considered by the Urban Design Review Panel (UDRP) on 29 April 2021. Although not a residential flat building, the Panel's comments were structured against the relatively universal design principles outlined in State Environment Planning Policy No.65 - Design Quality of Residential Apartment Development.

### 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.*

UDRP Comment: *This is the third time the UDRP has reviewed a proposal for the Eden Gardens site. The site is located at the corner of Lane Cove Road and the on-ramp for the M2. The site is relatively isolated due to this adjacent road infrastructure. To the north east and east is Lane Cove National Park. To the south west, on the opposite side of Lane Cove Road, is an older residential apartment development.*

*The site forms the developed edge to part of the green spine of bushland that separates the Macquarie Park urban area from the neighbourhood of West Pymble.*

*The existing site entry is a considerable walking distance, some 900m, from the main commercial centre at Macquarie Park Station. Although a portion of the site lies within an 800m catchment of the rail station, the actual walking distance is greater due to the barrier created by the width of the M2, the reduced level of activity of uses on the southern side of the M2 and the hostile pedestrian environment created by the busy freeway and junction conditions.*



*The primary development standards for the site provide a B7 zoning, no height control and an FSR of 1:1. On this basis the proposed uses are permissible. The proposal appears to comply with the development standards.*

*The proposal seeks to retain a portion of the existing garden centre and function uses and to introduce a new 18-storey office building, additional basement parking and a range of supporting retail and entertainment uses. The proposed tower is located toward the centre of the site, behind retained buildings associated with the garden centre and beyond the bushfire zone associated with the national park.*

*The UDRP appreciates that the existing garden centre use is becoming less viable and for this reason the applicant seeks to investigate other complementary uses. However, the Panel restates its earlier concerns regarding the intensification of commercial uses and access issues arising from the proposal. The site is generally not contiguous with the Macquarie Park corridor and is situated at its periphery.*

*The UDRP remains concerned for the relatively low pedestrian accessibility and amenity available to people arriving at the site by Metro. Visual and physical barriers between the site and the core area are likely to act as a disincentive to pedestrian access. Consequently, the site's location may encourage higher rates of private vehicle usage.*

*The proposal should be further refined to make the pedestrian arrival experience safer and more intuitive than is currently evident.*

*The existing bushland corridor creates the 'gateway' to Macquarie Park. The UDRP is concerned to ensure that any commercial tower form on this site achieves a high level of design quality given its prominence as an isolated element, visible in the round, and distinct and separated from the built form elsewhere in the Macquarie Park development corridor.*

*These two key comments are elaborated elsewhere in this report.*

## **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.*

UDRP Comment: *The UDRP notes the site is not governed by a maximum building height control. The applicant has provided more design detail to support the proposal for an 18 storey, approximately 1,000sqm floor plate, tower on the site.*

*Design material describing the proposed architectural expression and character has been prepared. The UDRP is generally satisfied that the proposal demonstrates a strong architectural identity, with depth and substance introduced into the facade elements.*

*The applicant is encouraged to submit further design details to commit to an acceptable level of building performance and facade quality - refer to Sustainability and Aesthetics below.*

*The UDRP generally supports the retention of the existing garden centre and function centre and their integration into the anticipated 'sense of place' for the proposed new uses.*

*However, in two regards, the UDRP would support a greater intervention into the existing building - specifically to improve the pedestrian arrival experience and the ability for the existing building to animate and activate the proposed central courtyard.*

*The UDRP remains concerned the proposed commercial use has a relatively tenuous sense of address and compromised access for pedestrians. Therefore, the UDRP encourages further 'opening up' of the throat that provides the primary pedestrian access to the commercial building lobby.*

*The UDRP also encourages the reconfiguration of the existing garden centre to relocate the toilets away from their current location. This would improve the visibility through the existing building towards the central courtyard space, contribute to the 'opening up' and also make this frontage available for uses that might bring greater animation and activation of the central courtyard.*

## **Density**

*Good design achieves a high level of amenity, 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 sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.*

UDRP Comment: *The UDRP notes the proposal appears to conform with the FSR control applicable to the site. Subject to amendments that serve to improve site access for pedestrians, the UDRP supports the proposed density.*

## **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 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.*

UDRP Comment: *Specific sustainability measures where not discussed during the meeting. The UDRP notes that the applicant is committing to a 5.5 star NABERS energy rating and 5 star NABERS water rating. This is supported.*

*The UDRP also supports a number of the fundamental planning arrangements proposed within the commercial tower, which improve its environmental performance (side core, externalised fire agrees, naturally lit and ventilated toilets), but notes no commitment has yet been made to a Green Star rating, other than to note that some level of rating will be sought.*

*Consequently, a firm Green Star target should be confirmed.*

*The UDRP is pleased to see the inclusion of photovoltaic panels on the roof and anticipates the inclusion of the most up-to-date innovations in environmental technologies.*

*Although not discussed in the UDRP meeting, mixed mode or natural ventilation is a further important sustainability (and user amenity) opportunity. Natural ventilation or mixed mode mechanical systems through façade openings is a now well-established approach to reducing energy consumption and increasing users' comfort levels.*

## **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.*

*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.*

UDRP Comment: *The proposal retains elements of the existing garden centre and associated landscape. The UDRP appreciates the aspiration to create a strong landscape-led sense of place for visitors and workers alike.*

*The UDRP is supportive of the proposed site planning, and the configuration of the key publicly accessible spaces, subject to comments made elsewhere in this report, particularly regarding pedestrian access.*

*Clarification should be made to further describe the nature of connections between the commercial portion of the proposal and the gardens to the south of the site.*

## **Amenity**

*Good design positively influences internal and external amenity for workers and pedestrians. Achieving good amenity contributes to positive environments and well-being.*

Comment: *The UDRP remains concerned the proposed entry arrangement for the site and commercial tower is indirect and does not present directly to the site entry.*

*The resulting amenity within the core of the site appears to be capable of achieving a high quality. The UDRP is concerned for the constrained access for visitors and workers in accessing it. This point is addressed in elsewhere in this report and the UDRP encourages the 'opening up' of the pedestrian access throat.*

