

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-210
DA Number	LDA2021/0138
LGA	City of Ryde
Proposed Development	15 storey student accommodation facility with basement parking
Street Address	23-25 Lachlan Avenue, Macquarie Park
Applicant	Barcam Mac Park Pty Ltd
Owners	N & B Freeman from 25 Lachlan Avenue 12 owners of apartments in 23 Lachlan Avenue
Date of DA lodgement	28 April 2021
Total number of Submissions Number of Unique Objections	First notification: 4 submissions (comprising 3 unique submissions). Second notification: Nil. Third notification: 1 submission.
Recommendation	Approval
Regionally Significant Development (Schedule 6 of the SEPP (Planning Systems) 2021)	General Development over \$30 Million. Cost of works: \$59,800,000 excluding GST
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2000 • State Environmental Planning Policy (Affordable Rental Housing) 2009 • State Environmental Planning Policy (Housing) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Industry and Employment) 2021 • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 • Ryde Local Environmental Plan 2014 • Ryde Development Control Plan 2014 • Ryde Section 7.11 Development Contributions Plan 2020
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Attachment 1: Proposed Plans • Attachment 2: Applicant's Clause 4.6 request to vary a Development standard • Attachment 3: Assessment against ADG & DCP • Attachment 4: Operational Management Plan • Attachment 5: Site Isolation Analysis Plans • Attachment 6: WSP Independent Social Planning Review • Attachment 7: Comparative Analysis of Purpose Built Student Accommodation

	<ul style="list-style-type: none"> Attachment 8: Draft Conditions of consent
Clause 4.6 requests	<ul style="list-style-type: none"> Request to vary Motorcycle Parking Development standard in SEPP Affordable Housing
Summary of key submissions	<ul style="list-style-type: none"> Non-compliant parking, accommodation size, use of the ground floor, use of communal living areas, inconsistent with the character of the local area under the Affordable Housing SEPP. Unacceptable 'apartment' amenity as the multi-room apartments do not satisfy the minimum required area under SEPP 65 and the Apartment Design Guide. Inadequate Plan of Management, pastoral care, security and associated social and mental health impacts. Impact on the function and amenity of Lachlan Avenue (being a cul-de-sac with unrestricted resident parking), access and the broader road network. Inadequate solar access to the outdoor communal outdoor areas. Adverse wind impacts of the proposal on the local wind environment. Private access from the site to Elouera Reserve is inappropriate. Security concerns regarding public access to the carpark. Inadequate consideration of Tree 10 is an endangered species and Tree 34 is a nationally vulnerable species under the relevant legislation. Impact on the established vegetation and fauna habitat due to the removal of trees and lack of deep soil area. Inadequate Acoustic Report. Inadequate 'desktop' Geotechnical Report. A Detailed Site Investigation Report (Contamination) is required. Incorrect calculation of gross floor area.
Report prepared by	Holly Charalambous, Senior Town Planner
Report date	12 July 2022
Summary of s4.15 matters Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the Assessment report?	Yes
Legislative clauses requiring consent authority satisfaction Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?	Yes
Clause 4.6 Exceptions to development standards If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Yes
Special Infrastructure Contributions Does the DA require Special Infrastructure Contributions conditions (S7.24)?	Not applicable
Conditions Have draft conditions been provided to the applicant for comment?	Yes

1. **EXECUTIVE SUMMARY**

This assessment report considers a development application for the demolition of the existing structures and construction of a 15 storey student accommodation facility that is capable of accommodating 488 beds, communal recreation rooms and facilities, basement parking and loading facilities and landscaping at Nos. 23-25 Lachlan Avenue, Macquarie Park.

Community notification and advertisement

The DA was notified and advertised as lodged, and as amended, in accordance with Part 2.1 of *Ryde Community Participation Plan* and 5 submissions were received. The key issues in the submissions relate to:

- Non-compliant parking, accommodation size, use of the ground floor, use of communal living areas, character of the local area under the State Environmental Planning Policy (Affordable Rental Housing) 2009.
- Unacceptable 'apartment' amenity as the multi-room apartments do not satisfy the minimum required area under SEPP 65 and the Apartment Design Guide (ADG).
- Inadequate Plan of Management, pastoral care, security and associated social and mental health impacts.
- Impact on the function and amenity of Lachlan Avenue (being a cul-de-sac with unrestricted resident parking), access and the broader road network.
- Inadequate solar access to the outdoor communal outdoor areas.
- Adverse wind impacts of the proposal on the local wind environment.
- Private access from the site to Elouera Reserve is inappropriate.
- Security concerns regarding public access to the carpark.
- Inadequate consideration of Tree 10 is an endangered species and Tree 34 is a nationally vulnerable species under the relevant legislation.
- Impact on the established vegetation and fauna habitat due to the removal of trees and lack of deep soil area.
- Inadequate Acoustic Report.
- Inadequate 'desktop' Geotechnical Report.
- Lack of a Detailed Site Investigation Report (Contamination) report.
- Incorrect calculation of gross floor area.

The applicant has addressed each of the issues raised and are considered in the assessment of the DA. The issues are not considered to warrant the refusal of this application. Detailed discussion of the submissions is provided later in this report.

Section 4.15 Assessment summary

The application was lodged under the State Environmental Planning Policy (Affordable Rental Housing) 2009 and satisfies the relevant development standards, with the exception of motorcycle parking requirements under clause 30(1)(h). The proposal provides 21 motorcycle parking spaces, being a shortfall of 76 spaces.

The proposal is supported by a Clause 4.6 written variation request from the applicant which satisfactorily addresses the jurisdictional prerequisites required to satisfy the consent authority. Council's assessment of this request concludes that it is satisfied that sufficient motorcycle parking is provided to serve the transport needs of the occupants and alleviate the potential pressure of on-street motorcycle parking. The low rate of car and motorcycle parking for students will also help to minimise the

amount of traffic generated by the site, thereby reducing potential adverse traffic impacts on the local road network.

Council concurs with the Applicant that strict compliance with the development standard is both unreasonable and unnecessary, in this case. The site is located within close proximity to educational establishments, local services and facilities. In addition, the site is well placed and served by non-private vehicle travel modes. The Clause 4.6 variation request is reasonable and well founded. The variation sought to the standard is considered to be satisfactory.

The proposal complies with the planning requirements under Ryde Local Environmental Plan 2014 (RLEP 2014), with the exception of building height.

The proposal exceeds the maximum building height of 45m permitted under Ryde LEP 2014. Clause 29 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (AH SEPP) states that a consent authority must not refuse consent to development if the building height is not more than the maximum building height permitted under another environmental planning instrument. For the purpose of this development, the relevant environmental planning instrument is the RLEP 2014.

The proposal has a building height of up to 46.5m, representing a 3.3% variation to the height of buildings development standard. Pursuant to 193 Liverpool Road Pty Ltd v Inner West Council [2017] NSWLEC 13, a strict Clause 4.6 written variation request under the RLEP 2014 is not required given the AH SEPP does not mandate this exercise. As such, a merit-based assessment of the height non-compliance has been undertaken. It is considered the height of the proposed building is acceptable as the proposed building form is responsive to the slope of the land and existing levels and the presentation of the building form is generally consistent with the scale anticipated on this site and will read favourable in the context of the redevelopment of neighbouring sites in the future.

The proposal was considered by the Urban Design Review Panel (UDRP) on 1 July 2021. The Panel raised minor concerns in regard to the retention of Tree 9; relocation of the spiral stairs on the northern façade to create greater separation to No. 169 Herring Road; clarification of shadow impacts on neighbouring properties and further consideration of the suitability and bedroom size of multi-bed units. The applicant amended the plans, which are in a form which is supported by the UDRP.

The proposal is subject to State Environmental Planning Policy (Housing) 2021 (Housing SEPP) and the Apartment Design Guide with respect to building separation. The proposal does not comply with building separation. However, in the context of the Herring Road Activation Precinct, the scale and form of the proposed building is considered to be a positive contribution to the desired future character of this educational section of Macquarie Park.

The proposal does not comply with the Ryde DCP 2014 with regard to building separation and associated privacy and amenity, internal building design with regard to the number of rooms that share a corridor, the rate of communal living areas per student, the rate of sinks and stove tops per student, the laundry area and the dimensions of deep soil area. The non-compliances are considered in this report and are supported on their merits.

Environmental constraints that affect the site include existing vegetation generally located along the perimeter of the site, existing drainage easement, probable maximum flood level and site topography. The application has demonstrated that the site is of minimal contamination risk and that no further information is required to

satisfy clause 4.6 of State Environmental Planning Policy (SEPP) (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land (previously clause 7 of SEPP No. 55 – Remediation of Land).

Transport for NSW (TfNSW) and the NSW Local Police have provided their support for the proposal.

Other key issues considered in this report includes:

- Potential community and social impacts relating to the proposal
- Driveway access to the basement levels
- Retention of existing trees
- Impact on solar access to neighbouring apartment buildings
- Suitability of multi-bed rooms
- Potential site isolation of Nos. 165-167 Herring Road

Each of the non-compliances or key issues have been addressed in the report and can be supported on their merits.

After consideration of the development against section 4.15 of the EP&A Act 1979 and the relevant statutory and policy provisions, the proposal is considered suitable for the site and within the public interest.

Assessment of the application against the relevant planning framework and consideration of matters by Council's technical departments have not identified any issues of concern that cannot be dealt with by conditions of consent.

This report concludes that in its context, this development proposal is able to be supported in terms of the development's broader strategic context, function and overall public benefits.

This report recommends that consent be granted to this application in accordance with conditions provided in **Attachment 8**. These conditions have been reviewed and agreed to by the applicant.

2. APPLICATION DETAILS

Applicant: Barcam Mac Park Pty Ltd

Owners: N & B Freeman from 25 Lachlan Avenue
12 owners of apartments in 23 Lachlan Avenue

Capital Investment Value: \$59,800,000 excluding GST.

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

3. SITE DESCRIPTION

The site, 23-25 Lachlan Avenue, Macquarie Park, has an area of 2,266.6m² and is generally rectangular in shape, except for the street frontage which follows the curvature of the cul-de-sac. The site slopes from west to east with various trees along the perimeter. There are existing easements to drain water by enclosed pipe and overland flow along the western and northern boundary of the site.

As shown in **Figure 1** below, the site currently comprises 2 separate 3 storey walk up residential flat buildings, with parking at-grade. The surrounding sites also feature similar buildings.

Elouera Reserve adjoins the site to the north-east and there is an existing public access way along the eastern boundary of the site that links Lachlan Avenue to Waterloo Road.

The site is located in close proximity to Macquarie University, Macquarie Hospital and associated facilities, Macquarie University Metro rail station, bus services, the M2 Motorway and Macquarie Shopping Centre.

The locality is undergoing significant transformation.



Figure 1: Aerial view of the site and surrounds. The site is outlined in orange. The potentially isolated neighbouring site is outlined in blue (Nos. 165-167 Herring Road). Elouera Reserve is located to the north-east of the site. The existing public accessway is shown in red.



Photo of the site (left) as viewed from Lachlan Avenue. Trees 17, 18 and 19 to be retained are shown in the centre. The public accessway to Elouera Reserve is shown by the red arrow.



Photo of the site and some trees to be retained are shown on the right (including Tree 9).

The neighbouring apartment building to the south is shown on the left.



Photo of the site as viewed from within Elouera Reserve.



Photo taken from Elouera Reserve. The site ('S') is screened by existing trees which are to be retained in the Reserve.



Photo taken from Lachlan Avenue. The site ('S') is screened by existing trees.

Figure 2: Photos of the existing site and surrounds.

The applicant is accompanied by a Social Impact Report prepared by HillPDA and dated December 2021 which identifies that a significant number of students associated with Macquarie University will require accommodation. In 2019, students from regional or remote locations made up 4.9% (588) of commencing domestic students and overseas students made up 33% (5,610) of all commencing students.

To 2019, overseas enrolments were trending upwards since 2015, while domestic students had been rising more steadily over the previous decade. Domestic student enrolments have been largely unaffected by the pandemic. International student enrolments may initially be slower and are anticipated to recover in the medium term.

Existing purpose built student accommodation at Macquarie University comprises 1 operated by Macquarie University (342 beds), 1 operated by an external PBSA provider 'Macquarie University Village' (906 beds), and 4 independent operations with university affiliation (270, 100, 26 and 302 beds each).

4. **THE PROPOSAL (as amended)**

In response to the comments from the Urban Design Panel and Council officers, and issues raised in public submissions (detailed below), amended plans were submitted on 24 August 2021 and 5 May 2021 and are provided at **Attachment 1**.

As amended, the proposal is for demolition of the existing structures and construction of a 15 storey student accommodation facility with basement parking and associated landscaping and public domain works. The details of the development are provided in the following table.

Component	Proposal
Site Preparation	Demolition of all existing structures on the site including remediation works. Removal of 17 trees and retention of 11 trees. Retention of the stormwater drainage pipe along the northern and western boundaries.
Scale	15 storeys 46.5m building height (exceeds the maximum permitted by up to 1.5m or 3% for a corner of a boarding room, parts of the lift overrun, plant room and roofline.)
Floor Space Ratio	10,879m ² 4.8:1 (satisfies the maximum permitted FSR).
Basement Parking	Total: 64 car parking spaces, 21 motorbike and 102 bicycle spaces. Ground Level: 12 visitor bicycle parking spaces Basement Level 1: 12 visitor parking spaces 12 motorbike parking spaces Waste collection and loading which can accommodate heavy vehicles up to the size of a 10.8m long truck. Basement Level 2: 5 visitor parking spaces 2 staff parking spaces (tandem) 5 car share spaces (privately operated) 9 motorbike parking spaces 90 bicycle parking spaces 40 resident spaces within 5 x 8 car stackers
Driveway access	Access to the basement is secure by a roller door. Access is gained via the intercom to reception staff/residents located on the northern side of the driveway or via remote controls (which are allocated to staff and occupants allocated parking). The roller door can also be left open when deliveries and waste collection are scheduled.

	<p>Sufficient width of 5.8m is provided at the top of the driveway to enable vehicles to pass each other. Access to the driveway will be managed by an internal 'traffic light' system.</p> <p>The driveway width reduces to 4m approximately 127m inside the site which enables 1 vehicle to enter/exit the basement at any one time.</p>
Accommodation	<p>488 beds (total residents) within 368 rooms comprising:</p> <ul style="list-style-type: none"> 325 single rooms 13 double rooms (disabled access rooms) 13 multi-bed rooms - 4 bedrooms 14 multi-bed rooms - 5 bedrooms 2 multi-bed rooms - 6 bedrooms 1 managers room with 3 bedrooms.
Communal Recreation Areas	<p>Outdoor:</p> <ul style="list-style-type: none"> Rear and side setback area (Hours limited to 7am to 9pm) Gym area (Hours limited to 7am to 9pm) Rooftop terraces/balconies (Hours limited to 7am to 9pm) <p>Indoor:</p> <ul style="list-style-type: none"> Kitchen (no restriction on hours of use. The doors to the outdoor COS area are to be closed at 10pm). Study areas (24/7) Games area including laundry, cinema and gym (24/7 with doors closed) Kitchen and lounge rooms on each level (Level 1 to 14) (24/7)
Services	<p>15 washing and 15 drying machines (ratio of 1:31 students).</p> <p>Luggage storage.</p> <p>Access to 5 cars in a privately operated car share scheme.</p> <p>Access to 6 bicycles in a privately operated e-bike share scheme.</p> <p>Waste collection managed by a private contractor.</p>
Staff and 24 hour management	<p>General/Community Manager: full time, Monday to Friday, contactable 24/7.</p> <p>Assistant General Manager: full time, Monday to Friday, contactable 24/7.</p> <p>Customer Service Coordinator: full time and casuals, Monday to Sunday.</p> <p>Maintenance Manager: Full time, Monday to Friday.</p> <p>Residential Customer Advisors (RCAs): Casual, nightly coverage, 'live in' students who act as site liaison officers. Minimum of 4 (more depending on occupancy – up to 8).</p> <p>Night Wardens/External Security: Casual out of hours staff (supplements to the RCA's where required).</p> <p>Accountant/Administration Coordinator: full time, Monday to Friday.</p> <p>Members of the management team will generally be on duty between 8am and 6pm Monday to Friday, 9am to 5pm on weekends.</p> <p>Out of hours support will be available 24/7.</p> <p>Administration offices are at the ground level entry area.</p> <p>One or more staff members will live on site in the Manager's apartment.</p> <p>The proposal is accompanied by an Operational Management Plan which is provided at Attachment 4.</p>
Landscaping	<p>17 existing trees to be removed comprising 14 trees in good health; 2 trees in moderate health and 1 tree in poor health.</p> <p>11 existing trees to be retained.</p> <p>Replacement planting includes:</p> <ul style="list-style-type: none"> 1 x Tuckeroo tree with a mature height of 12m.

	<p>5 x Luscious Water Gum trees with a mature height of 10m. Various other shrubs, accent plants, grasses, ferns, ground covers and climbers.</p> <p>913.7m² landscaping (40.3% of the site area)</p> <p>602.1m² deep soil (26.6% of the site area)</p>
Signage	<p>Business identification signage is proposed on these façades: South to Lachlan Avenue North to Elouera Reserve (as shown in Figure 3 below) West to Herring Road</p> <p>The signage is illuminated.</p> <p>Note: This consent approves the signage zone/area only. Separate Development Application approval is required for the approval of the content of the signage.</p>
Public Domain Improvements	<p>Upgrade the public path along the western boundary of the site connecting Elouera Reserve to Lachlan Avenue, including widening the path to 2.4m and replacing the drainage grate.</p> <p>New access from the site to Elouera Reserve at the north-western corner of the site.</p> <p>Upgrade the street frontage to provide 1 driveway access point.</p> <p>Installation of new public art.</p>



Figure 3: Photomontage of the proposed development as viewed from Elouera Reserve.

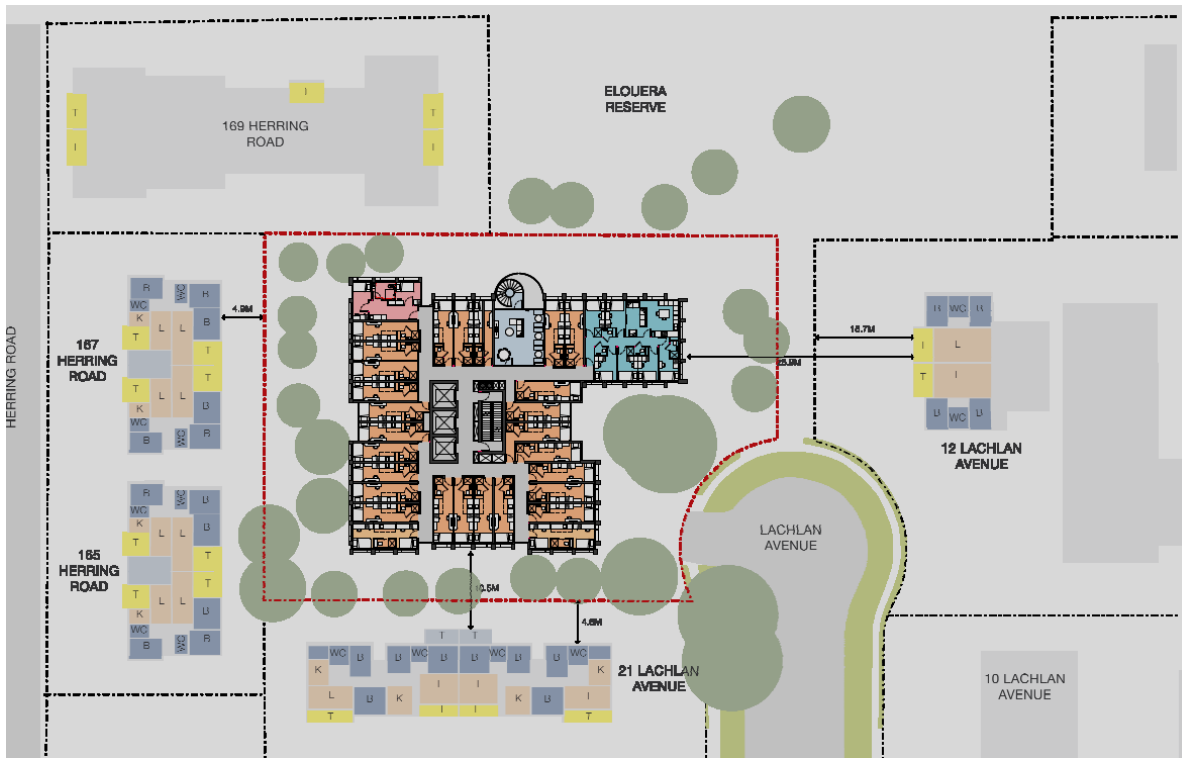


Figure 4: Extract from the Site & Surrounding Sites Plan showing the proposed development in relation to the surrounding residential apartment buildings. The potentially isolated site is shown on the left, Nos. 165-167 Herring Road.

Design

The proposed building reads as a series of smaller vertical building forms which respond to the shape of the site and the address to Lachlan Avenue and Elouera Reserve.

The design strategy comprises elements which reflect the more educational function of the building and emphasises verticality to provide articulation, including the expression of the common balconies on the northern façade.

The applicant states that the colours of the external façade design have been selected to represent the local flora and reflect and the surrounding context with the use of pattern material and colour. The colours include a mix of white, bronze and grey colours. The materials include painted brickwork and metal finishes.

The proposal encompasses all the facilities expected of a contemporary student college. The ground plane of the development is fully activated with student study rooms, dining and kitchen facilities, recreation areas including cinema, games rooms, lounges, and a gym along with varied quieter meeting spaces spread across the social floor. Reception and staff spaces are also provided at the ground level.

Single and co-shared living arrangements are provided across 14 levels, and each level features a communal space.

All bedrooms have access to natural ventilation via an awning window which enables students to regulate the amount of ventilation as desired. The façade treatment allows the modulation of deep window ledges to provide privacy to adjoining dwellings, where required and in particularly to lower floors, while managing solar access and views for other rooms.

The applicant states that to create a modern student college, the provision of communal area is crucial to the social and civic dynamic of the residents. The aim of these spaces is to draw students out of their private rooms, and to congregate together and get the full advantage of the student experience.

Communal areas visually and spatially connect to the outdoors mirroring internal uses with a parallel external use and create a connection to the landscape character of Macquarie Park.

The interface address to Elouera Reserve is gradually stepped away with a landscape edge. The communal areas are positioned above and below ground which creates a visual and active connection from the park to the communal areas.

The main entrance is setback to create a singular entry point that is marked by a change in the architectural structure at this point. Vehicular entry is visually screened by recessing the building form over.

A separate pathway access is provided along the southern building façade to allow students to access the bicycle parking area.

Landscaping

The proposal is for:

- 17 trees to be removed from within the site.
- 11 trees to be retained within the site.
- 2 trees to be retained within the Lachlan Avenue Street verge
- 7 trees to be retained on neighbouring properties.

Replacement planting is proposed throughout the perimeter of the site comprising deep soil for 602.1m² or 26.6% of the site, and landscaping for 913.7m² or 40.3% of the site.

Car stackers

The proposal includes a car stacking system on the lower basement level. The car stacking system has 3 levels and can accommodate 40 vehicles. The maximum time to retrieve a car is 2.02 minutes including opening the garage door. The car stackers can accommodate B99 vehicles with a height of 1.6m. On-site management will ensure student vehicles are allocated and use the appropriate spaces.