## **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.*

UDRP Comment: *The tower form is developing a strong architectural identity, with depth and substance introduced into the facade elements. This is important to separate the proposal from the typical 'business park' architecture characteristic of Macquarie Park, and important given the particular prominence and isolation of this tower form.*

*The UDRP supports the additional detailed architectural information about the proposed approach to the environmental performance of the building, its facades and the resulting architectural expression - but these should be elaborated upon to form more binding commitments at the DA stage.*

*The UDRP encourages the provision of additional architectural facade details demonstrating the proposed performance strategies - this should include 1:50 details of each primary facade type indicating the facade's self-shading properties, the inclusion of any high-performance glazing systems or closed cavity facades, the VLT properties of proposed glazing, along with any integrated glare control measures.*

UDRP Recommendation: *The UDRP recommends the development proposal adopts the suggestions outlined in this report. The UDRP requests an opportunity to review the proposal again as a desktop review prior to determination.*

### **Urban Designer:**

Through the assessment of the application, meetings and discussions were undertaken with the Applicant in relation to Council's concerns with the proposed 80m height of the 18-storey office tower. The applicant submitted a Visual Impact Assessment (VIA) prepared by OG Urban and dated 10 August 2022 for consideration.

Council's Urban Designer provided the following comments in response to the VIA:

#### ***Methodology***

*The photographs used for analysis and discussion of the visual impact in the VIA report were inappropriate. According to Appendix A - Visual impact photomontage and methodology report, all photographs in the VIA were captured by a wide-angle lens with a focal length of 24mm and a full-frame 35mm camera sensor. Using a wide-angle lens will cause distortion to the images, making objects at the centre of the image appear smaller than one perceives at the viewpoint location. Effectively, the proposal's visual impact would be downplayed as the photographs would include more sky views and reduce the magnitude of change in the view composition.*

*Generally, a 50mm focal length is regarded as most accurate in representing the perceived scale of the object in a photograph, though 35mm may be acceptable in close-distance views to capture the wider context. The 24mm focal length is not considered acceptable for conducting visual impact analysis.*

*Appendix A provides the overlay of a 50mm lens frame on the photographs on pages 7, 9, 11, 13, 15, 17 and 19. It is recommended that the images used for view analysis in VIA report be replaced by cropped photographs based on a 50mm lens frame and a re-assessment of the views should be conducted. It is expected that the level of visual impact will generally be higher than the originally assessed due to the change of view composition.*

#### ***Visual Impact Findings***



**Figure 43** Selected view points within 1km radius of the site  
Source: Figure 5-1 of VIA prepared by OG Urban

#### Viewpoint 1 – Tunks Hill Picnic Area

*I disagree with the evaluation of the visual sensitivity and composite impacts.*

*The VIA report argues that views of the Chatswood CBD skyline are a specific attraction for the Tunks Hill picnic area and visitors would be expected to be less sensitive to the visibility of built elements in the landscape than they would be in the more natural parts of the Park. However, the Chatswood CBD is four to five kilometres away from the viewpoint location. Due to the geographical distance, the Chatswood CBD skyline in the long-distance view is only read as a small element in the overall composition; it does not affect the general landscape character of the picnic area. The viewpoint location remains predominantly in a bushland landscape setting without any urban built elements visible in proximity. Therefore, Viewpoint 1 should have a high visual sensitivity, instead of moderate-high.*

*The proposed tower, being approximately 50m from the viewpoint location, 55m in building length and 80m in height, will form a wall of development immediately to the west of the picnic area, largely eliminating views to the sky and completely transforming the perceived character of the area. As a result, the composite impacts should be high.*

#### Viewpoint 2 – Tuckwell Park



*I disagree with the evaluation of the visual sensitivity, change magnitude and composite impacts.*

*City of Ryde's website describes Tuckwell Park as a popular destination for corporate sports events and features a soccer field and basketball court. There is also a new playground including a climbing wall and net, slide, swings, and a shade sail. The character of the area is defined by an open parkland setting enclosed by bands of large native trees. When viewing 360 degrees from this location, no urban built elements are currently visible above the top of any tree canopy. The existing residential developments in the adjacent R4 high-density zone are fully screened by the mature native trees along the boundary of the park. Therefore, the viewpoint sensitivity is considered high, instead of moderate.*

*The proposal will be the only built form protruding above the tree canopy and eroding a large portion of the sky views. Therefore, the magnitude of change is high, and the composite impacts are also high.*

#### *Viewpoint 3 – Lane Cove Road north of the site*

*I disagree with the evaluation of the change magnitude and composite impacts.*

*The current character of the Viewpoint 3 is defined by a major road corridor with open sky views framed by dense mature vegetation on either side of the road. There are no built elements, except for the proposed tower, visible above the existing tree canopy from this viewpoint location. The magnitude of change should be high, and the composite impacts should be moderate-high.*

#### *Viewpoint 4 – Lane Cove Road south of the site*

*I disagree with the evaluation of the change magnitude and composite impacts.*

*Moving towards the northern boundary of the Macquarie Park Corridor, the character of this viewpoint location is characterised by commercial buildings, mature canopy trees and urban landscaping on either side framing a major road corridor, transitioning to a strong native landscape setting. The view includes existing built form stepping down from five storeys to three or four storeys in scale towards the north, reflecting the urban fringe condition of the Macquarie Park Corridor before terminating with a stand of mature trees. The proposed 18-storey tower significantly changes the urban fringe character and creates a prominent and isolated marker built form that is separated by the M2 Motorway from the Macquarie Park Corridor. Such a drastic change in the built form scale is unprecedented north of the M2 Motorway in Macquarie Park. For this reason, the magnitude of change should be high, and the composite impacts should be moderate-high.*

### 11.3 External Agency Referrals

#### NSW Rural Fire Service

The application has been reviewed by NSW Rural Fire Service. Concerns are raised relating to proposed development, specifically the enlargement of the function centre being a Special Fire Protection Purpose under the provisions of Planning for Bush Fire 2019 and is required to demonstrate compliance with the radiant heat level exposure of 10kW/m<sup>2</sup>. The NSW RFS comments are as follows and are also provided in **Attachment 1**.

*The NSW South Wales Rural Fire Services (NSW RFS) has reviewed the information provided and advises the following:*

*The additional information provided is not accepted. As per the Pre-DA advice provided to Lew Short of BlackAsh Consulting dated 12 March 2019, buildings used for public assembly (ie the proposed function centre extension from 260m<sup>2</sup> to 995m<sup>2</sup>) are considered as SFPP development under Planning for Bush Fire 2018 and are required to demonstrate compliance with radiant heat level exposure of 10kW/m<sup>2</sup>.*

*It is noted that the more recent provision, Planning for Bush Fire Protection 2019 explicitly requires public assembly buildings to demonstrate compliance with the maximum radiant heat exposure of 10kW/m<sup>2</sup> (per 8.3.11 of Planning for Bush Fire Protection 2019).*

*Furthermore, the consultant's supposition that the level of risk posed to a public assembly building is comparable to bed and breakfast or farmstay accommodation is not supported, given the disparity in scale and intensity of use between a large function centre and isolated tourist development. The consultant has recommended latitude be granted given the stated low risk posed to the development, however has provided no justification to support a merit based assessment beyond stating that the proposed development is excepted from compliance.*

*In accordance with S8.3.11 of Planning for Fire Protection 2019, the proposed additions to the function centre are considered a public assembly building. Further information is required to demonstrate compliance with a maximum heat exposure of 10kW/m<sup>2</sup> to the proposed works.*

*If additional information is not received within 21 days the application will be refused on the basis of Requested Information not provided.*

Given the other issues associated with this development application, Council did not request any further information from the applicant.

#### Transport for NSW

The application has been reviewed by Transport for NSW. Concerns are raised relating to the information provided including the SIDRA modelling, traffic impact assessment, parking shortfall and the traffic generation associated with the development. Concurrence has not been issued. The response from TfNSW is as follows and is provided in **Attachment 2**.

*TfNSW advises that the proposed extension of the existing right turn lane on Lane Cove Road at the signalised intersection requires Section 87 approval from TfNSW under the Roads Act, 1993.*

*TfNSW has reviewed the submitted application and does not provide Section 87 approval for the proposed civil works on Lane Cove Road in accordance with the Roads Act, 1993. TfNSW also raises the following issues to be adequately addressed prior to the determination of this application:*

- 1. The Traffic Report proposes a 20% reduction in trip generation for all of the proposed land uses at the site. Further justification is required to explain how this reduction was determined.*
- 2. A copy of the Traffix traffic modelling referenced in section 2.5 of the submitted Traffic Report should be provided for review.*
- 3. The traffic generation information in Table 5.1 does not include data for the expansion of the existing garden, café, proposed garden tenancies and rock climbing facility. This table should be updated to include all existing and proposed land uses. The applicant also needs to explain how the traffic generation rates were determined and what benchmarking was used.*
- 4. The weekend traffic generation rates were not provided for the proposed garden centre expansion and tenancies, café, function centre and rock climbing facilities, which are likely to have a higher demand and traffic generation on weekends.*
- 5. The post development peak hour traffic flows presented in Figure 5.1 and the SIDRA outputs use a lower traffic generation volume compared to the data presented in Table 5.1. This discrepancy needs to be addressed to properly understand what the potential queuing impacts are on Lane Cove Road, and whether additional mitigation on both the left and right turn bays is required. The 10 Year Post Development traffic flows will also need to be checked for any discrepancies.*
- 6. The applicant is proposing to extend the right turn bay on Lane Cove Road to 96m, however the existing AM peak queue is 109m. The right turn bay will need to be extended to accommodate the worst case scenario, with further consideration of the available median and road alignment.*
- 7. The submitted plans do not provide details of lane delineation on the local access road for this site. There is only one exit lane shown on the plans when there is currently a left turn lane and shared through and right turn lane. It is not clear whether the existing access road lane configurations on the Traffic Signal Control plan is proposed to be modified and how this might affect the traffic signal operations.*
- 8. It is not clear how vehicles entering the access road from Lane Cove Road will be prioritized so that there is no queuing back onto Lane Cove Road, particularly for vehicles that will be entering via the proposed boom gate. The applicant should*

*provide further details regarding the management of vehicular access via the proposed boom gate.*

- 9. The SIDRA cycle times should be 140 seconds.*
- 10. The submitted SIDRA outputs have a default pedestrian volume of 50 pedestrians per crossing per hour. The applicant is requested to provide a justification for this rate and what the expected pedestrian and cyclists increase will be from the proposed development.*
- 11. The submitted swept paths show the 12.5m HRV straddling the adjacent lane on Lane Cove Road, impacting on through movements. HRV vehicles entering the access road impact on the opposing vehicle movements for about 40m. The HRV swept paths needs to be reviewed and needs to demonstrate that the simultaneous movement of passenger vehicles in the opposing direction will not be affected. Also the swept path plans show vehicles encroaching onto kerb and gutter.*
- 12. The proposed upgrades of the pedestrian footpath on the western side of Lane Cove Road to a 2.5-3m wide shared user path may not be possible, due to constraints from the bridge over the M2 Motorway, existing carriageway of Lane Cove Road and roadside furniture.*
- 13. Further details are required for the proposed pedestrian safety fence to determine whether it will reduce the existing footpath width and whether it is the most appropriate safety measure for pedestrians in this location.*

*TfNSW also provides the following comments for Council's consideration:*

- 1. The subject property abuts a Declared Tollway (M2 Motorway) as shown by purple line on attached Aerial – "X". Access is denied across this boundary.*

*All buildings and structures, together with any improvements integral to the future use of the site are wholly within the freehold property (unlimited in height or depth), along the Lane Cove Road and M2 Motorway boundaries.*

### National Parks and Wildlife Service

The application was referred to National Parks and Wildlife Service and the following matters were raised in their response (**Attachment 3**):

- Planning and environmental considerations afforded the National Park and the impacts of the development on the values of the park, particularly on visitor facilities adjacent the development site at Tunks Hill picnic area, as well as impacts during construction and operation on fauna and flora on the Park.
- Planning for bushfire protection in a designated bushfire prone area and the construction of a new commercial development reliant on an existing Strategic Fire Advantage Zone currently maintained by NPWS.
- The current level of detail informing proposed tree removal and retention, and proposed fencing along Park boundaries adjoining the development site was inadequate.