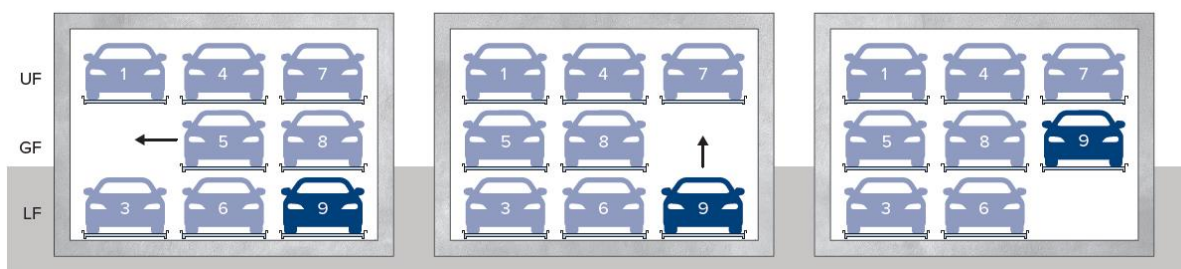


Figure 5: Extract from the Product Datasheet from 'V Space Parking Solutions' demonstrating the function of the car stackers.

Operational Management Plan

During the assessment of this DA, Council engaged independent consultant WSP to undertake a social planning review of the community and social impacts relating to the proposal. The recommendations from the WSP social planning review, the applicant's response and Council's comments are considered in detail below.

These recommendations assisted with informing enhancements to the proposal, including the Operational Management Plan (OMP), which is provided at **Attachment 4**. The OPM sets out the operations of the development and initiatives to provide student wellbeing and support, and includes the following:

- Staff roles, responsibilities and availability.
- The services available to occupants and when those services are available (hours of use).
- Safety and security including access control, CCTV, the role of reception and Student Safety Induction.
- Policies regarding health and wellbeing, disabled access and inclusion, and cultural awareness.
- Management processes to be undertaken at booking and registration, prior to moving in, during the moving in period including traffic management, settling in and annually.
- Additional staffing resources when there is a high volume of student arrivals (prior to O week and the start of semester).
- Tenancy application to verify that the occupant is a student and establish an appropriate room allocation.
- Management processes during the tenancy including room inspections, repairs and maintenance, cleaning, waste and recycling management and management of the laundry area.
- Management of the car, bicycle and motorbike parking spaces for the use of staff, occupants and visitors. This includes the 40 resident car stacker spaces.
- Management of the private vehicle share scheme for 5 cars and 6 e-bikes.
- Mail and parcel management.
- Deliveries and collections for vending machines, laundry services, maintenance, mail and parcels.
- Social and recreational events and programmes.
- Anti-Social Behaviour and Sexual Harassment Policy and Procedure setting out the resident rules and responsibilities. In the event of any anti-social behaviour including, sexual harassment, excessive noise, violation of smoking and alcohol regulations caused by tenants that is observed by the management team or reported to them by other tenants, residents or neighbouring building occupiers; this Policy states that the incident will be actively managed by staff.
- Limits on visitors including registering visitors entering and exiting the site, a certain number of guests per occupant, and no visitors accommodated overnight.
- Residents will enter into a standard occupancy NSW Residential Tenancy Agreement under the Residential Tenancies Act 2010 and be bound by the 'House Rules.'
- The formation of a 10 person Community Liaison Group representing a range of local interest groups and public bodies. The purpose is to provide a forum to hear and discuss any issues or concerns raised by representatives in connection with the management of the building and potential impact the activities and behaviour of its residents may have from time-to-time on the local community. The group will endeavour to determine workable solutions to problems, with the Operator subsequently taking overall responsibility for ensuring appropriate action is taken.

- Management of health and safety issues and legislation through the appointment of an external specialist Health and Safety consultant to undertake risk assessments of all relevant legislative areas and employ plans and procedures.

5. **HISTORY OF SUBJECT APPLICATION & RESOLUTION OF KEY ISSUES**

28 April 2021	DA Lodged.
3 to 24 May 2021	DA advertised and notified to the surrounding property owners and occupants. Four submissions were received objecting to the development.
1 July 2021	Application considered at the Urban Design Review Panel (UDRP) meeting.
26 July 2021	<p>Letter sent to the applicant requesting additional information regarding:</p> <ul style="list-style-type: none"> • Compliance with SEPP Affordable Housing regarding: <ul style="list-style-type: none"> - Calculation of gross floor area. - Size of single bedrooms, double rooms and multi-bed rooms. - Rate for car parking and motorcycle spaces. • Compliance with Ryde DCP 2014 regarding storage area for each occupant. • Clarification of the Operational Plan of Management and Tenancy Agreement regarding visitor parking, car share parking and the Manager's Unit. • Relationship of the proposed outdoor balconies on the northern façade of the building to the neighbouring apartment buildings. • Clarification of the recommendations in the Wind Assessment. • Clarification of business identification signage. • Landscape Architect and Arborist: Tree 9 located in the front setback is to be retained and further information provided in the Arborist Impact Assessment and Landscape Plans. • Waste Management: Amendments to the waste storage and collection area. • Urban Strategy: Indicate the potential location of public art. • Parks Planning: The new access point into Elouera Reserve is not supported. The pedestrian way linking Elouera Reserve and Lachlan Avenue is to be consistent with Ryde's Public Domain Technical Manual. The pit within the cul-de-sac is to be relocated to be clear of the direct connection between the pedestrian pathway and Lachlan Avenue for cyclists. • Stormwater: The stormwater management system is to be clear of the existing drainage easement along the northern boundary of the site. • Parking: The lack of parking is unacceptable for this scope of development and more a suitable parking arrangement is required to be provided for student, visitor and staff parking. The potential additional pressure on street parking is to be addressed. • Traffic generation: Further analysis required regarding traffic generation rates, current traffic conditions and intersection modelling. • Basement design: Amendments required to address 2-way flow of traffic and safe sight distances. • Comments raised by the Urban Design Review Panel.

	<ul style="list-style-type: none"> • Issues raised in submissions.
27 July 2020	Council staff met with the applicant to discuss major concerns with the proposal and where it was advised that Council could not support the application as lodged.
24 August 2021	In response to Council's request for additional information, the applicant submitted a written response to each of the issues raised and amended plans and reports. The applicant also submitted a response to the issues raised in submissions.
19 October 2021	<p>The SNPP was briefed on the amended plans and the SNPP listed the key issues as follows:</p> <ul style="list-style-type: none"> • "Operational Plan of Management and continuing management in the long-term • Density • Car stackers." <p>As a result of discussions in this meeting, Council also resolved to engage an independent and suitably qualified and experienced Consultant to undertake a social planning review of the community and social impacts relating to the proposal. The social planning review was sought to consider:</p> <ul style="list-style-type: none"> • Potential social issues arising from the development, as well as recommendations to mitigate potential social issues. • A design review of the accommodation and provide recommendations to improve the amenity of the occupants. • The Plan of Management (and other recommended policies or codes of conduct), as well as guidance on the operation of the proposed development with respect to staff numbers, best practices, etc. • The density of the proposal, including the potential impact on the adjoining properties from the operation of the proposed use, and how this impact could potentially be mitigated. <p>WSP Consulting was subsequently engaged to conduct this social planning review.</p>
19 October to 9 November 2021	The amended proposal was re-notified to the surrounding property owners and occupants. No submissions were received.
1 March 2022	<p>The recommendations of the WSP Social Planning Review were provided to the applicant which included recommendations to mitigate social impact in the form of:</p> <ul style="list-style-type: none"> • Design changes (including addressing the building separation requirements under the ADG to assist with achieving suitable visual and acoustic privacy to and from this development); • Amendments to the Operational Management Plan; and • Other items capable of being conditioned (relating to noise and vibration protection and grievance mechanisms during demolition and construction).
14 March 2022	<p>Council requested amended plans and additional information with regard to the following:</p> <ol style="list-style-type: none"> 1. The key issues raised by the SNPP (above). 2. Recommendations from the independent WSP Social Planning Review including changes to the design and Operational Management Plan. 3. Pruning specifications for Trees 4, 5, 7, 8, 9, 17 and 18 to be clear of the building and construction scaffolding. 4. Details of the design and operation of the 5 x 8 car stackers.

	<ol style="list-style-type: none"> 5. Levels of the basement ramp and any openings (ventilation and emergency exits) which are required to be above the probably maximum flood (PMF) level. 6. Suitable landscaping along the drainage easement to avoid root damage to the pipe. 7. Clarification of how the traffic signal system works for cars and the waste truck using the one-way driveway entrance.
15 March 2022	<p>Meeting held with the applicant in which the applicant submitted Concept Plans in an effort to provide design responses which respond to Council's concerns. The concept plans proposed changes in the building footprint to improve the building separation requirements of the ADG (in particular along the southern boundary) as well as modifying the cluster room arrangement to provide more 'family sized' cluster rooms. The applicant also advised that the majority of the recommendations from the WSP Social Planning Review can be implemented to the design and Operational Plan of Management.</p>
23 March 2022	<p>The SNPP was briefed on the amended plans and the recommendations of the WSP Social Planning Review.</p> <p>The SNPP listed the key issues as follows:</p> <ol style="list-style-type: none"> 1. Discussed reduction in motorcycle parking. Council noted the accommodation would mainly serve overseas students who are less likely to have a licence. 2. Council and applicant to further investigate feasibility of motorcycle sharing. 3. Panel recommended Council focus on the Plan of Management. 4. Four submissions received by Council came from adjacent facilities and focused on the Plan of Management. 5. Council to re-exhibit as the building footprint has changed. <p>The matters raised in the first briefing to the Panel were addressed as follows:</p> <ul style="list-style-type: none"> • The applicant introduced additional parking in the form of car stackers to accommodate 40 resident vehicles: Council's Senior Coordinator Engineering Services supports the proposed car parking provision and use of 5 x 8 car stackers (total of 40 vehicles). • Shortfall of motorbike parking: Council supports the applicant's Clause 4.6 Request to vary a development standard set out under the Affordable Housing SEPP, providing only 21 spaces where 77 are required. • Driveway access to the basement levels: The proposed 4m wide access driveway, which includes a passing bay to allow vehicles to access the intercom, is supported by Council's Senior Coordinator Engineering Services. • Retention of existing trees: The proposal seeks to retain 11 trees and provide replacement planting. The proposal is supported and is considered to reflect the desired future character of this area of Macquarie Park. • Suitability of setbacks and building separation: The applicant amended the proposal to better reflect the minimum building separation requirements under the ADG which are considered acceptable. • Impact on solar access to neighbouring apartment buildings: The applicant submitted amended plans which better reflects the

	<p>minimum building separation requirements under the ADG and allows improved solar access to neighbouring units.</p> <ul style="list-style-type: none"> • Suitability of multi-bed rooms: The applicant has demonstrated that the multi-bed rooms afford a level of floor area per resident that is commensurate with other Student accommodation developments in Sydney and is consistent with how this has been accepted by consent authorities to date. • Contamination and remediation: The applicant submitted an revised Preliminary Site Investigation report that confirms that the land can be remediated and made suitable for its continued residential use in line with the strict requirements of Clause 7 of SEPP 55 Remediation of Land. <p><i>Potential site isolation of Nos. 165-167 Herring Road: The applicant has submitted sufficient documentation to adequately address the requirements of the 'site isolation' planning principle.</i></p>
21 April 2022	The applicant was requested to consider the feasibility of a motorbike sharing program, submit an updated Clause 4.6 request to vary the development standard for motorcycle parking, clarify if the amended plans affect the solar access analysis to neighbouring apartments and submit updated shadow diagrams.
5 May 2022	<p>The applicant submitted a revised Clause 4.6 request, revised architectural and shadow plans and an updated Operational Plan of Management (which took into consideration the recommendations of the WSP Social Planning Review).</p> <p>The applicant also confirmed that a motorcycle share scheme was investigated and concluded that the risks and insurance implications are significant. When compared to a car share scheme, the cost of leasing/hiring a motorbike is not as prohibitive as a car. The applicant states that the site provides sufficient motorcycle parking to service the anticipated needs of occupants.</p> <p>As an alternate option, the applicant has introduced a bicycle share scheme, including e-bikes to support the transport needs of occupants.</p>
9 May 2022	The UDRP provided desktop review comments of the amended plans (detailed below).
9 to 30 May 2022	The amended proposal was re-notified to the adjoining property owners and occupants and submitters. 1 further submission objecting to the development was received.

6. **APPLICABLE PLANNING CONTROLS**

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

- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Regulation 2000;
- State Environmental Planning Policy (Affordable Rental Housing) 2009;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Industry and Employment) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- Ryde Local Environmental Plan 2014;
- Draft State Environmental Planning Policy (Housing) 2021;
- City of Ryde Development Control Plan 2014; and
- City of Ryde Section 7.11 Development Contributions Plan 2020.

7. PLANNING ASSESSMENT

This section provides an assessment of the DA against section 4.15(1) matters for consideration of the *Environmental Planning and Assessment Act 1979*.

(a) The provisions of-

(i) Any environmental planning instrument:

7.1 State Environmental Planning Policy (Affordable Rental Housing) 2009

Given the proposal was lodged prior to the gazettal of State Environmental Planning Policy (Housing) 2021, the development is still subject to Division 3 (Boarding Houses) of State Environmental Planning Policy (Affordable Rental Housing) 2009 (AH SEPP).

The site is zoned B4 Mixed Use under Ryde LEP 2014 and this SEPP is applicable in accordance with Clauses 26 and 27(1) which read as follows:

Clause 26 – Land to which Division applies

This Division applies to land within any of the following land use zones or within a land use zone that is equivalent to any of those zones -

*Zone R1 General Residential,
Zone R2 Low Density Residential,
Zone R3 Medium Density Residential,
Zone R4 High Density Residential,
Zone B1 Neighbourhood Centre,
Zone B2 Local Centre,
Zone B4 Mixed Use.*

Clause 27 – Development to which Division applies

(1) This Division applies to development, on land to which this Division applies, for the purposes of boarding houses.

With respect to 27(1), “boarding house” is defined under the AH SEPP (and Ryde LEP 2014) as follows:

Boarding house means a building or place-

- that provides residents with a principal place of residence for at least 3 months, and*
- that contains shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- that contains rooms, some or all of which may have private kitchen and bathroom facilities, and*
- used to provide affordable housing, and*

*(e) if not carried out by or on behalf of the Land and Housing Corporation—managed by a registered community housing provider,
but does not include backpackers' accommodation, co-living housing, a group home, hotel or motel accommodation, seniors housing or a serviced apartment."*

The proposed development for a boarding house satisfies the above definition.

Clause 29 – Standards that cannot be used to refuse consent

Clause 29 states that a consent authority must not refuse consent to development on certain grounds if the development complies with the standards set out in subclause (1) or (2). Subclause (3) outlines the standards relating to the provision of private kitchen or bathroom facilities. The table below provides an assessment of the proposal against these standards.

Clause 29 – Standards that cannot be used to refuse consent		
Standard	Proposal	Complies
(1) A consent authority must not refuse consent to development to which this Division applies on the grounds of density or scale if the density and scale of the buildings when expressed as a floor space ratio (FSR) are not more than—		
(c) if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register—the existing maximum FSR for any form of residential accommodation permitted on the land, plus— (ii) 20% of the existing maximum FSR, if the existing maximum FSR is greater than 2.5:1.	The FSR permitted under Ryde LEP 2014 is 4:1. Bonus FSR is sought under this clause for an additional 20%, being 4.8:1. The proposed FSR is 4.8:1.	Yes
(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds—		
(a) building height if the building height of all proposed buildings is not more than the maximum building height permitted under another environmental planning instrument for any building on the land,	The majority of the building satisfies the maximum permitted building height of 45m under Ryde LEP 2014. The corner of a boarding room, parts of the lift overrun, plant room and roofline exceed the maximum permitted by 1.5m or 3%.	No. A merit-based assessment of the height non-compliance is undertaken in the Ryde LEP 2014 section below and concludes that the proposed building height is acceptable in this circumstance. (A previous Court case has determined that a Clause 4.6 submission is not required).

<p>(b) landscaped area</p> <p>if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located,</p>	<p>Extensive landscaping is proposed in all setback areas as shown in Attachment 1. The landscaping is compatible with the existing and future desired streetscape.</p>	<p>Yes</p>
<p>(c) solar access</p> <p>where the development provides for one or more communal living rooms, if at least one of those rooms receives a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,</p>	<p>Multiple communal living rooms/areas benefit from at least 3 hours of direct sunlight between 9am and 3pm in mid-winter.</p>	<p>Yes</p>
<p>(d) private open space (POS)</p> <p>if at least the following POS areas are provided (other than the front setback area)—</p> <p>(i) one area of at least 20m² with a minimum dimension of 3m is provided for the use of the lodgers,</p> <p>(ii) if accommodation is provided on site for a boarding house manager—one area of at least 8m² with a minimum dimension of 2.5m is provided adjacent to that accommodation,</p>	<p>The primary POS areas is provided at the rear of the site and meets these dimensions.</p> <p>The boarding house manager's unit has an area of 19m² and dimensions of at least 2.5m</p>	<p>Yes</p>
<p>(e) parking</p> <p>(iia) in the case of development not carried out by or on behalf of a social housing provider—at least 0.5 parking spaces are provided for each boarding room, and</p> <p>(iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,</p>	<p>367 rooms are proposed (excluding the Manager's room). 184 parking spaces are required. 62 parking spaces are provided:</p> <ul style="list-style-type: none"> • 40 resident spaces; • 5 car share spaces (equivalent to 40 resident spaces); and • 17 visitor spaces. <p>A minimum of 5 staff resides on the site, comprising 1 boarding house manager (Community Manager) and at least 4 Residential Customer Advisors (RCAs) who are live-in students. 2 tandem car parking spaces are proposed.</p>	<p>No. Variation sought as discussed in detail below. The proposal provides a private car share scheme to accommodate the needs of students.</p> <p>No. Variation sought. Parking spaces are not provided for RCA staff as they are live-in residents and do not generate demand for parking.</p>

		<p>The second tandem parking space can be made available for other staff, and the maintenance manager's vehicle, as required.</p> <p>Council's Senior Development Engineer has also provided consideration of the parking rates below this table.</p>
<p>(f) accommodation size</p> <p>if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least—</p> <p>(i) 12m² in the case of a boarding room intended to be used by a single lodger, or</p> <p>(ii) 16m² in any other case.</p>	<p>All single boarding rooms have an area of at least 12m².</p> <p>All double room have an area of at least 16m².</p> <p>All multi-room units have an area of at least 16m² apportioned to each room.</p>	<p>Yes.</p> <p>Also refer to discussion regarding multi-room units below.</p>
<p>(3) A boarding house may have private kitchen or bathroom facilities in each boarding room but is not required to have those facilities in any boarding room.</p>	<p>Each residential room/unit has kitchen and bathroom facilities.</p>	<p>Yes</p>

Clause 30 – Standards for boarding houses

Clause 30 stipulates that a consent authority must not consent to development to which this Division applies unless it is satisfied of each of the development standards considered in the following table:

Clause 30 – Standards for boarding houses		
(1) A consent authority must not consent to development to which this Division applies unless it is satisfied of each of the following:		
Standard	Proposal	Complies
(a) if a boarding house has 5 or more boarding rooms, at least one communal living room will be provided,	Multiple communal living rooms are provided.	Yes
(b) no boarding room will have a gross floor area (excluding any area used for the purposes of	<p>No rooms are larger than 25m².</p> <p>This includes the multi-room units which accommodate 5 or 6 adult</p>	Yes. See further discussion regarding

private kitchen or bathroom facilities) of more than 25m ² .	lodgers/students. However, the gross floor area apportioned to each adult is not more than 25m ² .	multi-room units.
(c) no boarding room will be occupied by more than 2 adult lodgers,	<p>Each boarding room will be occupied by no more than 2 adult lodgers/students.</p> <p>This includes the multi-room units which accommodate 5 or 6 adult lodgers/students. However, each adult has their own bedroom within the multi room unit.</p> <p>A condition has been imposed to ensure this (see Condition 199). The Operational Management Plan limits the capacity of each room to no more than 2 adult lodgers/students.</p>	Yes. See further discussion regarding multi-room units.
(d) adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger,	<p>Adequate bathroom and kitchen facilities are provided in each room and throughout in communal spaces throughout the development.</p> <p>Communal kitchens facilities include the kitchen at the ground level and 6 communal kitchens on Levels 2, 4, 6, 8, 10 & 12.</p> <p>Bathroom facilities include amenities at the Basement 1 and Ground Level.</p>	Yes
(e) if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager,	An on-site 3 bedroom apartment is provided for the boarding house manager.	Yes
g) if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use,	The site is zoned B4 mixed use and boarding houses are permitted with consent. The residential component at the ground level is permissible.	N/A
(h) at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.	<p><u>Bicycle parking:</u> Required: 97 Proposed: 102</p> <p><u>Motorcycle parking:</u> Required: 97 Proposed: 21 Shortfall of 76 spaces.</p>	<p>Yes.</p> <p>No. Variation sought. The application is accompanied by a Clause 4.6 Request to vary a</p>

		development standard which is provided at Attachment 2 . The provision of motorcycle parking is acceptable in this circumstance. See the discussion after this table.
Clause 30A – Character of local area		
A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.	Refer to the discussion below the table.	Satisfactory.
Clause 52 – No subdivision of boarding houses		
A consent authority must not grant consent to the strata subdivision or community title subdivision of a boarding house	No strata or community title subdivision is proposed. A Condition is recommended to be imposed	Yes. Also addressed in Condition 8 .

AH SEPP Clause 29(2)(a) Building Height

Clause 29(2)(a) of the AH SEPP states that a consent authority must not refuse consent to development if the building height is not more than the maximum building height permitted under another environmental planning instrument. Clause 29(4) also states that a consent authority may consent to development to which Division 3 applies whether or not the development complies with the standards set out in subclause (1) or (2).

A written Clause 4.6 variation request under the Ryde LEP 2014 is not required under *193 Liverpool Road Pty Ltd v Inner West Council [2017] NSWLEC 13*. Under this judgement, Moore J found the following:

“48 I do not consider that a strict cl 4.6-like approach is mandated because there is nothing in the terms of this provision of the SEPP that purports to impose fetters on the exercise of the discretion given by it in the fashion that arises from the very structured testing regime that flows from cl 4.6 itself. The absence of such a regime, in my view, means that it is inappropriate to infer that such a strict regime would be required to be applied.

49 *A proper merit assessment, having regard to the matters pressed by the Council in its contentions, would, in my view, be the appropriate course to follow.”*

Accordingly, the strict Clause 4.6 ‘tests’ have not been applied to the proposal, and a merit assessment has been undertaken below.

The maximum permitted building height for the site is 45m under Ryde LEP 2014. The proposal has a maximum building height of 46.5m which exceeds the maximum building height control by 1.5 metres or 3.3%.

The breach in building height is illustrated in **Figure 6** below.

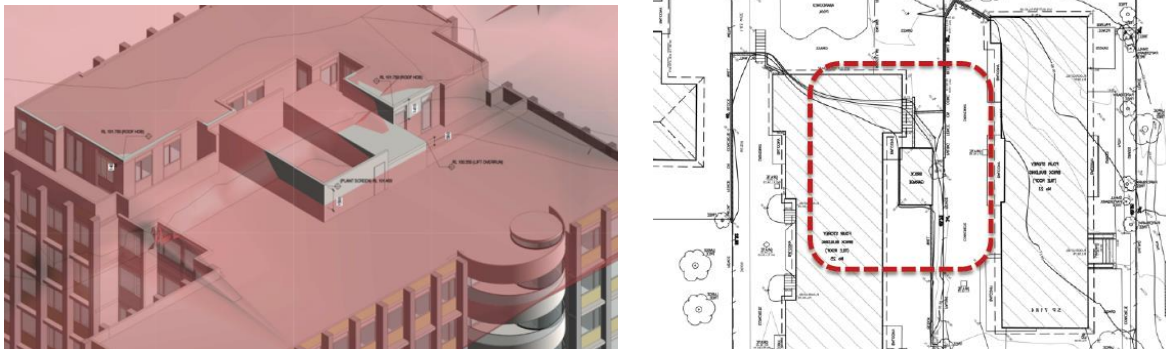


Figure 6: Extract from the Applicant's Clause 4.6 Request showing the portions of the roofline (grey) which are above the height of the building line (overlaid in red). The abrupt level changes to the height of the building line are impacted upon by the existing levels of the structures on the site as shown on the Survey Plan (right).

The Applicant has provided the following justification for the breach in building height:

- *“The contraventions arise mainly because of an anomaly of the existing ground level which interrupts the natural stepping of the building to coincide with the slope of the land. The building steps one storey in height to coincide with the fall of the land between the two properties which have been modified to accommodate existing buildings.*
- *The objectives of the height of building controls will remain satisfied by the exceedances as they are minor in nature, will not distort the presentation of the building nor its proportions at its street and other frontages.*
- *The building will also remain in character to future nearby development which will be subject to the same building height and will not meaningfully change the relationship with taller future buildings to the immediate north-east of the site subject under a 65m height limit.*
- *The main height variations are central to the building and will not influence overshadowing impacts especially in the winter months during main daylight hours. The 140mm roof intrusion at the roof edge will generate less shadowing than if the building was built to the boundary setback and otherwise, will have a negligible impact.*
- *The exceedances will not be able to be discerned from the public domain and would be imperceptible to existing and future*

developments particularly having regard to the stepping of buildings to the undulating topography.

- *The proposed building height minimises impact on the amenity of surrounding properties and does not discourage consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure.”*

Council comment

The proposed building form is responsive to the slope of the land and existing levels as a result of previous building improvements. The building steps down and results in minor portions of the roofline being above the roofline, which will be visually imperceptible from the public domain. The presentation of the building form is generally consistent with the scale anticipated on this site and will read favourable in the context of the redevelopment of neighbouring sites in the future.

AH SEPP Clause 29(2)(e) Car Parking

As lodged, the proposal was for 22 car parking spaces and Council's Traffic and Development Engineering sections raised concern that the parking demands of the development were not met. They provided a guide to an acceptable parking provision based on rates derived in the consideration of a Land and Environment Court appeal for a similar development in the area and Council's DCP parking rates.

As amended, the proposal is for 64 car parking spaces, which does not satisfy the minimum parking requirements under Clause 29(2)(e) of the AH SEPP (which requires at least 0.5 spaces for each boarding room) being a total of 184 spaces to be provided. However, the applicant has introduced a private car share scheme which contributes to equivalent opportunities for students to have access to a car at a rate of 1 car available to 8 students. The equivalent provision of parking is therefore 99 spaces (59 parking spaces and 5 private car share spaces).

Council's Senior Development Engineer advises that the following rates and quantities are considered suitable:

- **Student:** 74 student parking spaces based on 1 space per 5 boarding room derived from numerous factors considered in the appeal considerations noted above.
- **Car share:** the installation of 1 car share space is equivalent to replacing 8 spaces.
- **Visitor:** 19 visitor parking spaces based on 1 space per 20 lodgers derived from similar developments and accounting for the demographics of occupants.
- **Staff:** 2 staff parking spaces based on the DCP parking requirements for commercial use.

These parking rates have been calculated by Council's Senior Development Engineer based on previous student accommodation developments in the Macquarie Park area.

In response, the applicant submitted amended plans which acknowledge Council's estimated parking rates and allocation, as shown in the table below (Table 4.1 from the applicant's Traffic Report):

Uses	Council Recommended Provision	Proposed Parking Provision
Resident	77	40
Car Share (for residents only)	-	5 Car Share Spaces (equivalent to 40 resident spaces)
Visitor	19	17
Staff	2	2
TOTAL	98	64 (equivalent to 99)

Further detail justifying the provision of parking is provided in the Referrals section below.

AH SEPP Clause 30(1)(h) Motorcycle Parking

21 motorcycle parking spaces are proposed, which does not satisfy the minimum parking requirements under Clause 30 of AH SEPP which requires 97 spaces being 1 space per 5 boarding rooms. This equates to 1 motorcycle parking space per 23 students. (It is also noted that this development standard is imposed by clause 25(1)(d) of SEPP Housing 2021, which came into effect on 26 November 2021 following the lodgement of this DA, therefore the following consideration is also relevant in this case).

The accompanying Traffic Impact Assessment (TIA) prepared by The Transport Planning Partnership states that there is little demand for motorcycle use given the location and nature of the accommodation and students. This is because the site is surrounded by well-established pedestrian and cycle infrastructure with high frequency public transport services and tertiary educational campuses. It is considered that the future tenants (being students) are less likely to rely on motorcycles for transport due to cost and ownership constraints and would rely instead on more affordable forms of transport (being public transport, bicycles and walking).

The TIA draws attention to 9 similar like student accommodation facilities in various locations of Sydney, Broadway, Redfern, Darling Harbour and UNSW which do not provide any motorcycle parking and noting that there appears to be is no noticeable impacts of an unsatisfied demand.

The TIA also states that the use of motorcycle bays will be monitored regularly and managed by the management team to ensure appropriate operation and minimal impacts on the surrounding road network. In addition, if the demand for motorcycle bays increases in future, there are opportunities to convert on-site car parking spaces to motorcycle bays, if required.

The application is accompanied by a Clause 4.6 Request to vary this development standard. The applicant argues that strict compliance with this development standard in this circumstance would result in excessive motorcycle parking supply and consequently, a diminished urban outcome. Detailed consideration against Clause 4.6 is provided below.

The applicant seeks to vary the following Development Standard:

Development Standard	Minimum requirement	Proposed motorbike parking	Variation
Clause 30(1)(h) motorcycle parking: At least 1 parking space will be provided	97	21	76

for a motorcycle, for every 5 boarding rooms.			
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Clause 4.6 of the RLEP 2014 provides flexibility in the application of planning controls by allowing Council to approve a development application that does not comply with a development standard where it can be demonstrated that flexibility in the particular circumstances achieve a better outcome for and from development.

Subclause 4.6(2) of RLEP 2014 provides that *“development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.”* Therefore, Clause 4.6 of the Ryde LEP 2014 can be applied to vary the development standard in Clause 30(1)(h) of the AH SEPP.

Several key NSW Land and Environment Court (NSW LEC) planning principles and judgements have refined the manner in which variations to development standards are required to be approached. The key findings and directions of each of these matters are outlined in the following discussion.

The decision of Justice Lloyd in *Winten v North Sydney Council* established the basis on which the former Department of Planning and Infrastructure’s Guidelines for varying development standards was formulated. These principles for assessment and determination of applications to vary development standards are relevant and include:

- Is the planning control in question a development standard?
- What is the underlying object or purpose of the standard?
- Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case?
- Is a development which complies with the development standard unreasonable or unnecessary in the circumstances of the case?; and
- Is the objection well founded?

The decision of Justice Preston in *Wehbe V Pittwater [2007] NSW LEC 827* established the five part test to determine whether compliance with a development standard is unreasonable or unnecessary considering the following questions:

- Would the proposal, despite numerical non-compliance be consistent with the relevant environmental or planning objectives?
- Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary?

- Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable?
- Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable?
- Is the '*zoning of particular land*' unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land? Consequently, compliance with that development standard is unnecessary and unreasonable.

In the matter of *Four2Five Pty Ltd v Ashfield Council* [2015] NSW LEC, it was found that an application under clause 4.6 to vary a development standard must go beyond the five (5) part test of *Wehbe V Pittwater* [2007] NSW LEC 827 and demonstrate the following:

- Compliance with the particular requirements of Clause 4.6, with particular regard to the provisions of subclauses (3) and (4) of the LEP; and
- That there are sufficient environment planning grounds, particular to the circumstances of the proposed development (as opposed to general planning grounds that may apply to any similar development occurring on the site or within its vicinity); and
- That maintenance of the development standard is unreasonable and unnecessary on the basis of planning merit that goes beyond the consideration of consistency with the objectives of the development standard and/or the land use zone in which the site occurs.

This application is accompanied by a written Clause 4.6 justification seeking an exception from the motorcycle parking development standard, prepared by Greg Dowling from Dowling Urban and provided at **Attachment 2**.

As assessment of the relevant provisions of Clause 4.6 is as follows:

Clause 4.6(3)(a) – Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case, and

Clause 4.6(3)(b) – Are there are sufficient environmental planning grounds to justify contravening the development standard.

The applicant's reason for why compliance with the standard is unreasonable and/or unnecessary, with the relevant excerpt as follows:

- *It is considered unreasonable and unnecessary in the circumstances of the case to impose compliance to the motorcycle parking standard when it is demonstratable that it grossly exceeds the likely demand for motorcycle use, especially given the location and the nature of the accommodation and its students as found in other larger scale purpose built student accommodation closely associated with university campuses in Sydney.*

Assessing Officer's comments:

In this particular circumstance, the site is capable of being redeveloped to accommodate a new student accommodation development with basement parking to suit the transport needs of staff, deliveries, residents and their guests.

Permitting the variation will more effectively utilise the site in a manner which is cohesive with revitalisation of the Herring Road Urban Activation Precinct, and in particular for occupants who will attend nearby educational establishments, and are not anticipated to own a motorcycle and license for personal use.

The applicant's request provides reasons why there are sufficient environmental planning grounds to justify contravening the development standards, with selected excerpts shown below:

- *Most Purpose Built Student Accommodation (PBSA) facilities in Sydney do not provide student car or motorcycle parking due to a lack of need or demand from international students that mostly utilise these facilities.*
- *The Comparative Analysis of PBSA assessments and determinations is provided at **Attachment 7** and shows a high level of consistency amongst authorities in the application of the AH SEPP provisions including allowing no student car and/or motorcycle parking.*
- *The Traffic Impact Assessment advice prepared by TTPP which accompanies this DA comments from observations of Court proceedings that the standard appears to have originated from a proposition that boarding house residents might be able to afford a motorbike when they could not afford a car. There is also no evidence of an intention to apply this reasoning or the standard to PBSAs.*
- *TTPP is unable to find any numerical basis for the required provision of 1 motorcycle space per 5 rooms. It is noted that the RTA Guide To Traffic Generating Developments (2002) does not provide advice on boarding houses nor student accommodation in general, but encourages surveys or observations in consultation with Councils be used to determine parking estimates.*
- *Based on review of students at Universities and PBSA sites and motorcycle ownership, a rate of 2.8% is considered a reasonable basis to estimate student motorcycle parking needs that is both generous and precautionary should the facility be utilised for domestic students, or international motorcycle ridership substantially increases, some time the future. Applying the rate of 2.8% motorcycle student ridership to provide 1 motorcycle parking space per 35 students, results in a requirement of 14 motorcycle spaces for the development whereby the proposed provision of 21 spaces exceeds this by 50%.*
- *The facility is in close proximity to the University and will be well served by public transport and walking and cycling routes to a wide range of retail, personal and public services and employment.*

The applicant's written request has been carefully reviewed and is considered to satisfy the matters required by Clause 4.6(3). In light of the particular circumstances of this case, the provision of motorcycle parking in this student accommodation

development is sufficient to meet the transport demands of its occupants in a location which is in close proximity to the University, Shopping Centre and public transport. The transport opportunities provided by the development reflects the intended revitalisation of the Herring Road Urban Activation Precinct in a manner which is consistent with the applicable development standards and controls.

Is the proposal in the public interest?

A development is generally seen to be in the public interest if it is consistent with the objectives of the development standard and the zone in which the particular development is carried out. A response to each of the objectives is as follows:

Ryde Local Environmental Plan 2014	
Objectives of the B4 Mixed Use zone	How the proposal achieves the objective
a. To provide a mixture of compatible uses.	The proposed student accommodation is compatible with the surrounding residential and educational land uses.
b. To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.	The proposal offers a residential accommodation which is accessible by walking and cycling to public transport, shops and services.
c. To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.	The proposal provides student accommodation and employment which supports the operation of Macquarie University and other local businesses and activities.
d. To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.	The proposal is consistent with the State and local strategic intent for the zone and the Macquarie Park Corridor as it provides residential services that are integrated with the surrounding educational and research activities, retail and business services, public transport and travel connections.

The proposal is consistent with the zone objectives.

It is noted that there are no objectives for this development standard in the AH SEPP.

Therefore, the proposal is in the public interest because the development is consistent with the objectives of this particular zone.

Clause 4.6(5) Considerations in deciding whether to grant concurrence

There is no identified outcome which would raise any matter of significance to planning matters of State or regional environmental planning that cannot be dealt with by the Sydney North Planning Panel as a result of varying the development standards as proposed under this application.

When compared to providing a development which strictly complies with the minimum motor cycle parking development standard, this application offers an improved outcome as it avoids unnecessary basement parking space that would be underutilised. The proposal offers improved outcomes for and from development by allowing flexibility in this particular circumstance. Therefore, there is no public benefit in maintaining strict compliance with the development standard in this instance. On this basis, Concurrence of the Planning Secretary is assumed by the Panel in accordance with Clause 4.6(4)(b) and 4.6(5).

Summary

Based on the above assessment, the Clause 4.6 variation request is considered reasonable and well founded. It is recommended for support to allow flexibility in the application of the development standards.

Given the above, Council is satisfied that sufficient motorcycle parking is provided to serve the transport needs of the occupants and alleviate the potential pressure of on-street motorcycle parking. The low rate of car and motorcycle parking for students will also help to minimise the amount of traffic generated by the site, thereby reducing potential adverse traffic impacts on the local road network.

Council considers that strict compliance with the development standard is both unreasonable and unnecessary, in this case. The site is located within close proximity to educational establishments, local services and facilities. In addition, the site is well placed and served by non-private vehicle travel modes. The Clause 4.6 variation request is reasonable and well founded.

Clause 30A – Character of local area

Clause 30A of the AH SEPP requires Council to consider whether the design of the development is compatible with the character of the local area.

The site is located within the Macquarie Park Corridor and the vision set out in Part 4.5 Macquarie Park Corridor of the Ryde DCP 2014 is as follows:

“Macquarie Park will mature into a premium location for globally competitive businesses with strong links to the university and research institutions and an enhanced sense of identity.

The Corridor will be characterised by a high-quality, well-designed, safe and livable environment that reflects the natural setting, with three accessible and vibrant railway station areas providing focal points.

Residential and business areas will be better integrated and an improved lifestyle will be forged for all those who live, work and study in the area.”

The existing character of the site and surrounding properties is characterised by 3 storey walk-up apartment buildings with mature trees in the front setback areas and along Lachlan Avenue.

The proposal includes the retention of substantial mature trees in the front setback area and along the southern boundary of the site, which is in keeping with the character of the local area.

With regard to the built form, the general locality is undergoing transition and revitalisation in line with the Herring Road Urban Activation Precinct which is represented by approved and constructed high density buildings ranging in height up to 22 storeys. This includes predominantly residential high rise buildings on Herring Road to the west and on Cottonwood Crescent to the south of the site. The proposed residential tower is in keeping with the progression of high rise buildings nearby, and is a use which is compatible with the educational facilities, shops and services in the area.

It is considered that the proposed development is consistent with the desired future character of the area. See further discussion of the Local Character assessment under Ryde Development Control Plan 2014 – Part 3.6 Boarding House further in the report.

7.2 SEPP (Resilience and Hazards) 2021 – Chapter 4 Remediation of Land

This SEPP (formerly SEPP No. 55 – Remediation of Land) aims to ‘provide a State-wide planning approach to the remediation of contaminated land’. Clause 4.6 of this SEPP requires Council to consider whether the site is contaminated, and if so whether it is suitable for the proposed development purpose.

The application is accompanied by a Preliminary Site Investigation (Contamination) report prepared by Douglas Partners and dated August 2021. The report advises that based on the available historical information the site appeared to have been previously used for residential / agricultural purposes prior to being redeveloped by 1978 into the current existing structures. The surrounding land-uses were historically similar, with both residential and agricultural land-use with progressive commercial and tertiary education development from circa 1950 onwards. The immediate surrounding area was redeveloped for higher density residential uses from 1971.

The report states that the potential contamination sources identified are uncontrolled fill (e.g., for levelling) and hazardous building materials present in the existing structure on-site (based on the relative age of the structures present and the site walkover) and demolition of previous structures on site.

This report concludes that *“the site can be made suitable for the proposed residential development through implementation of the following additional works”* (as summarised below):

- Hazardous Building Materials Survey
- Intrusive Soil Investigation
- Remediation - Based on the observations and results of the above, the management of any minor contamination risks may be addressed through the waste classification and off-site disposal of soils. It is noted that if significant contamination is identified then it may be instead required to develop and implement a remediation action plan (RAP).

Council’s Environmental Health Officer supports the proposal, subject to conditions of consent in line with the above requirements. This includes the submission of a detailed site investigation report, Remediation Action Plan (RAP) and Validation Report prior to the issue of a Construction Certificate for building work. Conditions are also required to be imposed on any consent issued requiring the removal of asbestos and contaminated soil/waste to be disposed of at an EPA licensed waste facility. See **Conditions 31, 73, 74 and 75**.

Given the above assessment, Council is satisfied that sufficient information has been provided to demonstrate that site management strategies can be devised, as required by the *Contaminated Land Planning Guidelines*. Therefore, the land can be remediated and made suitable for its continued residential use in line with the strict requirements of Clause 4.6 of this SEPP.

7.3 SEPP (Industry and Employment) 2021 - Chapter 3 Advertising and signage (formerly SEPP No. 64 – Advertising and Signage)

The proposal includes 3 x illuminated business identification signs proposed to be installed on the exterior of the 2 upper levels of the building as follows:

- 1.2m width x 4.6m height on the southern façade to Lachlan Avenue
- 1.2m width x 4.6m height on the northern façade to Elouera Reserve
- 1.2m width x 4.6m height on the western façade to Herring Road.

The signage is illuminated and will read the name of the operator (yet to be formally appointed). Given the content of the signage is unknown this DA seeks approval for the signage zone/area only as shown on the Elevation Plans. Separate Development Application approval is required for the approval of the content of all signage. (See **Condition 5**).

In accordance with clause 3.4 of the SEPP, the SEPP is applicable to the proposed development as the signs are permitted with development consent and are visible from any public place.

The proposed signs are considered to satisfy the aims and objectives under clause 3.1 of the SEPP as follows:

(1) This Chapter aims—

(a) to ensure that signage (including advertising):

(i) is compatible with the desired amenity and visual character of an area, and

(ii) provides effective communication in suitable locations, and

(iii) is of high quality design and finish, and

(b) to regulate signage (but not content) under Part 4 of the Act, and

(c) to provide time-limited consents for the display of certain advertisements.

(d) to regulate the display of advertisements in transport corridors, and

(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.

(2) This Chapter does not regulate the content of signage and does not require consent for a change in the content of signage.

The proposed signage has been assessed against the provisions under Schedule 5 Assessment Criteria of the SEPP and are satisfactory, as discussed below.

SCHEDULE 1 – ASSESSMENT CRITERIA	
1 Character of the area	
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposed signage is consistent with the desired future character of the area, in the context of an area zoned for mixed uses. The signage identifies the proposed business, whilst also being discreet when viewed from existing or future apartments on surrounding sites.
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	There are no particular themes for outdoor advertising within the Macquarie Park Corridor. The proposed signage is of high quality and is representative of site and building identification signage in this locality.
2 Special Areas - Macquarie Park Corridor	
Does the proposal detract from the amenity or visual quality of any	The proposed signs will not detract from the appearance of the site or the amenity of the locality,

environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	including the adjoining Elouera Reserve, and is acceptable.
3 Views and vistas	
Does the proposal obscure or compromise important views?	The proposed signs will not obscure or compromise any important views.
Does the proposal dominate the skyline and reduce the quality of vistas?	The proposal is for business identification signage to be installed at the 2 upper levels of the southern, northern and western façades. The signage will not dominate the skyline and will not reduce the quality of vistas.
Does the proposal respect the viewing rights of other advertisers?	The proposed signs will not compromise the viewing rights of other advertisers.
4 Streetscape, setting or landscape	
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the signage is compatible with the proposed building.
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposed signage maintains an appropriate streetscape presentation.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposed signage offers a simple presentation.
Does the proposal screen unsightliness?	Not applicable.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	<p>The signage does not protrude above buildings, as it is proposed to be installed at the 2 upper levels of the southern, northern and western façades.</p> <p>The signage will be located above the canopies of the trees surrounding the site. However, for a building of this scale in the Macquarie Park Corridor, business identification signage of this kind is consistent with the existing and desired streetscape character.</p>
Does the proposal require ongoing vegetation management?	The location of the proposed signs will not require any specific vegetation maintenance.
5 Site and building	
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed signage is compatible with the scale of the site, building and proportions of the pedestrian and vehicular entrances to the site.
Does the proposal respect important features of the site or building, or both?	The proposed signage will enhance the presentation of the site and building.

Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The style and scale of the proposed signage is suitable in relation to the site and its buildings.
6 Associated devices and logos with advertisements and advertising structures	
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The signage is proposed to be illuminated, which is integrated into the design of the sign.
7 Illumination	
Would illumination result in unacceptable glare?	Illumination does not result in unacceptable glare as the location of the signage does not direct light into surrounding apartments.
Would illumination affect safety for pedestrians vehicles or aircrafts?	Illumination does not affect safety.
Would illumination detract from the amenity of any residence or other form of accommodation?	The location of the signage does not direct light into surrounding apartments.
Can the intensity of illumination be adjusted, if necessary?	The applicant has confirmed that the intensity of illumination can be adjusted, if required.
Is the illumination subject to a curfew?	Yes. Condition 211 requires the illumination to cease between the hours of 10pm to 7am daily.
8 Safety	
Would the proposal reduce the safety for any public road?	The proposed sign will not affect road safety.
Would the proposal reduce the safety for pedestrians or bicyclists?	The proposed sign will not affect pedestrian or cyclist safety.
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposed sign will not obscure any sightlines from public areas.

Having regard to the aims and objectives, and Schedule 5 of this SEPP, the proposal can be supported as it has satisfied Clause 3.6 of the SEPP as follows:

A consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- (a) that the signage is consistent with the objectives of this Policy as set out in clause 3.1 (1) (a), and;*
- (b) that the signage the subject of the application satisfies the assessment criteria specified in Schedule 5.*

Based on the above assessment the proposed signs are considered to be satisfactory, having regard to the aims and objectives as well as the Assessment Criteria of SEPP (Industry and Employment) 2021 - Chapter 3 Advertising and signage.