- Future users of the development site may seek to use carparking within the Park, as there is a 153-space shortfall of carparking on the development site when considered against the RDCP 2014.
- Limited impact assessment and detail of the rock climbing wall (facing eastwards towards park) and rooftop wellness centre (on roof of carpark) with a setback of only 9 – 9.5m from the Park.

### NSW Police

The NSW Police provided comments noting the well prepared CPTED report included with the application. The report made several recommendations in which NSW Police agree with, which include:

- Surveillance including CCTV in each lift, carpark, and rooftop, along with sensor lighting in accordance with relevant Australian Standards
- Access control
- Territorial reinforcement
- Space management

No objections were raised to the proposed development by NSW Police.

## **12. PUBLIC NOTIFICATION AND SUBMISSIONS**

In accordance with RDCP 2014 Part 2.1 Notice of Development Applications, owners of surrounding properties were given notice of the application. In response to both notification periods, 246 submissions were received. The following issues were raised:

- **Height**
  - *The building will be an eye sore*
  - *The height of the building is inconsistent with surrounding development*
  - *Excessive height of almost 80m*
  - *The height should not exceed 15.5 metres or around 4 levels of commercial*
  - *The site is not mapped on the height plan and therefore no development should be approved until the RLEP 2014 is amended to place a height standard on the site*
  - *The height should be reduced to 26m to be more in line with neighbouring buildings*
  - *Over development - Macquarie Park is already highly developed*
  - *Wind impacts and the submitted Wind Report has only broadly assessed the developments impacts*

Planner's comment: The proposed height is unacceptable and forms part of the recommendation for refusal. The proposed height is not acceptable in the urban context

and results in unacceptable visual impacts. Council agrees a reduced height in the order of 26m adjacent to the Lane Cove National Park and 37m along the M2 Motorway is more appropriate development outcome for the site when considering the context of the local area.

- **Scale and Streetscape impacts**

- *There is a well-defined divide between Macquarie's 'commercial' and 'residential' hubs, with the boundary being north of the M2; south of the M2 is the commercial hub, north of the M2 is the sanctuary from the commercial hub of Macquarie Park.*
- *Over development of the site*
- *Streetscape impacts as a result of the scale*
- *The site is on the periphery and the scale represented is not accurate. Outside of the Macquarie Park Corridor, development is 3 – 4 storeys in scale*
- *The scale of the development will block the skyline and general ambience of the area*
- *A single stand alone tower is unmatched to any other building near or on the 60 metre ridge line of the location and is directly visible in almost every direction*
- *Bulk, scale and height impacts*

Planner's comment: The site is in a prominent location on the ridge of Lane Cove Road and entrance into Ryde Local Government Area. The surrounding topography slopes away from the site making its prominence more significant in the visual catchment. The site is not located within the Macquarie Park Corridor. The proposed 80m height of the tower results in a development that has unacceptable visual impacts to the surrounding area.

- **Traffic Impacts**

- *Significant adverse impact upon local traffic, congestion and amenity both within Ryde and Ku-ring-gai*
- *Significant increase in traffic, noise and overall disruption*
- *Traffic impacts to Fontenoy Road and Lane Cove Road*
- *Traffic congestion*
- *Current wait times along Fontenoy Road being 20 – 30 minutes during week day peak hour*
- *Residential and children safety on Fontenoy Road as a result of increased traffic*
- *in peak times and during a bushfire evacuation situation to an already busy intersection. And the likely thorough fare within the National Park has not been adequately addressed*
- *There is already a significant backup of traffic on the roads leading onto Lane Cove Road from St Ives and Lady Game. This is experienced most rush hours and on weekends.*



- ***Having an additional 2,000 office workers will add to the pressure***
- ***There is a through road via the National Park, which is likely to be used as a short cut for people wanting to get to Lane Cove from Delhi Road and surrounds. This will create a run through endangering the life and wellbeing of walkers, runners, cyclists and animals***
- ***The location of the site is at a junction of the M2 off-ramp/on-ramp, major turn off to Talavera Road, and Lane Cove Road. Currently, traffic along the section of Lane Cove Road between Lady Game Drive and Epping Road overpass is at a standstill during peak periods during the weekdays and weekends.'***
- ***There are three sets of traffic lights in a space of 300 metres that causes heavy congestion, with traffic stretches for hundreds of metres in all directions from this junction. The traffic light sequence will have to change to cope with the traffic transiting to and from the complex (if built) adding to further congestion in this area.***
- ***Building a high-rise residential complex at the Eden Park site will add even more congestion to an already extremely busy junction and will add more pressure on the already congested Lane Cove Road and also lessen the green space in the area.***

Planner's comment: The proposed development results in unacceptable traffic generation and has not demonstrated that it does not result in any adverse impact upon the surrounding road network. The site is located at a four-way intersection and within proximity of the M2 Motorway. The proposal has not been supported by a satisfactory Traffic Impact Assessment. The traffic impacts resulting from the development are a fundamental concern. The proposed development relies upon extending the right hand turn from Lane Cove Road into the site to mitigate queueing times and impacts upon Lane Cove Road. The application has not been granted concurrence from Transport for NSW and forms part of the recommendation for refusal. The proposed building is not a residential complex but a commercial one.

- **Parking shortfall**

- ***Overflow of parking shortfall onto surrounding streets such as Fontenoy Road and Tuckwell Place***
- ***Parking shortfall inconsistent with RDCP***

Planner's comment: The development results in a car parking shortfall of 109 spaces, and does not comply with Part 9.3 of RDCP 2014. The proposal has not demonstrated it does not result in adverse impacts upon the local road, specifically Fontenoy Road as a result of the parking shortfall. This is a fundamental concern of Council's Traffic Engineer and forms part of the recommendation for refusal.