7.4 SEPP (Transport and Infrastructure) 2021 - Division 17 Roads and Traffic

Under Clause 2.121 Traffic-generating Development (formerly Schedule 3 of SEPP(Infrastructure) 2007) the consent authority must not grant consent to development on land for residential accommodation for 300 or more dwellings where the site has access to the road unless it is satisfied that:

(4) Before determining a development application for development to which this section applies, the consent authority must—

(a) give written notice of the application to Transport for NSW (TfNSW) within 7 days after the application is made, and

(b) take into consideration—

(i) any submission that TfNSW provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and

(ii) the accessibility of the site concerned, including—

(A) the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and

(B) the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and

(iii) any potential traffic safety, road congestion or parking implications of the development.

The application was referred to Transport for NSW (TfNSW) and the following response was provided:

“TfNSW has reviewed the submitted application and raises no objections to the Application, based on the consideration that traffic generation is not likely to adversely impact the classified road network.”

With regard to pedestrian accessibility of the site, the proposed development is capable of being accessed by occupants and visitors via Lachlan Avenue and Elouera Reserve. These dual access points demonstrate a high level of pedestrian connectivity to the University, shops and services in the immediate vicinity of the site.

The development is serviced by a loading area at the basement level which ensures that the movement of materials and vehicles to the site is catered for in an efficient manner.

The concept of ‘multi-purpose trips’ is catered for given the Resident Manager resides on the site and up to 8 residents will also work on-site as Residential Customer Advisors, thereby reducing the number of staff that need to commute to the site.

The proposal minimises the need for residents, staff and visitors to travel by car to the site by providing a car share service, bicycle and motorbike parking and a bicycle share scheme. The University, shops and services are also in close proximity to the site and will minimise the need for travel by car.

With regard to potential traffic safety; the proposal utilises the existing road network and is not considered to generate adverse traffic safety impacts.

With regard to road congestion; when compared to the existing apartment buildings on the site, the proposed development could be expected to generate net additional 12 and 11 trips in the morning and afternoon peak periods, respectively. This equates to 1 vehicle movement every 5 to 6 minutes, which is considered negligible and will not generate adverse road congestion impacts.

With regard to parking implications of the development, the proposal provides on-site parking at the rate required by the AH SEPP (taking into account the provision of a car share service) and residents are not permitted to participate in the resident car parking pass. This ensures that the proposal does not rely on street parking.

Therefore, the requirements of clause 2.121 are considered to be satisfied.

7.5 SEPP (Biodiversity and Conservation) 2021

Chapter 2 Vegetation in non-rural area

Chapter 2 of this SEPP (formerly SEPP Vegetation in Non-Rural Areas 2017) provides approval pathways for the removal of vegetation in non-rural areas and matters for consideration in the assessment of applications to remove vegetation. 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. According to Council's Environmentally Sensitive Areas map a minor portion of the eastern corner of the site is mapped as containing Urban Bushland – Inadequately Conserved as shown in **Figure 7** below.

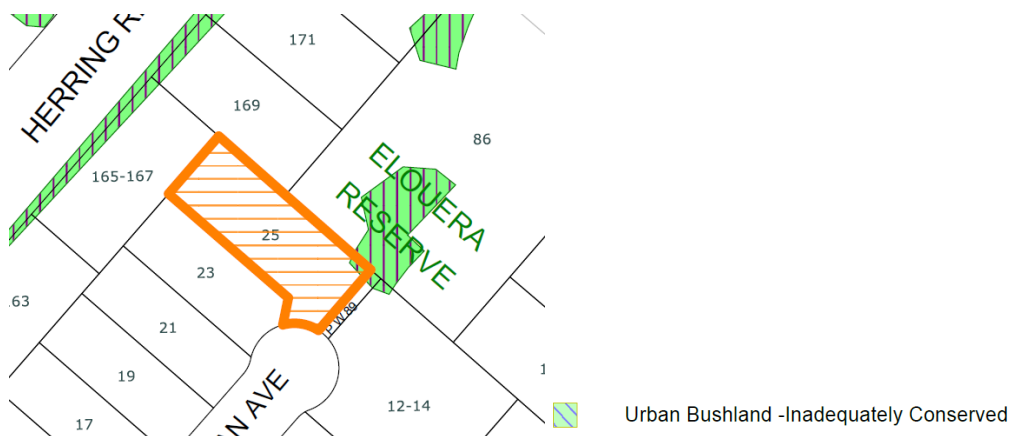


Figure 7: Extract from Council's Environmentally Sensitive Areas map showing the portion of the site mapped as containing Urban Bushland – Inadequately Conserved.

The area of the site mapped as containing Urban Bushland relates to the tree canopy of trees located in the adjoining Elouera Reserve. The proposal enables the retention and protection of these trees and is consistent with this SEPP.

Council's Consultant Landscape Architect/Arborist has reviewed the proposal, as amended, and confirms that the proposal does not unduly impact upon any existing biodiversity or trees or vegetation on the site.

It is also noted that during the pre-lodgement and assessment process, the applicant amended the proposal to retain additional trees in the front setback area and along the southern boundary of the site. The proposal enables the retention of 10 trees on the site (as discussed in detail above) which assists with maintaining the treed environment of the locality.

Chapter 6 Bushland in urban areas

The general objectives of Chapter 6 of this SEPP (formerly SEPP No. 19 Bushland in Urban Areas) is to protect and preserve bushland within the urban areas. To preserve its value to the community as part of natural heritage, aesthetic value, and value as a recreational, educational and scientific resource. In this SEPP, 'Bushland' means *"land on which there is vegetation which is either a remainder of the natural vegetation of the land or, if altered, is still representative of the structure and floristics of the natural vegetation."*

The site currently accommodates 2 apartment buildings and associated hardstand areas. The existing trees on the site were planted for screening purposes along the boundaries and are not regarded to be natural vegetation.

Part of the site adjoins Elouera Reserve to the north which is zoned RE1 Public Recreation. The proposal has been considered in light of Clause 6.8 *Land adjoining land zoned or reserved for public open space* of this SEPP which requires Council to take into account:

- (c) *the need to retain any bushland on the land,*
- (d) *the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland, and*
- (e) *any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes.*

Council considers that the proposal is suitable as it provides a development which supports the preservation of the soil and trees within Elouera Reserve

As discussed above, the proposal enables the retention of 11 trees on the site which assists with maintaining the treed environment of the locality. Therefore, the proposal is not considered to unduly impact upon any existing bushland on the site.

Chapter 10 Sydney Harbour Catchment

This SEPP (formerly Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005) applies to the whole of the Ryde Local Government Area. The aims of the Plan are to establish a balance between promoting a prosperous working harbour, maintaining a healthy and sustainable waterway environment and promoting recreational access to the foreshore and waterways by establishing planning principles and controls for the catchment as a whole.

Given the nature of the project and the location of the site, there are no specific controls that directly apply to this proposal, and any matters of general relevance (improved water quality, erosion control, etc.) are able to be managed by conditions of consent. The objective of improved water quality is satisfied as the Proposed Stormwater Plans that accompany the DA demonstrate compliance with Part 8.2 Stormwater Management of Ryde DCP 2014.

7.6 SEPP (Planning Systems) 2021 – Chapter 2 State and Regional Development

This SEPP (formerly SEPP (State and Regional Development) 2011) categorises this proposal as a 'General Development over \$30 million' under Schedule 6

Regionally Significant Development. The proposal is required to be determined by the Sydney North Planning Panel in accordance with Section 4.7 of the EP&A Act 1979.

7.7 State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

Clause 4(1) of SEPP 65 states that unless specified by a LEP, this Policy does not apply to boarding house developments. However, Section 1.6 in Part 3.5 Boarding Houses of Ryde DCP 2014 states that *“Where boarding house development is associated with residential flat building design, the provisions of State Environmental Planning Policy No. 65 Residential Flat Development (SEPP 65) are also relevant.”*

This assessment is useful to assess the design quality of the proposal and achieve an overall better built form and aesthetics of the building within the streetscape.

The application was reviewed by the Urban Design Review Panel on 1 July 2021. The table below provides the UDRP comments, and how the applicant subsequently resolved the issues raised in amended plans.

Design Principles	Urban Design Review Panel Comments on 1 July 2021	Resolution of Panel comments
<p>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.</p>	<p>The site is located within the Macquarie University Station Precinct, an area undergoing rapid change, including a number of recent development proposals along Lachlan Avenue. The proposed site amalgamation of 23 and 25 Lachlan Avenue creates a corner site facing the end of the street to the south-east and Elouera Reserve to the north-east.</p> <p>Approximately half of the north-east frontage of the site faces the reserve, with the remaining half facing an existing apartment building at 169 Herring Road. The adjoining sites to the south-west and north-west, accommodate existing 4 storey buildings with 3 levels of apartments above ground level parking.</p> <p>The site and surrounding neighbourhood benefit from large established trees, situated on private land and within the edge of the park.</p> <p>The design aims to leverage the treed context and park setting to create a 'university college' with a 'civic front-age' to the park, and is generally supported by the Panel.</p> <p>A major - on balance - positive change to the design from the last meeting has been the relocation of the car park entry to the southern corner of the site. The change significantly improves the relationship of the building entry to the street and to the park and enables retention of trees within the park and for the majority of the front setback. The proposal shows removal of Tree 9, a significant tree, to enable the revised basement entry. The Panel understands the broader benefits of the relocated basement entry, but also encourages the proponent to further explore retaining the tree, if possible,</p>	<p>Noted.</p> <p>The proposal has been amended to retain and protect Tree 9 in the front setback area.</p>

Design Principles	Urban Design Review Panel Comments on 1 July 2021	Resolution of Panel comments
	<p>through the design of the driveway slab and the potential relocation of substations.</p> <p>The widening of the footpath link to the park and the proposed entry to the park from the common area are positive additions to the context, promoting access to the park and activity along its edge. The Panel understands that Council officers are concerned with the extent of works shown in the park and the possible perception that the park is effectively privatized. The Panel recommends a balanced approach, which enables direct pedestrian access between the common terrace with a pedestrian gate and no additional works in the park. Access from the entry forecourt to the park could be enhanced by widening the stair and link in the north-east corner of the site, thereby improving access to the park from within the site via the public through site link.</p> <p>In lieu of amalgamation with the adjoining properties along Herring Road, the proponent provided additional analysis to demonstrate how adjoining properties along Herring Road can be redeveloped under the current controls. The Panel is satisfied that the adjoining properties can be redeveloped independently.</p>	<p>The proposal provides access to and from the site via Lachlan Avenue, the public pathway along the eastern boundary and the connection to Elouera Reserve. This is considered acceptable as it maintains a clear distinction between the public and private domain along the northern boundary.</p>
<p>Built Form and Scale</p> <p>Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.</p> <p>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.</p> <p>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.</p>	<p>The proposed building is a 16-storey point tower in a landscape setting. The form marks the park entrance from Lachlan Avenue, while enhancing the landscape setting of both the park and the street. The Panel supports this design strategy.</p> <p>A minor exceedance in height, which is limited to the centre of the building, is an outcome of the plant room and the change in ground level on the existing site. The additional height does not appear to have negative impacts in the overshadowing analysis and is supported in principle.</p> <p>The location of the co-living communal spaces, which are paired every two levels and accessed by spiral stair, help to promote interaction between residents and are a positive addition to the proposal. But the Panel is concerned with the proposed location of the stair and common spaces, and their potential for more intense usage in the proximity to the existing and future development at 169 Herring Road. The proposed common areas could be relocated further to the east, which would also take advantage of the park outlook.</p> <p>The amended design improves the amenity and functionality of the basement uses by reconfiguring common areas to open to the communal open spaces at the rear and at the side facing the park and is supported.</p>	<p>The external spiral stairs have been relocated to the centre of the northern façade to create further separation to No. 169 Herring Road which adjoins part of the site to the north.</p>

Design Principles	Urban Design Review Panel Comments on 1 July 2021	Resolution of Panel comments
<p>Density Good design achieves a high level of amenity, resulting in a density appropriate to the site and its context.</p> <p>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.</p>	<p>The proposal appears to comply with the permissible density controls.</p>	<p>Noted.</p>
<p>Sustainability Good design combines positive environmental, social and economic outcomes.</p> <p>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 re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.</p>	<p>Additional analysis of overshadowing impacts demonstrates ADG solar access requirements are maintained on immediately adjoining properties.</p> <p>The proponent is encouraged to undertake a similar analysis of overshadowing impacts upon neighbours further to the south to further demonstrate the mitigation of impacts.</p> <p><i>Note: Updated and additional shadow analysis plans were submitted and are provided at Attachment 1.</i></p>	<p>The applicant submitted additional shadow analysis plans which includes detailed analysis of the windows and openings of the apartment building to the south which are affected by additional overshadowing.</p> <p>The proposal demonstrates the orientation of the site and proposed building enables sufficient access to sunlight to be provided to neighbouring properties.</p>
<p>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.</p>	<p>Works outside the subject site within the park are indicative and subject to Council negotiations.</p> <p>Tree retention in the amended design is improved, with the exception of Tree 9 as noted above, and supplemented with new planting along the pedestrian link and in the rear communal open space.</p> <p>The communal open space at rear of the site has been refined to address privacy concerns with the adjacent properties with a blend of physical design solutions and space management solutions:</p> <ul style="list-style-type: none"> • Separation is enhanced by lowering the communal open space to the basement 	<p>Potential works in Elouera Reserve have been removed from this application.</p>

Design Principles	Urban Design Review Panel Comments on 1 July 2021	Resolution of Panel comments
<p>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, microclimate, 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.</p>	<p>level and terracing planting toward the boundary.</p> <ul style="list-style-type: none"> • The addition of a pergola structure in combination with proposed tree planting provides shade for users and helps to mediate views between properties. • The use of external communal space at the rear of the site is limited after 9pm. <p>These design strategies are supported.</p>	
<p>Amenity Good design positively influences internal and external amenity for workers and pedestrians. Achieving good amenity contributes to positive environments and well-being.</p>	<p>The Panel support the inclusion of common rooms on each level and encourages their relocation to the east as explained above. Sizing of bedroom and common living areas in the 6 bed multi-bed unit was questioned. It is recommended the proponents compile precedents of similar developments to benchmark and justify the approach to room sizes to assist Council in the assessment process.</p> <p>The "L" shaped bedroom in the 6 bed multi-bed units above is an awkward shape and too tight spatially. An alternative arrangement is needed. One solution may be to amalgamate the room with the adjoining room and create a double twin bedroom.</p> <p>Bathrooms, located on external walls, would benefit from a window for natural ventilation and daylight.</p> <p>The façade profile is modelled to assist in directing views from within bedrooms outward rather than down toward existing properties at lower levels.</p> <p>The proponent should confirm that proposed signage at the top of the building does not obstruct windows.</p>	<p>The applicant submitted a Comparative Analysis of Purpose Built Student Accommodation which is provided at Attachment 7. The multi-bed rooms are considered in detail below.</p> <p>The L-shaped bedroom has been designed out.</p> <p>Recommended to be addressed in Condition 1 to provide windows.</p> <p>The applicant has confirmed that the signage on two top floors occupies window façade frames but all common rooms and bedrooms behind have generous access to other windows from dual access with</p>

Design Principles	Urban Design Review Panel Comments on 1 July 2021	Resolution of Panel comments
		resultant good solar access.
Safety Good design optimises safety and security within the development and the public domain. It provides for quality public and semi-private spaces that are clearly defined and fit for the in-tended purpose. Opportunities to maximise passive surveillance of public and communal areas pro-mote safety. A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.	The relocation of the driveway access improves safe pedestrian access to the building and to the park. The fence between the lower terrace and the park is shown as glass. A palisade type fence is recommended to facilitate views and for easier maintenance. Secure access to the park via a gate should be confirmed. Relocating co-living common areas to the east will increase surveillance of the park.	N/A Access via the northern boundary to Elouera Reserve has bene deleted. Casual surveillance overlooking Elouera Reserve is achieved from co-living spaces in the multi-bed rooms and from the communal kitchen/living area and communal terrace on each level.
Housing Diversity and Social Interaction Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets. Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.	Acceptable.	Noted.
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	The Panel is supportive of the proposed building modulation and skyline profile and the intent of the façade design represented in the 3D visualisations and the detailed sections. The façade design intent and detail provided by the proponent is supported by the Panel.	Noted.

Design Principles	Urban Design Review Panel Comments on 1 July 2021	Resolution of Panel comments
uses a variety of materials, colours and textures. The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The landscape design offers the potential for a positive contribution to the character of the neighbourhood and the park setting.	

On 9 May 2022, the UDRP undertook a desktop review of the final proposed plans and their response in support to the proposal was as follows:

The final amended plans now satisfactorily address all remaining concerns raised by the UDRP. In urban design and architectural design terms, the proposal is of an acceptable level of design quality to warrant approval being granted. More specifically, I note the following:

- *The increased southern setback at the lower levels to approximately 6m, are supported.*
- *At upper levels, the southern setbacks further increase, which is supported.*
- *In incorporating the adjusted building setbacks, the architect has successfully demonstrated how the strong, ordered architectural expression (strongly supported by the Panel) has been adapted to the final proposal.*
- *On the eastern elevation, sketch design refinements have now been incorporated into the final architectural composition. The resulting built form to the eastern elevation has improved relative to the previous proposal resulting in a simpler, more ordered building mass at the centre of the plan.*
- *The architect has successfully adapted the strong, ordered architectural expression to the final amended building form.*
- *Refinements which involved the re-planning of individual rooms and modules within the southern elevation have been successfully resolved.*
- *The applicant has reintroduced fenestration in the lower levels of the south western most corner of the plan, which has been done in a manner that balances the privacy of adjacent neighbours against the secondary outlook provided by a corner unit.*
- *The drawing TP01.09 remains slightly ambiguous in that it shows the bathroom in the south western corner with a solid wall behind the proposed window - I assume this is a drafting/modelling error and that the southern elevation TP02.02 prevails, but this should be confirmed.*

** Note 1*

- *I note there are similar clashes between bathroom walls, risers and windows shown on TP13.06 and TP13.08. * Note 1*
- *The other positive attributes of the proposal, which were identified by the Panel during its reviews, have all been maintained in the final amended proposal.*

*Note 1: **Condition 1** addresses these discrepancies and provides a window to the bathrooms along the southern façade, where they are clear of riser services.

7.8 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The proposed development is identified under the *Environmental Planning and Assessment Regulation 2000* as a BASIX Affected Building. Clause 3 of the *Environmental Planning and Assessment Regulation 2000* defines a 'BASIX Affected Building' as any building that contains one or more dwellings but does not include a hotel or motel.

In a NSW Land & Environment Court (LEC) case *SHMH Properties Australia Pty Ltd v City of Sydney Council [2018] NSWLEC 66* Commissioner Preston determined that, if rooms in a boarding house are capable of being used as a separate domicile (and therefore meeting the definition of a 'dwelling'), a BASIX certificate for the development will be required to accompany the development application.

The proposal seeks consent for 367 units/suites of boarding rooms and 1 House Manager's Unit and is supported by BASIX Certificate No. 1185952M_02, dated 29 June 2022, which provides the development with a satisfactory target rating.

7.9 Ryde Local Environmental Plan (RLEP) 2014

This section provides a detailed assessment of the RLEP 2014 and its relevant development standards.

Zoning and Permissibility of Ryde LEP 2014

The site is zoned B4 Mixed Use as shown in **Figure 8** below.



Figure 8: Extract from Ryde LEP 2014 Land Zoning Map indicating the zoning of the site and surrounds.

The proposed Student accommodation is classed as a Boarding House which is permissible with consent in this zone and is defined as:

boarding house means a building that—

- (a) is wholly or partly let in lodgings, and
- (b) provides lodgers with a principal place of residence for 3 months or more, and
- (c) may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
- (d) has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, hotel or motel accommodation, seniors housing or a serviced apartment.

Note. Boarding houses are a type of residential accommodation—see the definition of that term in this Dictionary.

The proposal achieves the objectives of the zoning, as discussed in the following table.

Objectives of the B4 Mixed Use zone	How the proposal achieves the objective
a. To provide a mixture of compatible uses.	The proposed student accommodation is compatible with the surrounding residential and educational land uses.
b. To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport	The proposal offers a residential accommodation which is accessible by walking and cycling to public transport, shops and services.

patronage and encourage walking and cycling.	
c. To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.	The proposal provides student accommodation and employment which supports the operation of Macquarie University and other local businesses and activities.
d. To promote strong links between Macquarie University and research institutions and businesses within the Macquarie Park corridor.	The proposal is consistent with the State and local strategic intent for the zone and the Macquarie Park Corridor as it provides residential services that are integrated with the surrounding educational and research activities, retail and business services, public transport and travel connections.

Subdivision of the site is not proposed in this application under clause 2.6 'Subdivision – consent requirements.' However, the 2 sites are required to be amalgamated as a result of this development (see **Condition 190**).

This application seeks approval for the demolition of all structures on the site and satisfies clause 2.7 'Demolition requires development consent.'

Principal Development Standards of RLEP 2014

Clause 4.3 - Height of Buildings

The maximum permitted height of buildings is 45m under RLEP 2014 as shown in **Figure 9** below. The proposal is for a building height of 46.5m, which exceeds this development standard.

Clause 29 of the State Environmental Planning Policy (Affordable Rental Housing) 2009 (AH SEPP) states that a consent authority must not refuse consent to development if the building height is not more than the maximum building height permitted under another environmental planning instrument. For the purpose of this development, the relevant environmental planning instrument is the Ryde LEP 2014.

The proposal has a building height of up to 46.5m, representing a 3.3% variation to the height of buildings development standard. Under 193 Liverpool Road Pty Ltd v Inner West Council [2017] NSWLEC 13, a strict Clause 4.6 written variation request under the Ryde LEP 2014 is not required given the AH SEPP does not mandate this exercise. As such, a merit-based assessment of the height non-compliance has been undertaken. It is considered the height of the proposed building is acceptable for the following reasons:

- The roofline of the development steps down to follow the slope of the land.
- The parts of the roofline which exceed the height limit are centrally located and will not generate additional shadowing.
- The height exceedance will not be visually perceptible from the public domain.
- The proposed building height is consistent with the desired future character of this locality which is undergoing significant transformation.

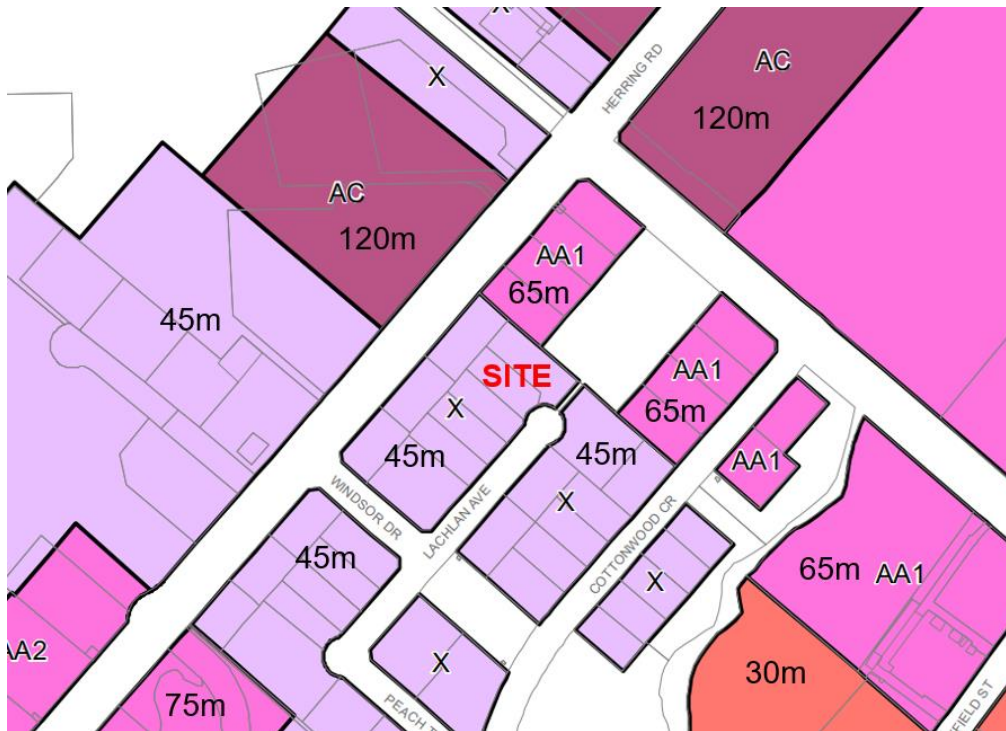


Figure 9: Extract from the Ryde LEP 2014 Height of Buildings map indicating the maximum permitted height of buildings of the site and surrounds.

Clause 4.4 – Floor Space Ratio

A maximum floor space ratio (FSR) of 4:1 applies to the development site under the RLEP 2014 as shown in **Figure 10** below.

Bonus FSR is sought under Clause 29(1)(c)ii of the AH SEPP, which permits a potential FSR of 20% (up to 4.8:1).

The gross floor area is 11,875m², which satisfies the maximum permitted FSR of 4.8:1.

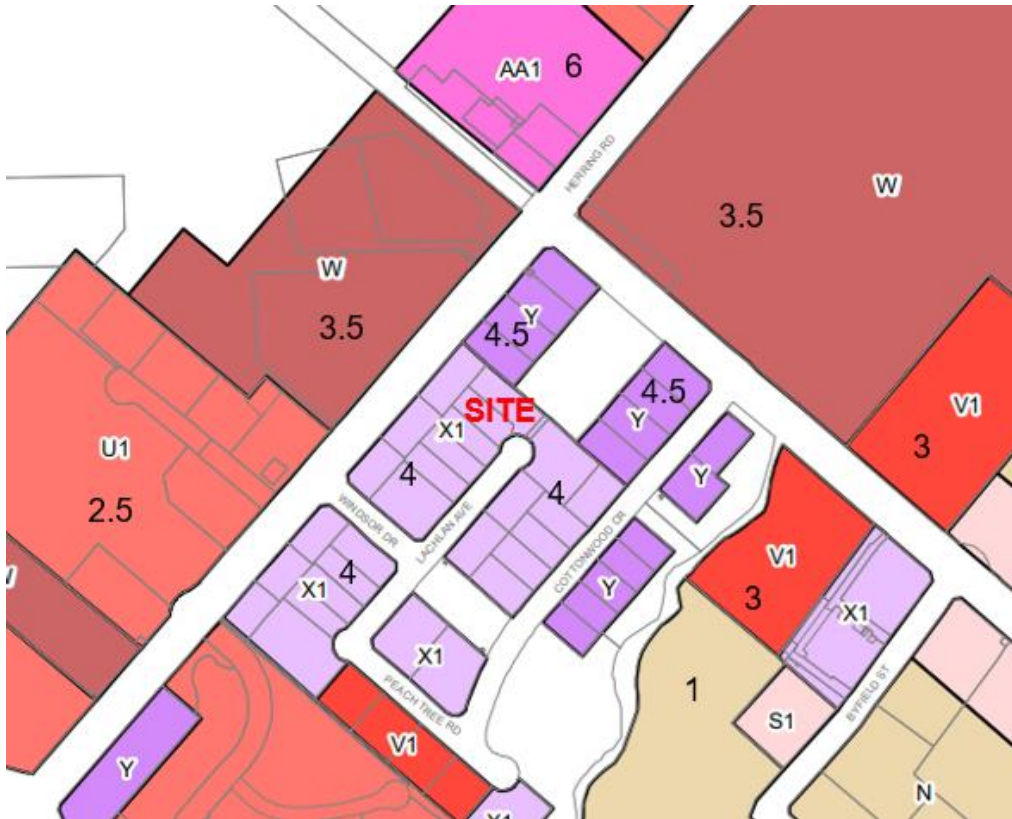


Figure 10: Extract from the Ryde LEP 2014 Floor Space Ratio map indicating the maximum permitted floor space ratio of the site and surrounds.

Miscellaneous Provisions of Ryde LEP 2014

Clause 5.10 Heritage conservation: The site is not identified as a heritage item or within a heritage conservation area. As shown in **Figure 11** below, Local Heritage Item 10 is located to the north of the site, being part of the Macquarie Park ruins, and Local Heritage Item 345 is located to the north of the site, being the “Macquarie Ice Rink” an Olympic-sized rink and its setting within retail premises, including rink seating and associated rink facilities.

The proposed development does not immediately adjoin these heritage items and is not considered to have any adverse impact on the heritage items.

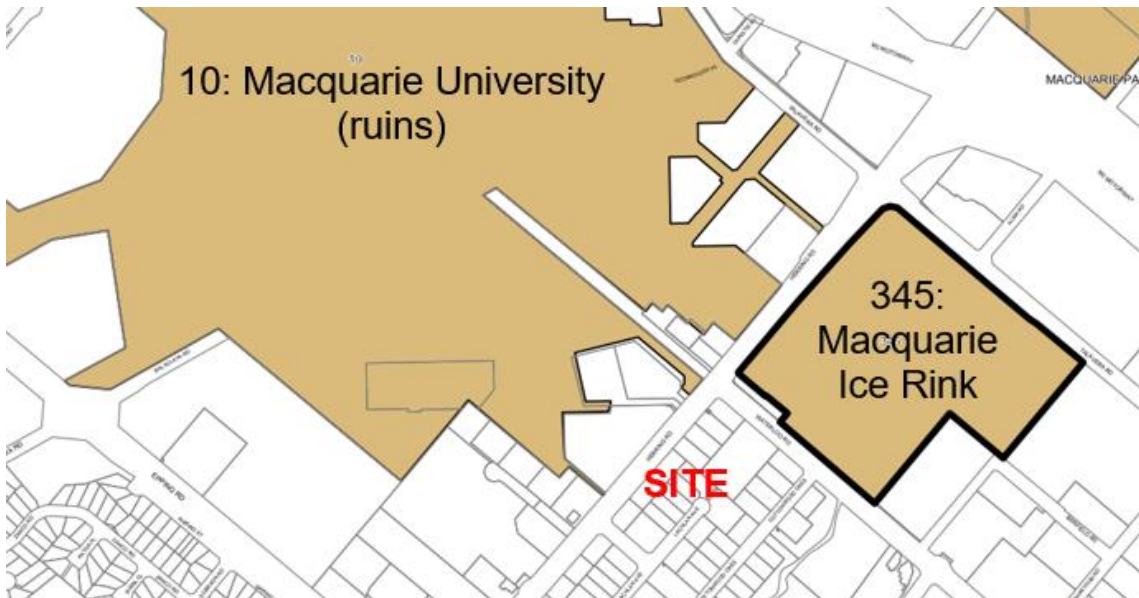


Figure 11: Extract from the Ryde LEP 2014 Heritage map indicating the heritage items in the vicinity of the site.

Clause 5.21 Flood planning: The site is not identified as at risk of flooding, as shown in **Figure 12** below.

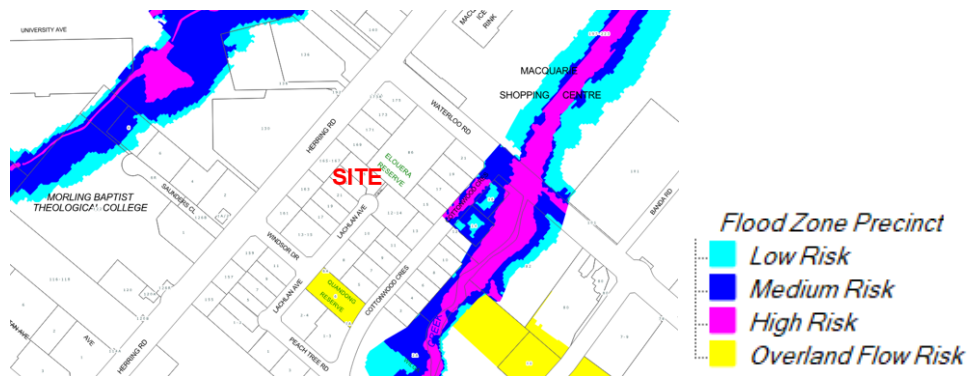


Figure 12: Extract of Council's Flood risk map.

Additional Local Provisions of Ryde LEP 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 proposal includes earthworks and excavation associated with construction of the basement car parking levels, level building footprints and landscaping works throughout the site. The proposed earthworks are reasonable given they are responsive to the topography of the site and take into consideration flooding affectation. The proposal satisfies this clause given the potential impacts of the earthworks are able to be managed by **Conditions 29, 69, 72 and 79**.

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 proposal is consistent with this clause in that the proposal has been designed to maximise the use of permeable surfaces allowing for on-site infiltration of water

and avoids adverse impacts of stormwater runoff on adjoining properties and receiving waters.

The proposed stormwater management system for the site is acceptable and conditions are recommended as part of the completion and ongoing management of the stormwater system.

Council's Senior Development Engineer supports the proposal, subject to conditions as discussed below.

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.

This clause states that consent must not be granted to development on land in a business or industrial zone exceeding 1,500m² in GFA unless the consent authority is satisfied that development has had regard to a number of prescribed environmental outcomes.

This application is accompanied by a BASIX Certificate which demonstrates the inclusion of measures to reduce consumptions of mains supplied water, to reduce greenhouse gas emissions and to perform in a thermally efficient manner. On this basis, the proposed development meets the requirements of this clause.

Clause 4.6 – Exceptions to Development Standards

This application is accompanied by a written Clause 4.6 Request to vary development standard Clause 30(1)(h) Motorcycle parking in the AH SEPP which is provided at **Attachment 2**. Council's consideration of the proposed variation is provided in the assessment of the AH SEPP above.

The earlier assessment establishes that Council is satisfied that sufficient motorcycle parking is provided to serve the transport needs of the occupants and alleviate the potential pressure of on-street motorcycle parking. The low rate of car and motorcycle parking for students will also help to minimise the amount of traffic generated by the site, thereby reducing potential adverse traffic impacts on the local road network.

Council considers that strict compliance with the development standard is both unreasonable and unnecessary, in this case. The site is located within close proximity to educational establishments, local services and facilities. In addition, the site is well placed and served by non-private vehicle travel modes. The Clause 4.6 variation request is reasonable and well founded.

(ii) Any draft proposed instrument:

7.10 Draft Housing SEPP

At the date of lodgement of this DA, the draft SEPP (Housing) had completed its public exhibition period and was in a form which was considered certain and imminent to be enforced.

SEPP (Housing) 2021 came into effect on 26 November 2021 and is required to be given considerable weight in the assessment of this DA. Therefore, the proposal is required to be consistent with the draft provisions, which requires this form of housing ('Co-Living housing' which may be used as off-campus student

accommodation) to comply with the minimum building separation distances specified in the Apartment Design Guide (Part 3 Co-Living Housing, Clause 69(b) Standards for co-living housing).

Relevant Clauses	Proposal	Compliance
Chapter 2 Affordable Housing		
Division 2 Boarding Houses		
Clause 23 Boarding houses permitted with consent		
(1) Development for the purposes of boarding houses may be carried out with consent on land on which development for the purposes of boarding houses is permitted with consent under another environmental planning instrument.		
(2) Development for the purposes of a boarding house must not be carried out on land in Zone R2 Low Density Residential or an equivalent land use zone unless—		
(a) for land in the Greater Sydney region—the land is within an accessible area, or	N/A The site is zoned B4 Mixed Use.	N/A
(b) otherwise—all or part of the boarding house is within 400m walking distance of land in Zone B2 Local Centre or Zone B4 Mixed Use, or an equivalent land use zone.	N/A	N/A
Clause 24 Non-discretionary development standards—the Act, s 4.15		
(1) The object of this section is to identify development standards for particular matters relating to development for the purposes of boarding houses that, if complied with, prevent the consent authority from requiring more onerous standards for the matters.		
(2) The following are non-discretionary development standards in relation to the carrying out of development to which this Division applies—		
(a) for development in a zone in which residential flat buildings are permitted—a floor space ratio that is not more than— (i) the maximum permissible floor space ratio for residential accommodation on the land, and (ii) an additional 25% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of the boarding house,	The maximum permitted FSR is 4:1 under the Ryde LEP 2014. Bonus FSR is sought which permits a potential FSR of 25% (up to 5:1). The proposed GFA is 11,875m ² , which satisfies the maximum permitted FSR of 4.8:1.	Yes
(b) if paragraph (a) does not apply—a floor space ratio that is not more than the maximum permissible floor space ratio for residential accommodation on the land,	N/A	N/A
(c) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum landscaping requirements for multi dwelling housing under a relevant planning instrument,	The RLEP 2014 does not contain a minimum landscaping requirement.	N/A
(d) for development on land in Zone R4 High Density Residential—the minimum landscaping requirements	N/A The site is zoned B4 Mixed Use.	N/A

Relevant Clauses	Proposal	Compliance
for residential flat buildings under a relevant planning instrument,	However, sufficient landscaping is proposed.	
(e) at least 3 hours of direct solar access provided between 9am and 3pm at mid-winter in at least 1 communal living area,	At least 3 hours solar access is provided to the communal living areas, in particular the rear outdoor area.	Yes
(f) for a boarding house containing 6 boarding rooms— (i) a total of at least 30m ² of communal living area, and (ii) minimum dimensions of 3m for each communal living area,	N/A	N/A
(g) for a boarding house containing more than 6 boarding rooms— (i) a total of at least 30m ² of communal living area plus at least a further 2m ² for each boarding room in excess of 6 boarding rooms, and (ii) minimum dimensions of 3m for each communal living area,	Required: 994m ² . Provided: 1,263.4m ² . Each communal living area has dimensions greater than 3m.	Yes
(h) communal open spaces— (i) with a total area of at least 20% of the site area, and (ii) each with minimum dimensions of 3m,	Required: 453.3m ² . Provided: 1,263.4m ² . Each communal open space area has dimensions greater than 3m.	Yes
(i) if a relevant planning instrument does not specify a requirement for a lower number of parking spaces—at least the following number of parking spaces— (i) for development on land within an accessible area—0.2 parking spaces for each boarding room, (ii) otherwise—0.5 parking spaces for each boarding room,	N/A The RLEP 2014 does not specify a lower parking requirement. Required: 97 parking spaces. Provided: The equivalent of 99 spaces (taking into consideration the car share spaces).	Yes
(j) if a relevant planning instrument specifies a requirement for a lower number of parking spaces—the lower number specified in the relevant planning instrument.	N/A. The RLEP 2014 does not specify a lower parking requirement.	N/A
Clause 25 Standards for boarding houses		
(1) Development consent must not be granted under this Division unless the consent authority is satisfied that—		
(a) no boarding room will have a gross floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of more than 25m ² , and	Each boarding room is not more than 25m ² .	Yes
(b) no boarding room will be occupied by more than 2 adult residents, and	Each boarding room is occupied by 1 adult resident.	Yes

Relevant Clauses	Proposal	Compliance
(c) adequate bathroom, kitchen and laundry facilities will be available within the boarding house for the use of each resident, and	Adequate bathroom and kitchen facilities are provided in each boarding room. Kitchen facilities are provided for each apartment. Communal kitchen and laundry facilities are provided.	Yes
(d) for a boarding house on land in Zone R2 Low Density Residential or an equivalent land use zone—the boarding house will not have more than 12 boarding rooms, and	N/A. The site is zoned B4 Mixed Use.	N/A
(e) for a boarding house on land in a business zone—no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits the use, and	The site is zoned B4 mixed use and boarding houses are permitted with consent. The residential component at the ground level is permissible.	Yes
(f) for a boarding house containing at least 6 boarding rooms—the boarding house will have at least 1 communal living area, and	Multiple communal living areas are provided.	Yes
(g) the minimum lot size for the boarding house is not less than— (i) for land in Zone R2 Low Density Residential—the minimum lot size requirements for manor houses under a relevant planning instrument, or 600m ² , or (ii) for land in Zone R3 Medium Density Residential—the minimum lot size requirements for multi dwelling housing under a relevant planning instrument, or (iii) otherwise—the minimum lot size requirements for residential flat buildings under a relevant planning instrument, and	N/A N/A The minimum lot size is 1,800m ² . The combined area of the site is 2,266.6m ² .	N/A N/A Yes
(h) each boarding room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, of at least the following— (i) for a boarding room intended to be used by a single resident—12m ² , (ii) otherwise—16m ² .	Each boarding room is to be occupied by 1 student and has a floor area of at least 12m ² .	Yes
(2) Development consent must not be granted under this Division unless the consent authority considers whether—		
(a) the design of the boarding house will be compatible with— (i) the desirable elements of the character of the local area, or	The design of the development is considered to be compatible with the treed environment of the	Yes

Relevant Clauses	Proposal	Compliance
(ii) for precincts undergoing transition—the desired future character of the precinct, and	immediate area and cohesive with the recently approved and completed tower forms in the general locality. The design is compatible with the future desired character of the locality.	
(b) the front, side and rear setbacks for the boarding house are not less than— (i) for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, (ii) for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument,	N/A. The site is zoned B4 Mixed Use. N/A. The site is zoned B4 Mixed Use.	N/A N/A
(c) if the boarding house has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide, and	15 storeys are proposed. The proposal seeks a variation to the minimum required building separation distances.	No. Variation sought. Refer to the further discussion below.
(d) at least 1 motorcycle parking space will be provided for every 5 boarding rooms, and	Required: 97. Provided: 21.	No. Variation sought. Refer to the above consideration of clause 30(1)(h) of the AH SEPP which is the same control.
(e) at least 1 bicycle parking space will be provided for each boarding room.	Required: 97. Provided: 102.	Yes
(3) This section does not apply to development for the purposes of minor alterations or additions to an existing boarding house.	N/A	N/A
Clause 26 Must be used for affordable housing in perpetuity		
(1) Development consent must not be granted under this Division unless the consent authority is satisfied that from the date of the issue of the occupation certificate and continuing in perpetuity— (a) the boarding house will be used for affordable housing, and	The proposal will be used as a Boarding house in perpetuity and has been conditioned accordingly.	Yes.

Relevant Clauses	Proposal	Compliance
(b) the boarding house will be managed by a registered community housing provider.	The Boarding house will not be managed by a registered community housing provider. The Boarding house will be managed by an experienced private student accommodation operator.	No. Under Schedule 7 Clause 2 General savings provision (below), the former provisions of the AH SEPP apply.
(2) Subsection (1) does not apply to development on land owned by the Land and Housing Corporation or to a development application made by a public authority.	N/A	N/A
Clause 27 Subdivision of boarding houses not permitted		
Development consent must not be granted for the subdivision of a boarding house.	Subdivision is not proposed.	N/A
Schedule 7 Savings and transitional provisions		
<p>2 General savings provision</p> <p>The former provisions of a repealed instrument continue to apply to the following—</p> <p>(a) a development application made, but not yet determined, on or before the commencement date,</p> <p>(b) a concept development application made, but not yet determined, on or before the commencement date,</p> <p>(c) a staged development application made subsequent to a concept development application approval granted on or before the commencement date,</p> <p>(d) a development consent granted on or before the commencement date,</p> <p>(e) an environmental impact statement prepared in compliance with an environmental assessment requirement that is—</p> <p>(i) issued by the Planning Secretary on or before the commencement date, and</p> <p>(ii) in force when the statement is prepared.</p>		The former provisions of the AH SEPP apply, as this DA was lodged on 28 April 2021, prior to SEPP Housing coming into effect on 26 November 2021.

Clause 25(1)(c) – Building separation distances

Clause 25(1)(c) of the Housing SEPP 2021 states that if the boarding house has at least 3 storeys—the building will comply with the minimum building separation distances specified in the Apartment Design Guide. The proposal seeks a variation to this numerical requirement as summarised below and demonstrated in **Figure 13 to Figure 16** below:



Figure 13: Extract from the Site Plan identifying the building setbacks to the boundaries at Levels 1 to 5.



Figure 14: Extract from the Site Plan identifying the building setbacks to the boundaries at Levels 6 to 12.



Figure 15: Extract from the Site Plan identifying the building setbacks to the boundaries at Level 13.

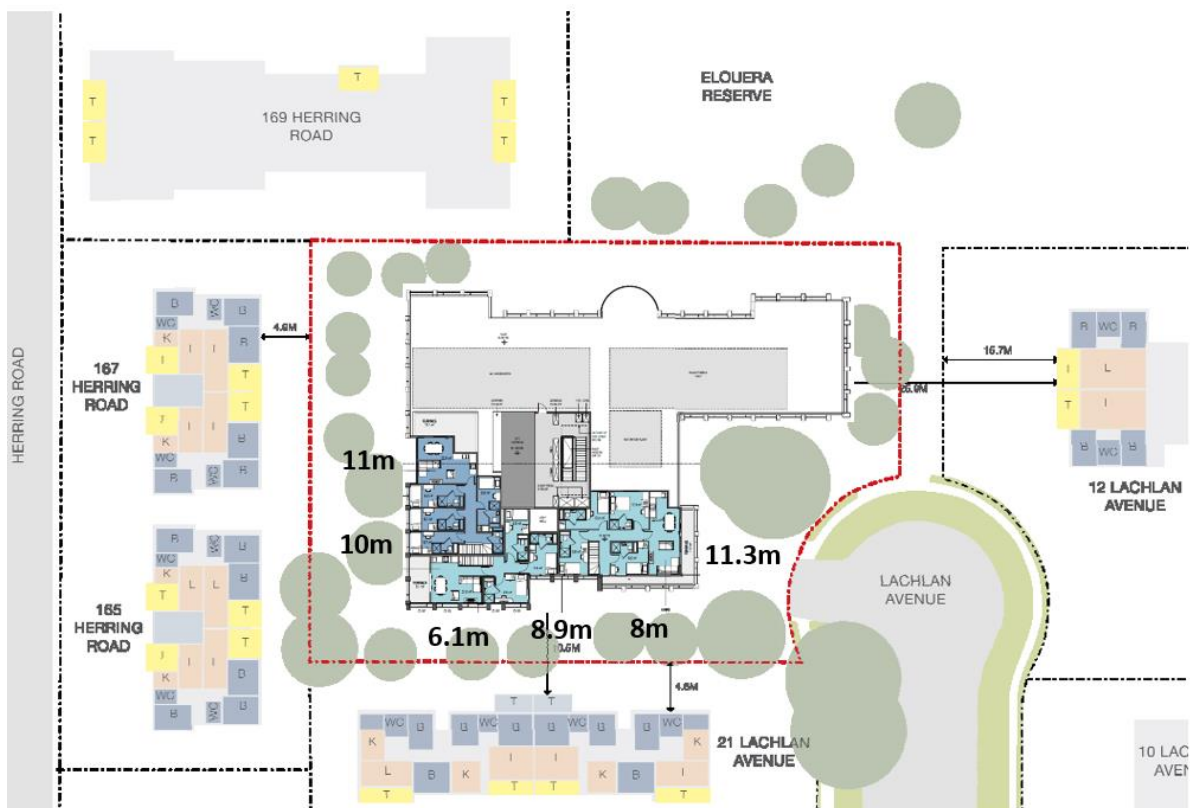


Figure 16: Extract from the Site Plan identifying the building setbacks to the boundaries at Level 14.