- **Amenity impacts**
  - ***Overshadowing of Tuckwell Park***
  - ***Noise and air pollution upon the National Park***
  - ***View loss of the Lane Cove National Park from the residential developments***
  - ***Privacy impacts to surrounding residential development***
  - ***Opening hours resulting in light pollution to surrounding residents***
  - ***Visual impact of the 18-storey building upon West Pymble, West Lindfield and West Killara.***
  - ***Excessive glare to residential in West Gordon West Killara and West Pymble from the extent of glazing within the commercial tower***
  - ***Acoustic impact***
  - ***The noise assessment for the site was done in 2018 and is completely out of date and insufficient to establish base levels for ambient noise for residents around the site and within the National Park. The noise must be measured at the rear of the site where the outdoor dining, restaurant, rock climbing, and other activities are proposed. The noise report ambient levels on Wednesday and Friday at lunchtime and early afternoon is not sufficient and out of date.***
  - ***External music and patron noise at night***

Planner's comment: The Applicant has submitted hourly shadow diagrams for both the winter solstice and equinox. At both periods of the year, the proposal demonstrates overshadowing will not occur to Tunks Park until 1pm onwards. The proposal does however result in overshadowing to the southern portion of the Lane Cove National Park between 9am and 12pm.

The proposal results in a visual impact to surrounding residential properties and this is detailed in Section 9.0 of this report.

The proposal will not result in any adverse privacy impacts. However, it is recognised within a building of this scale, the visual distances are reduced. The proposed commercial tower however achieves separation distances in excess of 12 metres from the residential developments along Fontenoy Road.

The concerns regarding glare are noted, however it is considered conditions could be recommended relating to compliance with relevant Australian Standards relating to glare from the windows should the DA be approved.

The Noise Impact Assessment has been considered by Council's Senior Environmental Health Officer and no concerns are raised. In relation to acoustic impacts the following is noted:

- It is not expected that there would be much change in the nature of the noise emanating from the proposal since the use is essentially the same.
- The office building may introduce additional plant noise which would ordinarily be dealt with by conditions of consent.
- The proximity of the M2 Motorway and Lane Cove Road affects the background noise level
- There is considerable separation distance from residential properties within Fontenoy Road.
- Function activities are already carried on at this location. The reconstructed function area is in the same location on the site. The new restaurant is located such that the office building is between it and the Fontenoy Road apartments and should effectively limit noise.
- Noise from the operation of premises has not been raised as a current concern in submissions received.
- Noise concerns around function noise at night will be subject to the requirements of NSW Liquor & Gaming as it is a licenced premises.
- **Environmental Impacts and impacts to Lane Cove National Park**
  - *Heritage impacts to Lane Cove National Park*
  - *Environmental vandalism*
  - *Extensive tree removal*
  - *Excessive excavation*
  - *Environmental concerns for flora and fauna within the Lane Cove National Park*
  - *The proposal will dominate the skyline*
  - *The proposal is incongruous with the bushland setting of the Lane Cove National Park*
  - *Overshadowing and glare impacts to picnic areas with Lane Cove National Park (Tunks Hill, Blue Hole and the Old Barn).*
  - *Impact upon nocturnal and diurnal aerial fauna*
  - *The proposed 18 storeys is inappropriate and will have a material impact on Ku-ring-gai residents and the integrity of the National Park*
  - *Completely inappropriate development for the area and would ruin the natural corridor the gardens provide to the adjoining Lane Cove National Park for the benefit of flora and fauna*
  - *The location next to Lane Cove National Park will adversely affect the park in terms of lighting, fumes from car parking, more changes of fire in summer months, and visual impact*
  - *Potential light pollution impacting the wildlife of the National Park*
  - *There has been no consideration to developing adjacent to a National Park. There are a set of guidelines that they should have considered.*
  - *There has been no consideration of the potential damage to the heritage values of LCNP. It is listed as State significant.*

- *Ecological function of Lane Cove National Park and address the potential issues.*
- *There is little or no consideration of the implications of high rise development surrounding the national park*
- *It will have a considerable impact on the flora & fauna of the area. Habitat loss, increased lighting, noise, traffic and human interference will reduce the already vulnerable numbers of threatened species.*
- *Drainage from the site would inevitably flow into the park and cause irreversible damage.*
- *Impacts upon flora and fauna*
- *The landscape plan proposes a number of environmental weeds which is not suitable adjacent to the Lane Cove National Park*

Planner's comment: Concerns are held in relation to tree impacts, heritage and resultant visual impacts upon the Lane Cove National Park as outlined within Section 9.0 of this report. NPWS have advised that the SEE and associated plans do not provide sufficient details on what mitigation measures and safeguards are to be implemented to protect specific flora and fauna species, communities and ecological values.

- **Bushfire affectation and the development being inappropriate**
  - *The proposed height restricting helicopter access and fire suppression activities which are relied upon during the 1994, 2003 and 2019 bushfires*
  - *The bushfire report is out of date as it refers to a 16 storey development*
  - *Clarification should be provided regarding safety of pilots in smoke and high winds*
  - *The proposal should comply with all requirements of Planning for Bushfire Protection 2019*
  - *The RFS pre DA advice raised concerns with the function centre with attached restaurants and a garden bar, placement. The BAL 40 rating being the highest level of BAL after flame zone. It is completely inappropriate to plan for 400 people to be in this building with such a high risk.*
    - *Bushfire hazard report being incorrect with concerns regarding evacuation*
    - *Bushfire implications from the development of this size*
    - *Implications of bushfire given the proximity to the Lane Cove National Park*

Planner's comment: There are fundamental concerns with the proposed development in relation to the bushfire affectation. The proposed extensions to the function room are defined as a Special Fire Protection Purpose and are subject to consideration by the NSW RFS under Section 4.14 of the EP&A 1979. The NSW RFS has raised concerns with the proposed development and supporting documentation and has not granted concurrence to the development.