Elevation	ADG requirement from building to the boundary at each level:	Proposed	Compliance
Southern	1-4: 6m	6.15m for Ground to L3	Yes
	5-8: 9m	6.15m for L4 & 5 6.15m to 8.87m for L6 & 7	No. However, blank wall effect provided for the SW corner of the building. Where windows overlook face the southern boundary, the setback is increased to 8m-8.87m, which is a shortfall of up to 1m. No. As above.
	9 and above: 12m	6.15m to 8.87m for L8 to 12 6.15m to 8.87m for L13 & 14	No. However, blank wall effect provided for the SW corner of the building. Where windows overlook face the southern boundary, the setback is increased to 8m-8.87m, which is a shortfall of up to 4m. No. Windows are orientated to the southern boundary. Variation of up to 5.85m. As discussed below, there are 7 trees sought to be retained within the setback area to the southern boundary, which assist with mitigating potential privacy impacts.
Northern	1-4: 6m	5.49m-7.54m for Ground to L3	No. For the part of the site with a shared boundary to No. 169 Herring Rd, the NW corner of the building which contains the 2 bedroom unit has a setback of 5.49m, being a shortfall of 0.51m. The communal terrace has a setback of 4.6m, which is acceptable this part of the northern boundary adjoins Elouera Reserve, and the terrace contributes to the visual interest of the façade and enables casual surveillance of the Reserve. The terrace is also only permitted to be occupied from 7am to 9pm daily, which suitably limits the level of activity on the terraces.
	5-8: 9m	5.49m-7.54m for L4 to 7	No. As above. Shortfall of 3.51m
	9 and above: 12m	5.49m-7.54m for L8 to 13	No. As above. Shortfall of 6.51m
Eastern	1-4: 6m	5.91m & 9.7m for Ground to L3	Yes. The setback to the eastern boundary is 5.91m. However, taking into account the shared portion of the 3.31m wide public pathway, the building separation is 7.57m.

	5-8: 9m	5.91m L4 to 7 for the northern part of the building.	No. The setback to the eastern boundary is 5.91m. However, taking into account the shared portion of the 3.31m wide public pathway, the building separation is 7.57m being a shortfall of 1.43m. This is a minor non-compliance which is considered satisfactory as the presentation of the building maintains a strong presentation which is predominantly visible from Lachlan Avenue and Elouera Reserve. The impact of the building separation is mitigated by the retention of trees in the front setback area and in Elouera Reserve, feature landscaping and public art in this location.
		9.7m for L4 to 7 for the southern part of the building.	Yes.
	9 and above: 12m	5.91m L8 to 13 for the northern part of the building.	No. The setback to the eastern boundary is 5.91m. However, taking into account the shared portion of the 3.31m wide public pathway, the building separation is 7.57m being a shortfall of 4.43m. Justification as above.
Western		9.7m for L8 to 13 for the southern part of the building.	No. The setback to the eastern boundary is 9.7m, being a shortfall of 2.3m. This is a minor non-compliance which is considered satisfactory as the presentation of the building maintains the overall tower form on this elevation.
		9.7m to balcony edge and 11.27m to the buildings for L14 at the southern part of the building.	No. The setback to the eastern balcony is 9.7m, being a shortfall of 2.3m. As above.
	1-4: 6m	10.3m-11.1m for Ground to L3	Yes
	5-8: 9m	10.3m-11.1m for L4 to 7	Yes
	9 and above: 12m	10.3m-11.1m for L8 to 14	No. Shortfall of 0.9m to 1.7m. This is a minor non-compliance which is considered satisfactory as the presentation of the building maintains the overall tower form on this elevation; and the levels below (Ground to L7) provide setbacks which are greater than the minimum required by the ADG.

With regard to the building separation to the southern boundary shared with No. 21 Lachlan Avenue (which currently accommodates a 3 storey walk-up apartment building; and has the potential for redevelopment to a residential apartment building of a similar scale to the subject proposal) there are 8 existing trees that are sought to be retained (7 within the site and 1 in the adjoining property). These trees range in height from 12m to 24m, which will assist with screening views from the development up to Level 8, as shown in **Figure 17** below. The proposed setbacks enable the retention of these existing trees which reinforces the retention of a green corridor which physically connects the substantial street trees along Lachlan Avenue and Elouera Reserve.



Figure 17: Extract from the Southern Elevation Plan showing the height of the existing trees to be retained within the site (Trees 1, 4, 5, 7, 7A, 8 & 9) and Tree 6 located in the adjoining property to the south according to the Arboricultural Impact Report (identified in green) with the relative height of the proposed development.

The applicant has also explained that the façade is designed to limit viewing downwards into adjoining properties and windows are also intended to be fitted with internal blinds which can be operated by students to manage their own privacy. **Condition 201** is recommended to be imposed to ensure internal blinds are maintained.

As shown in **Figure 18** below, the applicant has also removed the ability for some windows to be seen through by proposing to treat selected windows as opaque to a height of 1.8m above floor level. This applies for all windows on Levels 6 to 14 of the southern façade which have a setback of 6.15m and the living room windows at the south-eastern corner on Level 13. It is also recommended that any kitchen or bathroom window with a setback of 6.15m on Levels 6 to 12 are also treated as opaque, as shown in **Figure 19** below and imposed in **Condition 1**.



Figure 18: Extract from the Level 13 Plan showing the windows on the southern façade with an opaque-window treatment to a height of 1.8m above floor level (marked as 'O-W').

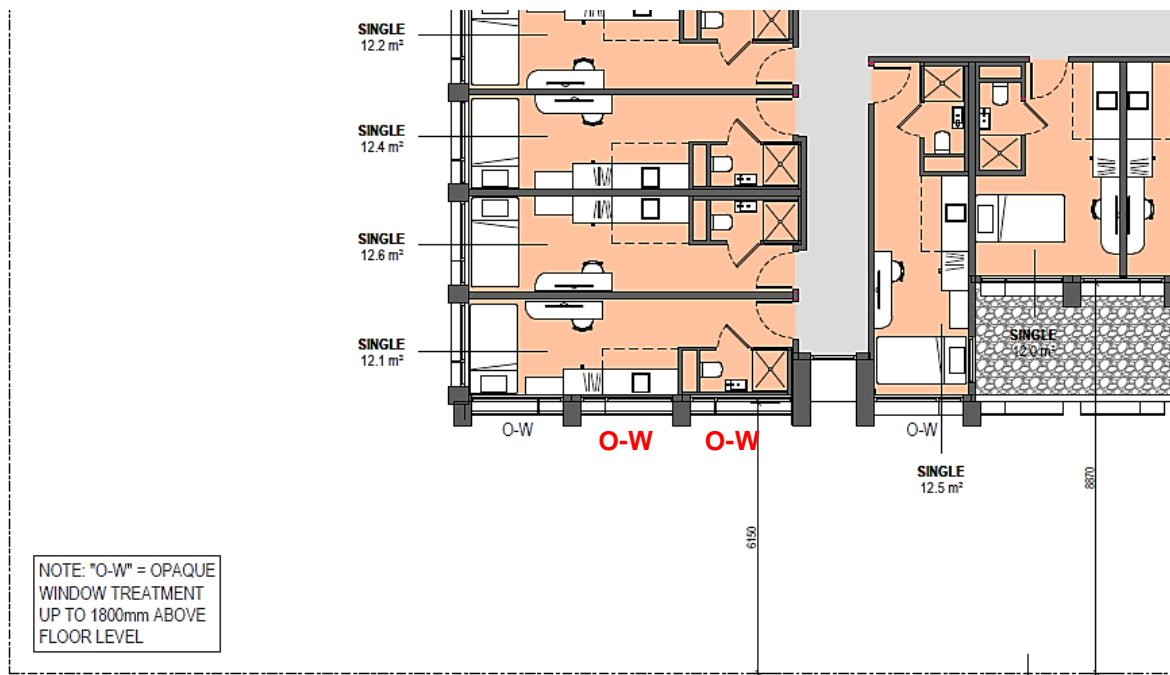


Figure 19: Extract from the Level 6-12 Plan showing the windows on the southern façade with an opaque-window treatment to a height of 1.8m above floor level (marked as 'O-W').

As demonstrated on the shadow diagrams at **Attachment 1**, the proposal achieves suitable sunlight access to its communal open space areas; to public space at Elouera Reserve; and to neighbouring properties due to the orientation of the site and proposed building.

Although the proposed building is not consistent with the minimum building separation requirements under the ADG, the overall building form is considered to satisfy the considerations in setting building separation controls in the ADG, including to generally increase building separation proportionally to the building

height to achieve amenity and privacy for building occupants and a desirable urban form. The proposed building separation has been specifically considered by the Urban Design Review Panel, who support the proposal and state that

“In incorporating the adjusted building setbacks, the architect has successfully demonstrated how the strong, ordered architectural expression (strongly supported by the Panel) has been adapted to the final proposal.”

In the context of the Herring Road Activation Precinct, the scale and form of the proposed building is considered to be a positive contribution to the desired future character of this educational section of Macquarie Park.

7.11 Draft Environment SEPP

The draft Environment SEPP was exhibited from 31 October 2017 to 31 January 2018. The consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways and urban bushland areas. Changes proposed include consolidating SEPPs, which include:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005

The proposal is consistent with the relevant provisions of the draft SEPPs.

7.12 Draft Remediation of Land State Environmental Planning Policy

The Draft SEPP is a relevant matter for consideration as it is an Environmental Planning Instrument that has been placed on exhibition. The explanation of Intended Effects accompanying the draft SEPP advises:

“As part of the review of SEPP 55, preliminary stakeholder consultation was undertaken with Councils and industry. A key finding of this preliminary consultation was that although the provisions of SEPP 55 are generally effective, greater clarity is required on the circumstances when development consent is required for remediation work.”

The draft SEPP does not seek to change the requirement for consent authorities to consider land contamination in the assessment of DAs. Refer to conclusions made in relation to SEPP (Resilience and Hazards) 2021 (formerly SEPP 55).

(iii) Any development control plan:

7.13 Ryde Development Control Plan (DCP) 2014

The proposed development is subject to the provisions of Part 2 New affordable rental housing: Division 3 Boarding houses of the AH SEPP in land zoned B4 Mixed Use.

Section 3.0 *Other design requirements* of Part 3.5 Boarding Houses of the Ryde DCP 2014 identifies design requirements which are not covered by the AH SEPP, addressing matters such as privacy, waste management, internal building design, sustainability and energy efficiency. A detailed assessment of the proposal against the DCP is provided at **Attachment 3**. The proposed development satisfies these development controls, with the exception of the following:

Part 3.5 DCP Control	Comment
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3.2 Privacy (Acoustic and Visual) and Amenity: Control c. Boarding houses are to be designed to minimise and mitigate any impacts on the visual and acoustic privacy of neighbouring buildings and on the amenity of future residents.	Refer to discussion above regarding suitability of setbacks and building separation and measures to mitigate potential visual privacy impacts.
3.6 Internal Building Design - Boarding houses in larger scale developments (more than 20 boarding rooms) are to be designed so that:	
<ul style="list-style-type: none"> No more than 8 boarding rooms share a stairway and / or corridor. 	<p>The floorplan comprises central lift and stair access with corridors spreading out in 4 directions. In some cases, the corridors service 10 rooms.</p> <p>The floorplan layout of each floor enables the comfortable movements of students between the lift/stairs, their unit and communal living area. The size and length of the corridors are considered sufficient to enable this number of students to pass each other.</p>
<p>ii. 1 communal living area is provided per every 8 boarding rooms or part thereof. Consideration may be given to varying this number where it can be demonstrated that the design incorporates opportunities for social interaction within reasonable distance of boarding rooms, whilst maximising privacy and minimising thoroughfares through corridors containing boarding rooms.</p>	<p>Each level accommodates 36 or 37 students, with 1 communal living area on each level (excluding the 2 communal living areas in the multi-bed rooms).</p> <p>The basement level, ground level and outdoor areas also provide communal living areas and offers additional valuable spaces for students to use as desired.</p> <p>Despite this shortfall, the proposed design fosters options for interaction and is supported.</p>
<p>Internal Building Design</p> <p>(iii) Communal Kitchen and Dining Areas</p> <p>b. A communal kitchen area is to be provided with a minimum area of 6.5m² in total or 1.2m² for each resident occupying a boarding room that does not contain a kitchenette, whichever is greater, and is to contain:</p>	
<p>i. One sink for every 6 people, or part thereof, with running hot and cold water; and</p>	<p>This control would require 81 sinks to be installed in the communal kitchen areas. 28 are provided.</p> <p>The applicant has provided the following justification:</p> <p><i>'Standards are excessive for large scale student accommodation given economics of scale and kitchen facilities provided in room and multiple communal areas and main dining area.'</i></p> <p>In this case, each student also has their own sink in their units, being an additional 368 sinks.</p> <p>Overall, the proposal provides sufficient facilities (including sinks and stove top cookers).</p>
<p>ii. One stove top cooker for every 6 people, or part thereof, with adequate exhaust ventilation.</p>	<p>As above.</p>

<p>(v)a. Laundry and drying facilities are to be provided for all lodgers. Where lodgers do not have their own laundry facilities, the following is to be provided:</p> <p>i. A minimum space of 4m² for every 12 lodgers; an additional 3m² for every additional 12 lodgers or part thereof;</p> <p>ii. 15m² external clothes drying area for every 12 residents in an outdoor area (can be retractable).</p>	<p>Requirement of 123m². Provided: 34.8m² at Basement 1 Mezzanine Level.</p> <p>Requirement of 610m².</p> <p>Applicant's justification: <i>Requirements of some 610m² external is excessive taking account of economies of scale and nature of facility.</i> <i>The amended plans increase the capacity of the communal laundry facilities to 15 washers and dryers at a ratio of 1:31 students and are equipped with commercial grade washing and drying machines with 36 and 45 minute cycle times which are adequate to meet student demands. User supervised outdoor drying is supplemental only for special needs.</i></p> <p>Council comment: The indoor communal laundry facilities are sufficient to meet the needs of lodgers.</p>
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The proposed development is also subject to the requirements of Part 4.5 Macquarie Park Corridor of the Ryde DCP 2014. The site is within the Mixed Use/Residential component of the Urban Structure Plan and satisfies these development controls (as demonstrated in **Attachment 3**), with the exception of the following:

Part 4.5 DCP Control	Comment
7.7c. Building Separation: Residential Provide building separation as per SEPP 65 - Design Quality of Residential Apartment Development requirements.	No. Refer to discussion above regarding suitability of setbacks and building separation.
8.2 Site Coverage, Deep Soil Areas and private open space a) A minimum 20% of a site must be provided as deep soil area. b) Deep soil areas must be at least 2m deep. c) For the purpose of calculating deep soil areas, only areas with a minimum dimension of 20m x 10m may be included.	<p>Partial compliance. Deep soil is provided for 602.1m² or 26.6% of the site with minimum depth of 2m.</p> <p>However, none of the deep soil meets the dimensions of 20m x 10m.</p> <p>The objectives of this clause is:</p> <ul style="list-style-type: none"> • <i>To maintain the 'campus style' industrial parklands character that typifies much of the Corridor.</i> • <i>To provide developments with a high level of amenity and landscape character.</i>

	<ul style="list-style-type: none"> • <i>To retain existing mature trees and allow for future tree planting.</i> • <i>To provide occupants with passive recreational opportunities.</i> • <i>To provide an area on site for soft landscaping and deep soil planting.</i> • <i>To improve stormwater quality and minimise water consumption through implementation of water sensitive urban design guidelines.</i> <p>Despite the shortfall in dimensions for the deep soil areas, the proposal meets the objectives of this clause.</p> <p>A campus style development is provided, with the design of the development being 'educational' to connect to the University Precinct. The development is considered to provide a high level of amenity and landscape character. Existing mature trees will be retained within the site and the public domain, and active and passive recreational opportunities are provided within the site, which supplement the opportunity for recreation in Elouera Reserve.</p> <p>The proposal provides 40% of the site as soft landscaping, which exceeds the minimum requirement of 20%.</p> <p>Council's Senior Development Engineer has raised no concerns with regard to stormwater quality and management.</p> <p>Overall, the proposal may have a deficiency with the numerical requirements of the control, but the development is capable of meeting the objectives of the control and is supported.</p>
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The following sections of the Ryde DCP 2014 are also of relevance and are assessed in detail in **Attachment 3**:

- Part 7.1 – Energy Smart, Water Wise;
- Part 7.2 – Waste Minimisation and Management;
- Part 8.2 – Stormwater and Floodplain Management;
- Part 8.3 – Driveways;
- Part 8.5 – Public Civil Works;
- Part 9.1 – Signage;
- Part 9.2 – Access for People with Disabilities;
- Part 9.3 – Parking Controls; and
- Part 9.5 – Tree Preservation.

The proposal is consistent with these DCP controls.

7.14 City of Ryde Section 7.11 Development Contributions Plan 2020

The Section 7.11 Development Contributions Plan 2020 commenced on 1 July 2020 and is applicable to the proposal.

The contributions that are payable with respect to the increase housing density (based on the number of beds) on the subject site (being for residential development inside the Macquarie Park Area) are as follows:

A – Contribution Type	B – Contribution Amount
Community & Cultural Facilities	\$ 1,353,882.56
Open Space & Recreation Facilities	\$ 2,610,219.92
Transport Facilities	\$ 185,022.52
Plan Administration	\$ 62,238.20
The total contribution is	\$ 4,211,363.20

Note: Currently existing on site are 12 x 2 bedroom apartments at 23 Lachlan Avenue and 15 x 2 bedroom apartments at 25 Lachlan Avenue. The rate is based on number of beds.

The above Section 7.11 contribution is required to be paid prior to the issue of any Construction Certificate (**Condition 37**).

(iia) Any planning agreement:

There are no planning agreements or draft planning agreements for this development.

(iv) The regulations

The proposal is consistent with the *Environmental Planning and Assessment Regulation 2000*. Standard conditions are recommended regarding demolition and compliance with the Building Code of Australia and Australian Standards.

8. LIKELY IMPACTS OF THE DEVELOPMENT

The likely impacts of the proposed development are discussed throughout this report including in the Submissions and Referrals sections below. Further consideration of the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality, are discussed below.

i. Potential community and social impacts relating to the proposal

During the assessment of this DA and in consultation with the Planning Panel, Council resolved to engage an independent and suitably qualified and experienced Consultant to undertake a social planning review of the community and social impacts relating to the proposal.

WSP Consulting was subsequently engaged to conduct this social planning review which encompassed the following scope:

- Identifying relevant potential social issues that may arise due to the construction and operation of the proposal and recommending suitable management and mitigation measures associated with each significant issue

- Considering the density of the proposal, including the impact on adjoining properties from operation of the proposal with recommendations for mitigation or avoidance
- Reviewing the design of the proposed accommodation and suggesting amenity improvements for the occupants.
- Considering the plan of management and providing guidance on the operation of the proposed development with respect to best practice.

The conclusions and recommendations of the review are provided in the table below, followed by the applicant's response (including amended plans and reports) and Council's comment considering the satisfactory inclusion of the recommendations, where they support social improvements to the proposal.

Recommendations	Applicant's response	Council comment
A: Design changes		
<p>a) Increase the number of cluster rooms with shared amenities, rather than studios, to provide greater affordability outcomes for future residents as well as a more 'family scale' living arrangement.</p> <p><i>"Research suggests that studio accommodation where students are housed in single occupancy, studio-type units can cause difficulties for the students in finding support and increase the risk of isolation and associated mental health issues."</i></p> <p>Those who are more anxious are more likely to avoid communal areas with such large numbers of people sharing the space and facilities.</p> <p>The following design-based finding is suggested: <i>"Living with a large number of students caused some students distress, and often they wished that they lived with a smaller, 'family sized' number of students (e.g., 4 bedroom flats rather than 8)."</i></p>	<p>The number of cluster rooms has been increased from 17 to 29 now consisting of 13 x 4 bed clusters and 14 x 5 bed clusters and 2 x 6 bed clusters.</p> <p>(General industry experience is that 4 bed clusters are not without social interaction vulnerabilities and 5 bed clusters are usually preferred for this reason.</p> <p>Accordingly, a mix has been maintained but with a reduction in larger clusters and smaller average).</p>	<p>The revised number and mix of cluster rooms represents a more 'family scale' living arrangement and is supported.</p>
<p>c) Undertake design changes intended to further encourage residents to cook and eat together as follows:</p> <p>i. Decrease the number of people using the larger communal spaces by providing a kitchen and lounge area on each floor.</p> <p>ii. Locate single-occupancy rooms around those shared facilities.</p> <p>iii. Increase the number of shared amenities by either making the communal kitchen larger with more stoves, sinks, and pantries, having</p>	<p>The amount of communal open spaces and provision of areas on each is well above industry and new SEPP standards.</p> <p>The provision of additional separate kitchen and living room shared for pairs of floor achieves the objective while:</p> <ul style="list-style-type: none"> - not diminishing the quality of spaces by combining incompatible kitchen and living activities; - encouraging interactions between floors (and potential social relief) in 	<p>The availability of communal kitchens and living areas provides opportunities for residents to cook and eat together and is supported.</p>

a kitchen on every floor, or preferably by designing the floor space with more than 1 cluster room per floor so that more students have the option to share a small communal kitchen and lounge area with smaller number of peers to accommodate for those with potential social anxieties in large crowds.	addition to the main communal areas on the ground floors. The shared facilities are generally central to the single-bed rooms. The additional cluster room per floor as well as the already generous shared floor facilities is well above industry standards and new SEPP requirements and facilitates students with social and other anxieties.	
d) The building separation requirements in the ADG are to be satisfied. This will assist with achieving suitable visual and acoustic privacy to and from this development.	As discussed in consultation with Council, the form and layout of the building has been modified to provide for improved building separation and better consideration of visual and acoustic privacy, achieved in particular with greater setbacks on the southern boundary, better window orientation with additional common area window treatments where opportunities permitted.	The proposed building separation and floorplan layout achieves suitable visual and acoustic privacy, as discussed in detail above.
e) The façades largely comprise windows and little privacy is afforded to and from this development. The proposal is to demonstrate that suitable privacy can be achieved.	The facade is designed to limit viewing downwards into adjoining private open spaces while windows are provided with internal blinds which are too detailed to show on DA plans but may be made a condition of a consent if required. Selected windows are to be treated as opaque to a height of 1.8m above floor level. This applies for all windows on Levels 6 to 14 of the southern façade which have a setback of 6.15m and the living room windows at the south-eastern corner on Level 13. This is in addition to the building separation treatments described above.	Satisfactory. Condition 201 recommended to ensure internal blinds are maintained. It is also recommended that any kitchen or bathroom window with a setback of 6.15m on Levels 6 to 12 are also treated as opaque (Condition 1).
f) Explore design options to the proposed double rooms located on the southwestern and south-eastern corners on Levels 1, 3, 5, 7, 9 and 11 to allow options for double beds and minimise potential amenity impacts for future students sleeping next to the entrance door. This may require the double rooms to be converted to single rooms to increase the amount of area per student and address amenity impacts for the bed closest to the door.	Double-bed rooms (other than the north-west 2 bed DDS cluster) are no longer proposed because of the amenity limitation identified above and have been replaced with an increase in smaller cluster rooms.	Deletion of double-bed rooms supported.
g) Include options for single sex, quiet and alcohol free floors for cultural appropriateness. (Research by Unipol Student Homes found that international students generally have a preference for single sex, quiet, alcohol-free accommodation).	Accommodation allocation may be managed in a variety of ways to meet student cultural needs without the need to modify the design. However, such a need has not generally arisen in Australian PBSAs to date. Note that Unipol is a small to mid-size charitable student housing provider in Leeds and Nottingham	No objection is raised given the applicant's justification. It is also noted that the applicant has amended the Operational Management Plan to enable residents to

	and does not provide single sex/alcohol free, etc., options in its larger facilities. The research in question was sourced from a wide ranging survey conducted in 2008 at the University of Nottingham and accordingly, has limited applicability. No specific design changes are required to accommodate future floor / or room allocations to meet cultural needs or requests.	indicate their preference for accommodation types and relocate rooms, if necessary.
h) Council has reviewed other approved/completed purpose built student accommodation facilities in Sydney and it is evident that cluster rooms consistently provide a private ensuite for each single room. The subject DA is the only design which features shared bathroom facilities within its cluster rooms. The design of the cluster rooms is required to afford each occupant private facilities and appropriate privacy and amenity.	The design of the cluster rooms have been revised and each student room now has private bathroom facilities.	Satisfactory.
B: Operational Management Plan		
a) The tenancy agreements for the development should be Standard Occupancy Agreement for general boarding houses under the <i>Boarding Houses Act 2012</i> . The tenancy agreements are to include behavioural clauses to reduce risks of antisocial behaviours impacting on surrounding neighbours.	Residential Tenancy Agreements under the Residential Tenancies Act are used for PBSAs as they fall outside the <i>Boarding Houses Act 2012</i> as a 'registrable boarding house' under the Act specifically excludes accommodation wholly used for students. Relevant inclusions in the Agreements are set out in section 10.13 'Tenancies and Tenancy House Rules' while an Anti-social behaviour statement has been updated in section 10.10 'Anti-Social Behaviour & Sexual Harassment Policy and Procedure.'	Satisfactory. As detailed in the Operational Management Plan (OMP) at Attachment 4 , suitable arrangements are proposed in the form of Residential Tenancy Agreements and associated policies and procedures.
b) Include a Detailed Code of Conduct Management procedure relating to sexual harassment, smoking and consumption of alcohol within the building.	Section 10.10 updated to include Sexual Harassment, smoking and alcohol consumption violations.	Satisfactory. The OMP details suitable arrangements are proposed in the form of policies and procedures.
c) Limit the maximum number of guests permitted per student and for the building at any given time. All visitors are to confirm their entry via a QR code to ensure people entering and existing the premise can be monitored. This is to maintain an acceptable level of amenity and ensure all students and visitors can evacuate in timely manner in any circumstances.	Section 10.12 'Visitors updated' to include setting of visitor numbers. Required to be responsive to a wide variety of student needs, situations and circumstances including family characteristics and events.	Satisfactory. As outlined in the OMP, suitable arrangements are proposed to manage visitors.
d) When applying for accommodation, students are given the option to provide information	Section 9.4 'Tenancy Application' updated to provide for option.	Satisfactory. The OMP details suitable arrangements are

about their personality in order to organise flats according to personality dimensions (e.g. a flat for conscientious students) or those undertaking the same course (e.g. a flat for arts-based students).		proposed to address the preferences of students.
e) Respond to concerns raised by residents if they are living with incompatible others and experiencing difficulties within flats or with neighbours which can have a negative impact on students' mental health and wellbeing. For example, the option to relocate to another room.	Section 9.4 'Tenancy Application' updated to include reference to management team assistance and room relocation.	Satisfactory. The OMP details suitable arrangements are proposed to address the preferences of students.
f) Regular social and recreation events in the communal areas throughout the semester to encourage community building within the building.	Sections 9.1 'Pre-move In', 9.9 'Settling In' and new section 10.9 'Social and Recreational Events and Programs' updated / inserted.	Satisfactory. The OMP details suitable arrangements are proposed to encourage community building.
g) Community-building groups and in-tenancy social programs that support social cohesion are valued, such as introductory/welcome events, creative writing groups, arts-based workshops, shared reading groups, music groups or film-making groups.	As above. Also reference to design of building and social events already stated in section 8.1 'Health and Wellbeing Policy'.	Satisfactory. The OMP details suitable arrangements are proposed to encourage community building.
h) Offer mental health first aid training, student service referrals and support from dedicated staff.	Section 8.1 'Student Health and Wellbeing' section updated to include requirement.	Satisfactory. The OMP details suitable arrangements are proposed to support mental health.
i) Bicycle sharing programs to lower environmental impact and encourage active travel and reduce the need and costs for students to own a bicycle. This will increase the bicycle parking provision, which is currently only 1 in 5 residents.	Section 10.6 'Vehicle, Motorbike and Bicycle Parking' already has statement about actively promoting green travel and alternative modes of transport. Bicycle demand is likely to be moderate because of the walkability of the University, public transport, shopping and potential employment; unfamiliarity of riding conditions and road rules from international students; and the congested and physical nature of major roads that surround the site. However, a trial of 6 shared bicycles will be made available under the existing parking provision, and can be increased should student demand warrant it. Refer to Section 10.6 OPM and may be made a condition consent.	Satisfactory. The OMP details suitable arrangements are proposed to encourage green travel. The provision of an e-bike share scheme is addressed in Condition 219 .
j) Greater allocation of Residential Customer Advisor (RCA) roles in the development, such as 1 or 2 RCAs on each residential floor to ensure students have a personal connection with their advisor and feel comfortable to approach them	RCA roles are extensively described and detailed in section 6.7 'Residential Customer Advisors'. The number of RCAs to has been increased to 8 in line with industry practice. The recommendation is considered to be excessive and unprecedented for young adult	The provision of at least 4 RCAs is satisfactory. The OMP includes an allowance to increase the number RCAs during periods of high student volume.

with any grievances or needs for support.	students. However, section 6.7 states that this number can be increased “to ensure that the appropriate levels of support is required based upon the occupancy level of the facility”.	
k) Further details relating to the number/ratio of students to staff that will be employed and active on premise at any given time.	Details of this are set out in section 6. Numbers of staff per role has been added to the table in section 6.1 ‘Staff and 24-Hour Management Structure’.	Satisfactory. The OMP details suitable arrangements are proposed regarding staff roles and responsibilities.
l) Clarify details of the number of other staff (Community Manager, Customer Service Coordinator, Maintenance Manager, Night Wardens and Admin).	Details of this are set out in section 6. Numbers of staff per role has been added to the table in section 6.1 ‘Staff and 24-Hour Management Structure’.	Satisfactory. The OMP details suitable arrangements are proposed regarding staff roles and responsibilities.
m) Mandatory cultural awareness training for management and RCAs to ensure international students and diverse domestic students feel safe, welcome, and comfortable approaching management with potential issues.	Paragraph inserted in section 6.2 ‘Management team’ mandating cultural awareness training (which is standard for mainstream operators in any case given the international nature of the industry).	Satisfactory. The OMP details suitable arrangements are proposed regarding cultural awareness.
n) Strong partnerships with University mental health programs will be important to ensure student wellbeing is promoted and students have access to any help they may require, such as mental health support services.	Included in additional paragraph in section 8.1 ‘Student Health and Wellbeing, Disabled Provision & Cultural Awareness’.	Satisfactory. The OMP details suitable arrangements are proposed regarding student health and well-being.
o) Student wellbeing should be monitored, potentially through surveys (such as satisfaction surveys) at least twice during semesters to identify any issues with the accommodation and ensure students are receiving adequate support.	Additional comments now included in 8.1 noting that operators have different procedures for monitoring adequacy and effectiveness of support for students.	Satisfactory. The OMP details suitable arrangements are proposed regarding monitoring student wellbeing.
p) Provide representative committees to understand and resolve issues.	Representative committees to continually understand and resolve issues now added to list, see point 11 section 8.1 ‘Student Health and Wellbeing’.	Satisfactory. The OMP details suitable arrangements are proposed regarding representative committees are.
q) Information regarding mechanisms for seeking help to be discussed and understood by all new tenants open moving in and reiterated regularly throughout semesters to ensure residents are aware of supports in place.	Additional wording included in section 8.1 to reinforce regular information provision.	Satisfactory. The OMP details moving in and occupancy support.
r) Implementing a program for safe travel home for students travelling at night-time i.e., shuttle bus service, buddy systems, safety hotlines with building security, etc.	New Section 7.5 ‘Student Safety, Security Policy and Procedures’ noting that a shuttle service would be uneconomic for the facility to operate.	Satisfactory. The OMP details night-time safe travel procedures. It is agreed that a shuttle service is not necessary in this circumstance.
s) Induction to educate residents on risks and internal/external support services available if they feel unsafe travelling home or to the university. Potential safety measures could include:	It is noted that neither the social planning consultants in its CPTED Assessment nor the Police Locals Area Command identified the necessity for the facility to undertake active off-site safety programs.	Satisfactory. The OMP details safety measures, include measures in partnership with the University.

<p>i. 24/7 access to building security with security phone number, and phone number for the university's on-campus emergency service, provided on something residents can keep with them i.e., key chain, laminated card, etc.</p> <p>ii. Potential preventative tools such as whistles/personal alarms should be provided to residents to kept on their person when travelling to and from the site.</p> <p>iii. The accommodation provider could provide self-defence classes to residents to increase their chances should they be in an unsafe situation when travelling.</p> <p>iv. Potential partnership with Macquarie University to provide the above.</p>	<p>Notwithstanding, the OPM has incorporated offsite measures including University partnerships that can be expanded to address specific crime risks to students that may emerge from time to time.</p>	
<p>t) Potential employment of students in the reception area of the building or in the maintenance teams to allow students an opportunity to work without travel, allowing more time to focus on studies.</p>	<p>Students are employed as RCAs and this is set out in section 6.7 and limited opportunities may otherwise arise for employment at the facility. Students will not be employed in the maintenance team due to workplace safety unless they have necessary qualifications and licences.</p>	<p>Satisfactory. The proposal enables the employment of students, where appropriate.</p>
<p>u) Employment services for students i.e., a notice board or notifications by management team and RCAs of jobs in the nearby area, assistance with resume writing and job applications for students, etc.</p>	<p>These functions are much better provided by existing university services which have a high level of professionalism and service levels which cannot be replicated by the facility. Accordingly, university partnerships in section 8.1 'Student Health and Wellbeing' will facilitate approach.</p>	<p>Satisfactory. The existing employment services provided by the University are capable of being accessed by students.</p>
<p>v) Ensure a range of affordable housing options for students struggling financially, including those unable to work or on financial hardship scholarships – explore potential to charge lower than market rent to students experiencing financial hardship.</p>	<p>Non-discretionary financial welfare functions are outside the reasonable requirements of privately owned and operated PBSAs unlike student accommodation facilities with social obligations because of government funding and/or tax exemptions such as Universities and charitable / religious organisations.</p>	<p>Noted. This is not a planning issue as the relevant planning controls do not require financial welfare to be offered.</p>
<p>w) Mechanisms for future residents to be involved in how the student accommodation is run including grievance mechanisms with RCAs as representatives for the residents to raise any issues or concerns with how the accommodation is operating or any needs that aren't being met.</p>	<p>Additional task added in Section 6.7 'Residential Customer Advisors' for RCAs to act as representative for students raising issues and concerns.</p>	<p>Satisfactory. The OMP details grievance mechanisms and representative committees to understand and resolve issues.</p>
<p>x) The accommodation provider needs to ensure the accommodation is culturally appropriate for all persons, such as:</p> <p>i. Culturally appropriate mental health awareness and access to support mechanisms.</p>	<p>New section 8.3 'Cultural Awareness' added which addresses multi-lingual communication needs and provision of a small prayer room on the ground floor (noting limited demand from the dominant Chinese and south-east Asian international</p>	<p>Satisfactory. The OMP outlines how the accommodation endeavours to be is culturally appropriate for all persons, including with regard to</p>

<p>ii. Provision of prayer rooms or multipurpose spaces where students can go for religious / spiritual practices.</p> <p>iii. Consideration of the need for men and women to be accommodated in separate areas in some cultures, potentially having some floors with all male and some with all females.</p>	<p>students at Macquarie Uni) – see revised architectural plan.</p> <p>Section 6.5 'Multi-Lingual Staff' addresses language needs.</p> <p>Floors/areas specifically for the accommodation of men and women are not provided. However, the design of the building, co-ordination of social events, and Tenancy Application which enables students to indicate their preference (for sharing rooms with people of a certain culture/gender) is available.</p> <p>Section 8.1 'Health and Wellbeing Policy', Sections 9.1 'Pre-move In', 9.9 'Settling In' and new section 10.9 'Social and Recreational Events and Programs' updated / inserted.</p>	<p>communication and religion.</p> <p>The OMP also details suitable arrangements are proposed to address the preferences of students.</p>
<p>y) Induction to educate residents on risks and internal/external support services available if they feel unsafe travelling home or to the university. Potential safety measures could include:</p> <p>i. 24/7 access to building security with security phone number, and phone number for the university's on-campus emergency service, provided on something residents can keep with them i.e., key chain, laminated card, etc.</p> <p>ii. Potential preventative tools such as whistles/personal alarms should be provided to residents to kept on their person when travelling to and from the site.</p> <p>iii. The accommodation provider could provide self-defence classes to residents to increase their chances should they be in an unsafe situation when travelling.</p> <p>iv. Potential partnership with Macquarie University to provide the above.</p>	<p>New Section 7.5 'Student Safety, Security Policy and Procedures' added to address recommendation.</p>	<p>Satisfactory. The OMP details suitable safety measures during induction.</p>
<p>(z) Prepare an Action Plan addressing how it will deliver the aims to promote student's wellbeing experience. For example:</p> <p>i. How staff will focus on delivering a comprehensive calendar of social, interactive community building and learning activities for students and ensuring high level of accessibility to these activities.</p> <p>ii. How the OMP will encourage eliminating discriminatory behaviour and implement outreach and support to groups less likely to actively engage with services or seek support.</p>	<p>An Action Plan is not warranted as many specific actions addressing student wellbeing and discriminatory behaviour are embodied in the Operation Plan of Management that satisfy the intent of this recommendation.</p> <p>In general, an 'Action Plan' is not considered to be suited to a Plan of Management but rather within larger governance frameworks which Iglu have in place in line with other major PBSA operators.</p>	<p>Noted. The provider is expected to regularly update their OMP and implement it accordingly.</p>

It is also noted that the applicant subsequently submitted a Social Planning Report prepared by Hill PDA Consulting in December 2021. This Report concluded the following:

“This report has provided a short overview of the social benefits arising from a proposed Purpose Built Student Accommodation facility at Lachlan Avenue Macquarie Park. It identifies that there is a likely continuing need for accommodation to support the growing and changing characteristics of the student cohort. The proposal in question is well situated to provide prospective residents with good access to the campus and its facilities, as well as being in an excellent location to access local amenities including the metro station, the Macquarie centre, as well as parks and recreation facilities. The management model outlined in the OMP would deliver a level of support well above private rental options and positions it as a good alternative to catered colleges. The design of the space emphasises the communal aspects of student life, providing a variety of recreation and study options, which will help build community within the proposal. The OMP commits the proposal to ongoing engagement with the wider community to ensure that management of the proposed PBSA is proactive in dealing with potential issues.

There is a clear need for additional student accommodation with good access to the Macquarie University campus, the proposal would provide 488 additional beds, providing a needed increase in the availability of managed student accommodation in a range of formats and price points. The replacement of existing residential apartments with a significant volume of PBSA would also reduce pressure on the private rental market as a greater volume of accommodation targeted only at students who would likely otherwise access accommodation via the private rental market.

The benefits of having on-site management, identified above, are a further advantage both for potential residents on site and the wider community. The presence of management will minimise impacts to surrounding residents through active policing of behavioural guidelines, which is not possible in strata title apartments, while also better ensuring the welfare of students living on site. As such potential operational impacts are likely to be minimal, with a proactive approach to management ensuring that they remain responsive to issues as they arise.”

Overall, the design of the proposal and OMP are considered to support the operation of the development in a manner which is capable of being cohesive to the needs of students, staff and the community.

ii. Driveway access to the basement levels

Vehicular access is proposed via a 4m wide two-way driveway crossover at Lachlan Avenue. A passing bay is provided alongside the driveway to ensure vehicles have room to pass and can access the intercom. The driveway access ramp and circulation spaces at the basement levels are widened to allow vehicles to manoeuvre.

Council's Senior Development Engineer considers that the narrow width can be safely managed utilising an internal traffic signal system. There is no policy or Standard which requires two-way access width. Australian Standard AS 2890.1:2004 Parking Facilities does not reinforce such a need; it even permits a single lane provided overtaking areas are provided.

Given the constraints imposed on the driveway and basement levels, predominantly due to the retention of existing trees and locating services and loading facilities in the basement, it is considered excessive to require the development to be redesigned to increase the width of the driveway, which would involve substantial redesign to the building. The proposed 4m wide access driveway is supported.

iii. Retention of existing trees

To enable the retention of an additional significant tree in the front setback area of the site the applicant has amended the plans to relocate the driveway and substation to be clear of Tree 9, which is a Weeping River Peppermint Gum with a height of 24m. Overall, 10 existing trees are sought to be retained in the setback area of the southern boundary and the street setback area. The retention of these trees complements the presentation of the development, provides screening to benefit the surrounding apartment buildings, and contributes to the character of the streetscape and neighbourhood.

The proposal also seeks to remove 17 trees on the site with a height of at least 5m, comprising 13 trees in good health and 2 trees in moderate health.

Replacement planting includes:

- 1 x Tuckeroo tree with a mature height of 12m.
- 5 x Luscious Water Gum trees with a mature height of 10m.
- Various other shrubs, accent plants, grasses, ferns, ground covers and climbers.

The proposed retention of trees and replacement planting is supported and is considered to reflect the desired future character of this area of Macquarie Park.

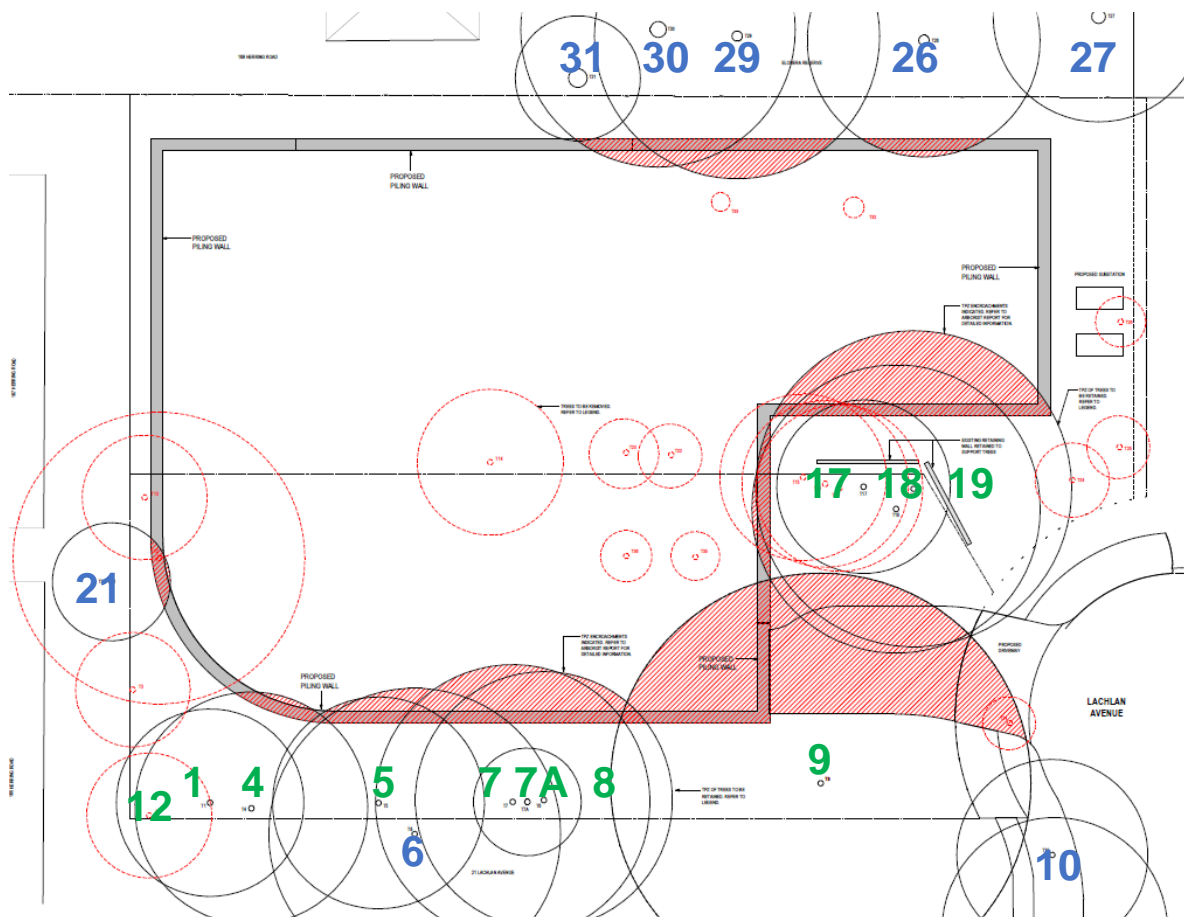


Figure 20: Extract from the updated Arboricultural Impact Report identifying the location of trees to be retained (identified in green as Trees 1, 4, 5, 7, 7A, 8, 9, 12, 17, 18 & 19). All trees on the adjoining sites are to be retained (identified in blue).

iv. Impact on solar access to neighbouring apartment buildings

The application is accompanied by plan view, point of view and elevational shadow diagrams which detail when the neighbouring residential apartments maintain direct access to sunlight to habitable rooms, and the extent of additional overshadowing, as shown at **Attachment 1**. The plans also show the floorplan layout of neighbouring apartments. See Plans TP04.01 to TP04.06.

In midwinter, the additional overshadowing generated by the proposed building extends across 4 apartment buildings and over Windsor Road to the south-west. The overshadowing then travels over Lachlan Avenue, then overshadows 10 Lachlan Avenue to the south from 11am onwards. The proposed building overshadows 12 and 14A Lachlan Avenue to the south-east from 1pm onwards.

In the case of 21 Lachlan Avenue which adjoins the site to the south-west, this apartment building receives the most additional overshadowing. However, it is noted that the living rooms and terraces of these apartments are on the south-western façade. Therefore, the proposed development does not overshadow their primary living rooms. See Drawing No. TP04.05 and **Figure 21** below.