## **Access**

- *This section of Lane Cove Road is very often at a complete standstill. It is very difficult to imagine how the many hundreds of residents / visitors / workers etc. and their vehicles will be able to safely evacuate via one access / egress point in an evacuation situation let alone in a catastrophic fire the likes we have seen recently.*
- *The escaping vehicles will further hold up the existing traffic on Lane Cove Rd putting other vehicle occupants on Lane Cove Rd at risk of being trapped in a bottleneck. This proposal put lives at unnecessary risk through lack of appropriate egress points into a flowing traffic situation.*
- *The proposal is non compliant with the following bushfire requirements:*
  - *Access roads provide safe and are two wheel drive all-weather roads*
  - *Access is provided to ALL structures and the hazard vegetation*
  - *Traffic management devices are constructed to not prohibit access to emergency services vehicle*
  - *The proposal must provide suitable turning areas in accordance with Appendix 3*
  - *One way access roads are no less than 3.5 metres wide and have designated parking bays with hydrants located outside of these areas*
  - *Non perimeter roads to allow safe access and egress to emergency vehicles and egressing occupants:*
  - *There are a minimum width of 5.5 metres and parking is provided outside the carriageway width*
  - *there are through roads linked to the internal road system at an interval of no more than 500 metres**The maximum grade road is 15 degrees and an average grade of not more than 10 degrees*

Planner's comment: Both Council and Transport for NSW has raised concerns relating to the traffic generation and resultant impacts upon Lane Cove Road. Concurrence has not been issued by Transport for NSW and the application is recommended for refusal. Additionally, concerns have been raised by NSW Rural Fire Service in relation to access and fire concerns.

- **Feasibility**
  - **Feasibility of a commercial building given COVID and current commercial vacancies within Macquarie Business Park**
  - **Lack of due diligence for the use of the site**
  - **The proposal will be converted to residential which is prohibited in the B7 zone**
  - **Macquarie Park is presently overloaded with commercial office buildings**

Planner's comment: This is not a matter for consideration under Section 4.1 of the Environmental Planning and Assessment Act 1979. The proposed development is a permissible land use. The proposal does not seek consent for a residential development and does not propose a rezoning. A rezoning cannot be proposed under a DA.

- **Access**

- ***Access in terms of traffic congestion, pedestrian and bushfire evacuation***
- ***Workers will drive and not walk the 900 metres from the station***

Planner's comment: Concerns are held regarding access to the site. The proposal has not demonstrated it does not result in any adverse traffic impact. The Traffic Impact Assessment submitted with the DA indicates an increase in queuing times and relies upon the extension of the right hand turn within Lane Cove Road being extended from 35m to appropriately 90m to accommodate the increased vehicular movements into the site during peak times.

The site is located approximately 900 metres from the Macquarie Park Station and the application recognises the need for upgrading works along the western side of Lane Cove Road to provide a footpath. Concern is held regarding the pedestrian amenity to access the site and the proposal's reliance upon the parking shortfall to be offset by occupants walking from Macquarie Park Station along Lane Cove Road.

Concerns are held in relation to the bushfire affectation. Similarly, concerns are held by the Rural Fire Service as detailed earlier in this report.

- **Supporting documentation and lack of consistency with policies**

- ***Inconsistency with the Lane Cove National Park Plan of Management in terms of visual impact***
- ***The proposal is inconsistent with NSW National Parks guideline for development adjacent to National Parks and Wildlife Service lands – Guidelines for consent and planning authorities.***
- ***Failure of the RLEP not to have a height development standard***
- ***Landscape plan including environmental weeds which are not suitable next to the National Park***
- ***The Section 7.11 contribution is claimed to be offset by minimal levels of work***
- ***The submitted wind report does not consider the animals within the National Park***
- ***The shadow diagrams are not provided at hourly intervals to understand entire impacts during both equinox and solstice***
- ***Planning agreement offer is pathetic***



- ***Concerns raised regarding the inconsistencies within the expert reports and documentation***
- ***Insufficient noise monitoring relying upon limited data from 2018***
- ***The development is contrary to the public interest***

Planner's comment: The RLEP 2014 does not have a height development standard for the subject site. Nonetheless, fundamental concerns are held with the proposed 80m (18-storey) office tower which is outlined within this report. The proposal has an unacceptable visual impact upon the Lane Cove National Park and surrounding areas.

The proposed VPA is considered to be unsatisfactory by Council.

Concerns are held with the proposed development in relation to satisfactory information relating to landscape design and abiotic cultural assessment.

The amended information submitted included hourly shadow diagrams which demonstrates reasonable solar access is maintained to Tunks Hill Park.

The Applicant's acoustic report is considered satisfactory.

For the reasons outlined within this report, and stipulated in Section 13, approval of the development is contrary to the public interest and forms part of the recommendation for refusal.

### ***Consultation***

- ***Residents of Ku-ring-gai suburbs have not been consulted on the proposed development***

Planner's comment: The application was notified to residents of Ku-ring-gai Local Government Area between 14 May – 4 June 2021. The submissions received from Ku-ring-gai residents and Council have been considered in this report.

### ***Design***

- ***The building has an incongruous design for such a prominent building standing in isolation on the top of a ridge being seen from every direction***
- ***The height of the building is out of place with all other buildings in the area, especially with the prominent ridge position***
- ***The number and extent of glass windows, and decoratively lit gardens will cause a tremendous amount of artificial light to be transmitted. As the site will be visible from so many places, it will be a source of significant light pollution in the area impacting the Lane Cove National Park and surrounds.***

- ***The Shadow lines impact the picnic area of the Tunks Hill Picnic site on page 41***
- ***A visual impact assessment should be undertaken which considers the proposal from key visitor locations within the National Park such as Blue Hole, picnic sites, Tunks picnic site, surrounding suburbs, a light pollution perspective when all floors are lit up***
- ***The heights of surrounding buildings, taking account of the ridge on which the proposed site is placed is nearly 50 m shorter than the proposed tower. Nearby buildings are 26m, and 30 m (see page 11)***
- ***The buildings on the same side of the M2 are usually less than 6 stories. The buildings that are 90 m -120 m in the plan tall are all in locations a long way away from the current proposed site and are not comparable.***
- ***The residential housing on the East of the Lane Cove National Park in direct sight of the proposed tower***
- ***The views projected in the plan are not assessed from the Ku-ring-gai border along the National park from the West Lindfield or West Killara residences***
- ***The prevailing winds in Winter will direct the sound further to the Eastern residences. The sun reflecting off all the glass will impact residents in the north, east and west, based on the sun's direction on page 23***
- ***The proposal should be reduced in height to not exceed the height of buildings immediately adjacent to the site and should be considered from all vantages North, South East and West and beneath in the National Park to ensure the site meets the needs of the community, not only the developer. The Council should reassess the oversight of having no height restrictions on the land on which Eden Gardens is currently situated***

Planner's comment: The Applicant has submitted a Visual Impact Assessment which has been considered by Council's Urban Designer. The proposal has also been considered by the Ryde Urban Design Review Panel and concerns are held with the proposed development. The proposal results in an unacceptable visual impact upon surrounding areas. The proposed height is not appropriate for the urban context.

#### ***Tree removal***

- ***Nearly 100 trees are recommended for removal. These should be replaced with two trees of the same species elsewhere on the site or on the national park boundary to offset the indigenous species removal.***
- ***Unacceptable loss of trees***

Planner's comment: The submitted arborist report identifies removal of 102 trees. The Applicant's information relating to landscape design and abiotic assessment is considered unsatisfactory. The proposed tree impacts are incorrectly documented and are

considered unacceptable – refer to the Consultant Landscape Architect/Arborist comments within Section 11 of this Report.

### ***Demolition work***

- ***The impact on wildlife, resting and nesting animals, has not been considered in the assessment, most notably from dust and vibrations***
- ***Heritage impact of trees and tree removal needs to be considered***
- ***The use of water to control dust on site as acknowledged in the report may run off down the slope into the Lane Cover River, causing impact to the wildlife, fish and birds reliant on the river for survival***
- ***There is no reference to storm water drain run off***
- ***Provide a detailed assessment on the impact of demolition work on the National Park and stormwater run off***

Planner's comment: The proposed development is not recommended for approval. Therefore, consent for demolition works is not being granted. The application has not adequately demonstrated that it does not result in any significant adverse impacts upon the surrounding road network, visual catchments, and surrounding areas.

### ***A detailed site investigation should be undertaken***

Planner's comment: The proposal has been supported by a Stage1 Preliminary Site Investigation prepared by Geotechnique Pty Ltd dated 10 December 2020. The proposal has been considered by Council's Senior Environmental Health Officer who advises as the proposal does not introduce any use that is more sensitive than which the site is presently used, the preliminary site investigation is satisfactory. If the application were recommended for approval, conditions would be imposed requiring further sampling, any necessary remediation and validation be made prior to use of the site.

### ***Heritage impact statement***

- ***The impact of the development on views is significant.***
- ***The impact on the views of users, visitors to the National Park should be assessed and considered in light of the unnecessary height and impact of the proposed tower***
- ***The impact on the views of residences surrounding the National Park in the eastern direction notably West Lindfield, West Pymble and West Killara should be assessed and considered in light of the unnecessary height and impact of the proposed tower***
- ***Final Plan of Management: Lane Cove National Park (nsw.gov.au) refers to the important role the park plays in protecting "important Sydney bushland and estuarine communities, providing a primary vegetation corridor linking many smaller urban bushland remnants and habitat for many native animal species.***

- ***A number of rare and threatened native plants, animals and ecological communities are also present in the park. Significant Aboriginal sites are located within the park, as are historic structures and locations connecting us with early use, settlement and recreation along the Lane Cove River”.***

Planner’s comment: The proposed development is considered unsatisfactory from a heritage perspective. The DA is recommended for refusal on this basis. The development is contrary to Clause 5.10 Heritage Conservation of RLEP 2014 and the proposal has not adequately addressed or even acknowledged the site is listed on the NSW Government’s Aboriginal Heritage Information Management System as containing an ‘Aboriginal place’. An Aboriginal Heritage Impact Assessment has not been undertaken, and an Aboriginal Heritage Impact Permit has not been issued for the proposed development.

Concern is held regarding the impacts of the proposal on Lane Cove National Park. These concerns are discussed under Section 10 of this report.

### ***Plan of management***

- ***Activities are generally facing east, and the buildings create a barrier to noise west to residential areas.***
- ***While the noise is acknowledged to residents on the North West side of the building, no consideration of the noise over the National Park, or the disturbing impact to animals, bats and birds has been referenced***
- ***No consideration of the residences east of the proposed site in the neighboring Ku-ring-gai area has been considered***
- ***This statement accepts that there will be noise, and that the impact has NOT been assessed nor is considered relevant.***
- ***All noise generating activities on the site should be relocated or set behind sound barriers, and require details of noise controls to be enforced that limit hours of use and levels of noise after 9pm***

Planner’s comment: The proposal is not considered to generate any adverse acoustic impacts upon surrounding properties. The office tower will create additional mechanical noise, but this ordinarily would be dealt with via conditions of consent. The development includes large separation distances from neighbouring residential properties, and given the existing site accommodates functions, it is not considered to result in any adverse impacts.

## **13. PUBLIC INTEREST**

The public interest is best served by the consistent application of the requirements of relevant environmental planning instruments and by Council ensuring that any adverse effects on the surrounding area and the environment is minimised. The proposal has been assessed against the relevant planning instruments and is contrary to the public interest for the reasons outlined within this report.

## **14. CONCLUSION**

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, it is recommended that the application be refused for the following reasons:

- The proposal is contrary to the Objects of the Act and development consent cannot be granted. The development is Integrated development as concurrence has not been issued by Transport for NSW, Rural Fire Service and an Aboriginal Heritage Impact Permit has not been issued.
- The development results in unacceptable traffic generation and a car parking shortfall of 109 spaces. The application has not demonstrated it does not result in an adverse traffic impact upon Lane Cove Road and the surrounding local road network.
- The development relies upon works within Lane Cove Road and the western side of the Lane Cove Road road reserve to facilitate access to the site. Insufficient details have been provided regarding these works.
- The proposed 80m (18-storey) height of the office tower is unacceptable. The development results in a concentration of floor space which gives rise to unacceptable visual impacts to the surrounding area. The proposal is not an appropriate form of development in the urban context.
- The proposal results in unacceptable tree impacts and has not been supported by a satisfactory Arboricultural Impact Assessment. Insufficient landscape design details have been submitted to enable assessment of the proposed development.
- The site is not suitable for the proposed development given the impacts incurred to the built environment, heritage and local amenity.
- The proposal is contrary to the public interest.

## **15. 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 refuse consent to development application LDA2021/0095 for alterations and additions to the existing garden centre and construction of an 18-storey office building at the site including a multi-level car park and additional dining space on land at 307 Lane Cove Road, Macquarie Park for the following reasons:

1. Pursuant to Section 4.47(2) of the *Environmental Planning and Assessment Act 1979* the development has not been granted General Terms of Approval and concurrence has not been issued from:
  - Transport for NSW has not issued concurrence pursuant to the Roads Act 1993 and State Environmental Planning Policy Transport and Infrastructure – Chapter 2 Infrastructure.
  - The NSW Rural Fire Service has not granted consent pursuant to Section 4.14 of the Environmental Planning and Assessment Act 1979. The site is bush fire prone land and the development constitutes a Special Fire Protection Purpose.
  - An Aboriginal Heritage Impact Permit pursuant to Section 90 of the National Parks and Wildlife Act 1974 has not been issued.
  - The development is contrary to Section 1.3 Objects of the *Environmental Planning and Assessment Act 1979*.
2. Pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979* the development is contrary to Section 1.3 Objects for the following reasons:
  - The proposal does not promote the orderly and economic use and development of land. The development results in adverse impacts upon Lane Cove Road as a result of traffic generation and has not been designed in response to the site's bushfire constraints.
  - The proposal has not demonstrated it does not result in any adverse impacts upon existing vegetation on the site and adjoining land. The arborist report incorrectly identifies tree species, provides insufficient justification for impacts and has not been designed in response to the site's constraints.
  - The proposal does not promote good design and amenity of the built environment. The concentration of floor space and strategically unjustified height of the office tower is not responsive to the site's topography, context, and surrounding building heights.
3. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the provisions of *Ryde Local Environmental Plan 2014* in that:
  - The development is contrary to Clause 5.10(8) Heritage Conservation in that an Aboriginal Heritage Impact Assessment has not been carried out regarding the 'Aboriginal place' identified on the site, and an Aboriginal Heritage Impact Permit has not been issued for the development.
  - The development is contrary to Clause 6.2 Earthworks as the Applicant has not demonstrated the development will not detrimentally impact cultural or heritage items. The proposal includes excavation, and given the absence of an impact assessment regarding the site's 'Aboriginal place', development consent cannot be granted pursuant to Clause



6.2(3)(f) as adequate consideration has not been given to the likelihood of disturbing relics.

- Clause 6.4 given the conflicting information shown on the Applicant's stormwater and landscape plans.
4. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with *State Environmental Planning Policy (Biodiversity and Conservation) 2021 – Chapter 2* in that the development results in unacceptable tree impacts and has not been supported by a satisfactory arboricultural impact assessment.
5. Pursuant to Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with *State Environmental Planning Policy Transport and Infrastructure 2021 – Chapter 2 Infrastructure in that:*
- The proposal does not satisfy Clause 2.119(2) due to the short fall in car parking (109 spaces) which is contrary to Ryde Development Control Plan 2014 (RDCP 2014), unacceptable SIDRA modelling being submitted for assessment, and the development's resultant traffic generation.
  - The development is a traffic generating development pursuant to Clause 2.122(1)(b) and results in adverse impacts upon Lane Cove Road, relies upon lengthening the right hand turn from Lane Cove Road into the site to reduce queue times and concurrence has not been issued by Transport for NSW.
  - The development fails to demonstrated there is no adverse impact upon Lane Cove Road and the local road network.
  - The development does not ensure effective and ongoing operation and function of Lane Cove Road.
6. Pursuant to Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979*, the development is inconsistent with the *Environmental Planning and Assessment Regulation 2000* as follows:
- The development does not satisfy the deemed to satisfy provisions of the *Building Code of Australia*. The areas of departure have implications for the design of the building in relation to the location of fire access points and the visual presentation of the development. Given the fundamental concerns with visual impact, the design of the built form should be representative of the development as it will be constructed.
7. Pursuant to Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979*, the development results in unacceptable and adverse impacts upon the natural and built environment in that:
- The development results in adverse traffic generation which impacts Lane Cove Road and the surrounding road network.
  - The proposed 80m (18-storey) office tower has an unacceptable scale and visual impact upon the surrounding area and the Lane Cove National Park. The development is unacceptable in the urban context.
  - The proposal results in unacceptable tree impacts to endemic species.
  - The proposal relies upon pedestrian access created along the western side of Lane Cove Road to facilitate access to the site from Macquarie

Park Station. The proposal relies upon land owned by third parties, which contradicts the advice received from Transport for NSW. No design details regarding pedestrian access along the western side of Lane Cove Road have been provided.

- The proposal has an unacceptable impact on the Lane Cove National Park.

8. The development is inconsistent with provisions of the *Ryde Development Control Plan 2014*, specifically:

- Part 9.3 Car Parking the development results in a 109-space shortfall in car parking. The justification for the shortfall made in the Traffic Impact Assessment is not supported.
- The development results in an unacceptable traffic impact and has been supported by insufficient information.

9. The site is not suitable for the proposed development pursuant to Section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.

10. Having regard to the reasons noted above, pursuant to the provisions of Section 4.15(1)(d) and Section 4.15(1)(e) of the *Environmental Planning and Assessment Act 1979*, approval of the development application is not in the public interest.

B. That Transport for NSW, NSW National Parks and Wildlife Service, and the NSW Rural Fire Service be advised of the decision.

C. That those persons who made a submission be advised of the decision.

**Report prepared by:**

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Consultant Planner

**Report approved by:**

Sandra Bailey  
Executive Manager City Development

**Attachments**

**Attachment 1:** NSW RFS comments

**Attachment 2:** Transport for NSW comments

**Attachment 3:** Architectural Plans  
**Attachment 4:** Landscape Plans  
**Attachment 5:** Visual Impact Assessment