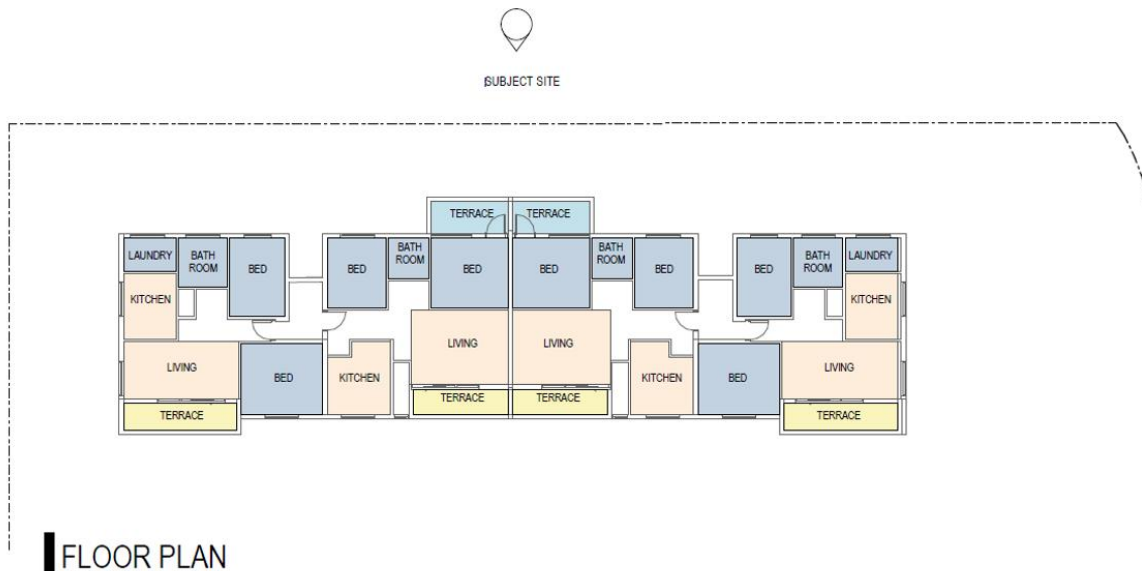


Figure 21: Extract from the Elevational Shadow Diagrams of 21 Lachlan Avenue (which adjoins the subject site to the south) which demonstrates that the living rooms and terraces of these apartments are on the south-western façade (not facing the subject site).

The extent of overshadowing is extensive. However, it is consistent with that anticipated by the redevelopment of the site in line with the desired future character of the locality as a result of the increased height of buildings and floor space ratio development controls afforded to the Herring Road Priority Precinct.

v. Suitability of multi-bed rooms

The proposal comprises 29 x multi-bed rooms (often referred to as “cluster or grouped rooms/apartments”) which contain 4, 5 to 6 individual bedrooms with shared kitchen and bathroom facilities within each room/apartment. The individual bedrooms range in size from 8.7m² to 12m². An example of a 5 multi-bed room is provided at **Figure 22** below.

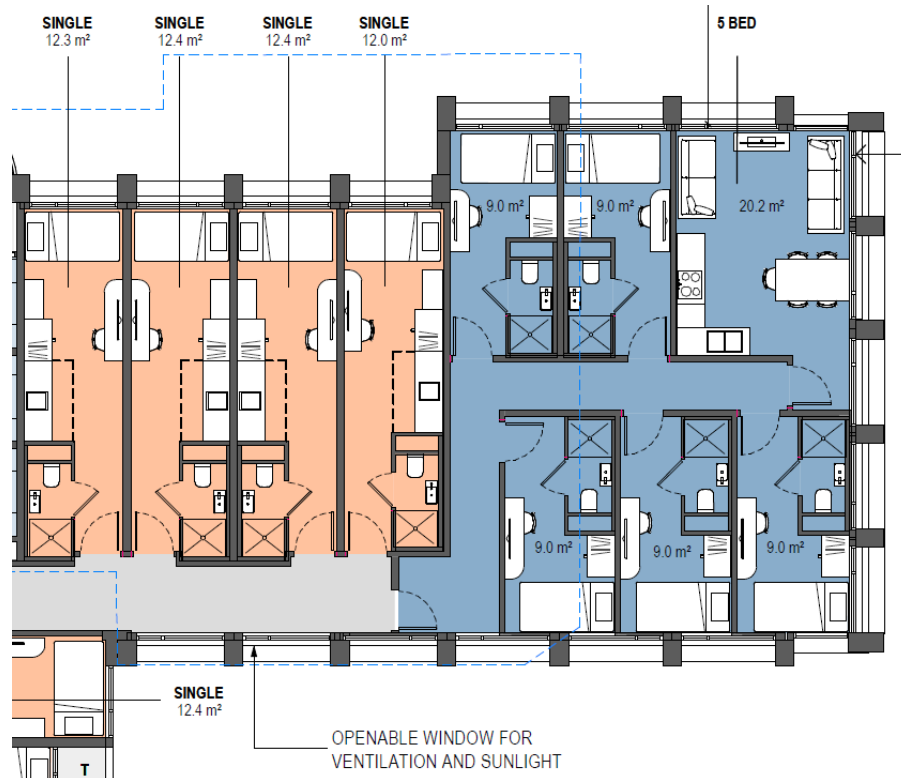


Figure 22: Extract from the proposed Level 1 to 5 Floor Plan demonstrating the floorplan layout of multi-bed room located at the north-eastern corner of the building. The multi-bed room is capable of accommodating 5 lodgers. Each bedroom has an ensuite. A shared living room and kitchen is provided (top right).

Clause 29(f) Accommodation size of the AH SEPP as follows:

‘Clause 29 Standards that cannot be used to refuse consent

(f) accommodation size

if each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least—

- (i) 12m² in the case of a boarding room intended to be used by a single lodger, or*
- (ii) 16m² in any other case.’*

The applicant’s interpretation of clause 29(f) is that the shared kitchen and living space in each cluster room is apportioned to each occupant, thereby increasing the accommodation size from at least 8m² to 12m² for a single lodger to meet the minimum area.

The applicant has submitted additional information in support of the proposed cluster (grouped) rooms which includes benchmark comparisons with Sydney and national precedents. The applicant also states that clause 29 provisions are not minimum standards in consideration that boarding houses include many typologies and configurations, and that this approach (for cumulative cluster apartment space averaged per bedroom excluding circulation area) has been accepted by consent authorities to date.

The applicant, Barcam, has submitted a review of sample approvals for larger scale off-campus student accommodation which contain “cluster rooms” in Sydney, Melbourne and Adelaide. Refer to **Attachment 7**.

Council's review indicates that this approach is consistently applied in the above approved Sydney Boarding houses. Therefore, Council does not object to the proposed cluster rooms on the basis of room size.

Overall, the provision of 29 multi-bed rooms contributes to the diversity of purpose built accommodation for students, which in turn improves housing affordability by freeing up demand for more conventional housing stock in the Herring Road Priority Precinct.

vi. Potential site isolation of Nos. 165-167 Herring Road

There is a general expectation that site amalgamation will occur for sites to develop to their highest and best use. Where amalgamation is not possible, it is the onus of the applicant to adequately address the potential for "site isolation" so that the remaining site will not be unduly disadvantaged in terms of development potential. This is to include consideration of the principles established by the NSW Land and Environment Court in proceedings of *Melissa Grech vs. Auburn Council [2004] NSWLEC 40*.

It is Council's opinion that the applicant has adequately addressed this requirement.

Both the subject site and adjoining sites (specifically Nos. 165-167 Herring Road which adjoins the site to the west as shown at Error! Reference source not found. above) are capable of being redeveloped to their highest and best use.

The applicant has addressed this requirement by submitting written justification, a financial analysis of the development opportunity of No. 165 and 'Site Isolation Analysis Plans' which is provided at **Attachment 5**. The Analysis Plans demonstrate 4 options for the redevelopment of No. 165 which are considered to be reasonable development outcomes, capable of satisfying the relevant development controls.

This application is unique in that the proposed boarding house provides a setback to the western (rear) boundary shared with No. 165 which is consistently 10m to 11m at all levels as required by the Ryde DCP 2014. The communal kitchen/living rooms on the upper levels of the Boarding house are also orientated away from neighbouring properties and towards Elouera Reserve. This ensures that the future redevelopment of No. 165 (and neighbouring sites) is not constrained, in particular with regard to meeting their minimum building separation requirements. (Also refer to discussion above regarding setbacks and building separation). The proposal does not constrain neighbouring sites from meeting their highest and best use.

Consideration of the proposal against the planning principles for site isolation is as follows:

Planning Principles for site isolation	Has the applicant addressed this principle?
<i>Grech:</i> Firstly, where a property will be isolated by a proposed development and that property cannot satisfy the minimum lot requirements then negotiations between the owners of the properties should commence at an	Not applicable. The applicant has provided justification that No. 165 will not be isolated as follows: <i>'The minimum lot size standard under clause 4.1 Ryde LEP 2014 only applies to subdivision size and not for development per se. By considering the objectives of the subdivision standard, it may have been the intention of the standard that amalgamation of the typically 900m² to 1,100m² lots to a minimum of 1,800m² occurs to accommodate ADG compliant residential flat buildings. However, the assumption that</i>

<p>early stage and prior to the lodgement of the DA.</p>	<p><i>residential apartments will be the predominant use for all land would significantly undermine the objectives of the B4 zone while as an intent and a standard, does not accommodate contextual considerations and non-residential uses for its utility.</i></p> <p><i>The development of the Herring Road land for a development would not require a variation of the subdivision lot size standard under clause 4.6 of Ryde LEP 2014 and in any case, it has been demonstrated that it could be developed to achieve the standard's objective as follows notwithstanding their reference to "residential zones."</i></p> <p>Given No. 165 is not constrained by minimum lot size requirements, it is capable of being reasonably redeveloped as a single site, as shown in the attached Site Isolation Analysis Plans. No. 165 is also capable of being amalgamated for redevelopment with its neighbouring properties along Herring Road.</p> <p>Therefore, applicant is not required to provide evidence of negotiations to purchase No. 165.</p>
<p>Secondly, and where no satisfactory result is achieved from the negotiations, the DA should include details of the negotiations between the owners of the properties. These details should include offers to the owner of the isolated property. A reasonable offer, for the purposes of determining the DA and addressing the planning implications of an isolated lot, is to be based on at least one recent independent valuation and may include other reasonable expenses likely to be incurred by the owner of the isolated property in the sale of the property.</p>	<p>Not applicable. The applicant has provided justification that they are not required to provide evidence of negotiations with No. 165 as follows:</p> <p><i>'The second pre-condition for application of "isolated site" case law also does not apply as the site is not strictly or practically isolated as it can be amalgamated with other adjoining land. Non-amalgamation may even provide for a better urban design outcome when applied to like properties on Herring Road so as to be more consistent with the prevailing characteristic and vision of the area in terms of its urban fabric and mature tree landscape elements.'</i></p> <p>As discussed above, the applicant is not required to provide evidence of negotiations to purchase No. 165.</p>
<p>Thirdly, the level of negotiation and any offers made for the isolated site are matters that can be given weight in the consideration of the development application. The amount of weight will depend on the level of negotiation, whether any offers are deemed reasonable or</p>	<p>Not applicable. The applicant has provided justification that they are not required to provide evidence of negotiations with No. 165 as follows:</p> <p><i>'The third consideration drawn from the case law principles as to whether the adjoining sites can practically be used to its full potential under the planning framework has been demonstrated by the Rothelownman analysis without the need for major variations to standards.</i></p> <p><i>As established in the Cornerstone case, development of the adjoining Herring Rd site need only be a reasonable and not necessarily the most optimal urban</i></p>

<p>unreasonable, any relevant planning requirements and the provisions of s79C of the Act.</p>	<p><i>outcome for the purpose of the test. However, it may be argued that respecting the urban and landscape pattern by not consolidating properties on Herring Rd with Lachlan Ave properties represents the preferred urban outcome notwithstanding any resultant constraints on the development of properties.'</i></p> <p>The Site Isolation Analysis Plans are provided at Attachment 5 and demonstrate 4 options for the redevelopment of No. 165 which are considered to be reasonable development outcomes, capable of satisfying the relevant development controls.</p>
<p>Cornerstone: Can orderly and economic use and development of the separate site be achieved if amalgamation is not feasible?</p>	<p>Yes. The applicant has demonstrated that No. 165 can be redeveloped in an orderly and economic manner as a stand-alone site. No. 165 is also capable of being amalgamated for redevelopment with its neighbouring properties along Herring Road.</p> <p>The applicant has provided the following reasons for why amalgamation of the site is not feasible:</p> <p><i>'The fourth consideration drawn from the case law principles is the practicality or reasonableness to require the proponent to acquire an additional land parcel beyond its requirements in order to mitigate a potential constraint to the development of that parcel.</i></p> <p><i>The land size for the proposed development is 2,260m² and results from a logical consolidation of 2 adjoining lots with Lachlan Ave frontages that provides the optimum location and parcel size for the desired yield for the economic realisation of the development for a contemporary student accommodation facility.</i></p> <p><i>A different consolidation to achieve the desired parcel size by combining a Lachlan Ave lot with a Herring Rd lot would result in an inefficient and unwieldy development parcel shape.</i></p> <p><i>On the other hand, the addition of the Herring Rd land to the site would increase the development parcel size to some 3,600m², creating either a surplus of land or the need to re-subdivide into two LEP compliant lots sizes of 1,800m². To regain an optimal lot size for the development would therefore require the acquisition of an additional lot to the Herring Rd land in order to re-subdivide and achieve the desired site area of some 2,260m².</i></p> <p><i>Potential reconsolidation options are therefore clearly unreasonable and beyond the means of the proponent especially having regard to the need to also acquire apartments within adjoining land and, in the case of the last option required to regain an optimal lot size, demolish additional apartments prior to re-subdivision.</i></p> <p><i>In addition, the applicant has undertaken a financial analysis of the development opportunity of incorporating 165-167 Herring Rd, Macquarie Park into the development site (provided at Attachment 2).</i></p>

	<p><i>The analysis “demonstrates that despite all reasonable analysis to potentially secure and include 165-167 Herring Road with the proposed development of 23-25 Lachlan for the reasons (provided), there is no financial incentive for the site to be purchased for the proposed development nor for the owners to sell for development.”</i></p> <p>Note: The suitability and feasibility of amalgamating the subject site with No. 165 is a different circumstance when compared to a current DA in the locality in which site isolation is also a key issue raised at a recent Panel briefing (LDA2021/0138 for a Residential flat building at Nos. 1-3 Lachlan Avenue, which potentially isolates No. 155 Herring Road.)</p> <p>With respect to 1-3 Lachlan Avenue, the proposal is for the redevelopment of a single existing walk up apartment building site, with a narrow and constrained street frontage. The proposed design fails to provide satisfactory building separation, deep soil and appropriate mature trees on the site. Amalgamation with another site will resolve these issues.</p> <p>In comparison, the subject site the subject DA is the amalgamation of 2 lots with separate existing walk-ups. This amalgamation allows for generous street frontage, suitable access, retention of trees and substantial planting in the street setback area. Surrounding sites are also capable of redevelopment (in isolation or amalgamated) and can achieve these same benefits.</p>
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9. **THE SUITABILITY OF THE SITE FOR THE DEVELOPMENT**

The proposed development is considered to be a suitable development for the site, being permissible in the B4 Mixed Use zone.

The development is considered to be consistent with the desired future character of the area and appropriately responds to the natural and built environmental assets and constraints of the site.

The site is capable of accommodating the needs of the occupants, being the requirements for direct access to the educational establishments, public transport, shops and services, provision of car, motorbike and bicycle parking on-site, and a range of living areas. The site is demonstrated to be capable of being appropriately managed by the implementation of the Operational Management Plan.

Given the site is in close proximity to Macquarie University and within the Herring Road Priority Precinct, it is considered to be suitable for the development as it will deliver additional residential units and associated services in a form that will contribute to the diversity of student accommodation.

The assessment demonstrates the proposal will not result in any significant adverse impacts upon adjoining properties or the streetscape. The proposed demolition, excavation and construction of a student accommodation development is therefore considered to be suitable for the site.

Furthermore, that proposal has been considered in light of the Greater Sydney Regional Plan - A Metropolis of Three Cities, 2018 ("the Plan") which is the regional plan for managing Greater Sydney's growth. The Plan aims to ensure that planning and land use of the Greater Sydney Region is equitable and sustainable.

The Plan discusses Macquarie Park's role as part of the Eastern Economic Corridor, described as the State's greatest economic asset contributing two-thirds of NSW's economic growth in the 2015-16 financial year.

The Plan also refers to Macquarie Park as part of the Epping and Macquarie Park Urban Renewal Corridor. Within the Macquarie Park Urban Renewal Area, the Department of Planning Industry and Environment (DPIE) is undergoing strategic investigations into new community facilities, improved public space, residential development in proximity to transport links as well as the generation of employment opportunities.

The proposed development aligns with the vision of the Eastern Economic Corridor in that the proposed student accommodation will facilitate the provision for new community facilities, vibrant spaces and homes close to transport links and jobs. In this instance, the proposal fosters the provision of homes close to studies, close to economic activity and are well connected to transport links. The health and education precinct forms part of this strategic centre and connects the community to education services. The Plan states:

"The most successful health and education precincts are internationally competitive and more accurately described as innovation districts. Innovation districts are transit-accessible precincts with an active ecosystem that includes health and education assets, surrounded by a network of medical research institutions, a mix of complementary industry tenants, housing, ancillary facilities and services. Economic productivity is created by the agglomeration benefits flowing from an active innovation ecosystem".

The use of this site for a Student accommodation facility is consistent with supporting the role of this Precinct within the Eastern Economic Corridor and the role of Macquarie Park as an innovation district.

10. PUBLIC NOTIFICATION & SUBMISSIONS

In accordance with the Ryde Community Participation Plan, the application was notified to the surrounding property owners and occupants between 3 and 24 May 2021. In response, 4 submissions were received raising the following issues:

- Provision of communal open space and creating a "University College" environment.
- Lack of on-site parking.
- Impact on the function and amenity of Lachlan Avenue (being a cul-de-sac with unrestricted resident parking), access and the broader road network.
- Security concerns regarding public access to the carpark.
- Inadequate minimum room sizes for single and double rooms
- Incompatible with Clause 30A Character of local area of the AH SEPP.
- Inadequate solar access to the outdoor communal outdoor areas as a result of the addition of awnings and canopies, as recommended by the Wind Assessment Report.
- Adverse wind impacts of the proposal on the local wind environment.

- Inadequate Acoustic Report provided.
- Private access from the site to Elouera Reserve is inappropriate.
- The Arboricultural Impact Report fails to identify and assess all trees on the site.

On 24 August 2021, the applicant submitted amended the plans and a response to each of the issues above. The amended proposal was re-notified from 19 October to 9 November 2021 and no submissions were received.

On 5 May 2022, the applicant submitted further amended the plans in response to concerns raised by Council. The amended proposal was re-notified to the submitters from 9 to 30 May 2022. In response, 1 further objection was received raising the following additional issues:

- Inadequate Plan of Management, Pastoral Care and Security and associated social and mental health impacts.
- Lack of on-site security or adequate staff-to-studio ratio of permanent on-site Pastoral Care.
- Unacceptable 'apartment' amenity as the multi-room apartments do not satisfy the minimum required area under SEPP 65 and the Apartment Design Guide.
- Non-compliant accommodation size for the boarding rooms, with single occupant rooms as small as 6m² inclusive of wardrobes, where 12m² is required.
- Non-compliant accommodation size for the multi-room boarding rooms, which exceed the maximum area of 25m² under clause 30(1)(b) of the AH SEPP.
- Non-compliance with clause 30(1)(g) of the AH SEPP which does not permit the ground floor of a boarding house to be for residential purposes where the land is zoned primarily for commercial purposes.
- Non-compliance with clause 30 of the AH SEPP which prohibits development standards to be varied.
- The communal living areas in the multi-bed rooms are for the private use of those residents and are not available to 'all lodgers' as required by the definition of a 'communal living room' in the AH SEPP.
- The outdoor gym at Basement Level 1 and the rooftop courtyards are required to be included as GFA as they have outer walls greater than 1.4m.
- Tree 10 is listed on the Schedules of the *NSW Biodiversity Conservation Act 2016* and is an endangered species in Part 1 Schedule 1 of that Act. Tree 34 is listed as a nationally vulnerable species under the *Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1999*. A Commonwealth referral is required.
- The removal of trees and lack of deep soil area will impact the established vegetation and fauna habitat.
- The 'desktop' Geotechnical Report is inadequate.
- A Detailed Site Investigation Report (Contamination) is required.

With consideration to the amended plans and additional information provided by the applicant, the issues raised and Council's response to each issue is provided below.

- A. *The social and mental health impacts of concentrating 485 students in the one building, with only 1 resident Manager assisted by 8 casually employed senior students instead of trained Pastoral Care and full-time security, and within undersized and claustrophobic room sizes as small as 6m², inclusive of*

wardrobes, has not been adequately examined. The Pastoral support, academic support and student counselling requirements of tertiary students is substantial.

Inadequate Plan of Management, Pastoral Care and Security.

Lack of on-site security or adequate staff-to-studio ratio of permanent on-site Pastoral Care.

Comment: In recognition of the potential social issues that may arise, Council engaged an independent and suitably qualified and experienced Consultant to undertake a social planning review of the community and social impacts relating to the proposal. This report is provided at **Attachment 6** and is considered in detail above. The recommendations of this report were provided to the applicant and informed changes to the design of the building and Operational Management Plan (OMP).

Overall, the design of the proposal and OMP are considered to support the operation of the development in a manner which is capable of being cohesive to the needs of students, staff and the community.

In response to the recommendations raised in the WSP Social Planning Review, the applicant has amended the OMP to include Section 7.5 'Student Safety, Security Policy and Procedures.' This includes building security, the management team being responsible for safety measures, and an induction training to ensure safety measures are employed, promoted and encouraged including:

- 24/7 access telephone numbers to the facility.
- Contact number for university campus emergency services and other education providers.
- Access to safety tools such as whistles and personal alarms for students to keep on their person when travelling to and from the residence.
- Contact numbers for self-defence classes and training where required by students.

B. Provision of communal open space and creating a "University College" environment.

The communal living areas in the multi-bed rooms are for the private use of those residents and are not available to 'all lodgers' as required by the definition of a 'communal living room' in the AH SEPP.

Comment: The proposal provides multiple communal open space areas throughout all levels which satisfy the requirements of the AH SEPP and offers a range of opportunities for students to socialise and interact. These internal and outdoor spaces are considered to promote an environment suitable for student living.

The proposal is for multi-bed rooms for 4 to 6 students, and which includes a shared living room and kitchen for those occupants and their guests. This approach for multi-bed rooms is consistent with other student accommodation developments, for example in Sydney City and Chatswood as demonstrated in the Comparative Analysis of Purpose Built Student Accommodation report at **Attachment 7**.

These spaces are provided to foster a 'family' living environment for the occupants of each multi-bed room, as endorsed in the WSP Social Planning Review at

Attachment 6. These living rooms are supplemental to the minimum required communal spaces required by the AH SEPP.

C. The rear communal open space area will be overshadowed by the redevelopment of adjoining sites, and will be overshadowed by awnings and canopies recommended by the Wind Assessment Report.

Comment: The COS area at the rear of the site receives adequate sunlight and satisfies the minimum requirements of the AH SEPP given the context of the existing surrounding buildings (refer to Shadow Diagram Plans TP04.01 and TP04.02 as shown in **Figure 23** below).

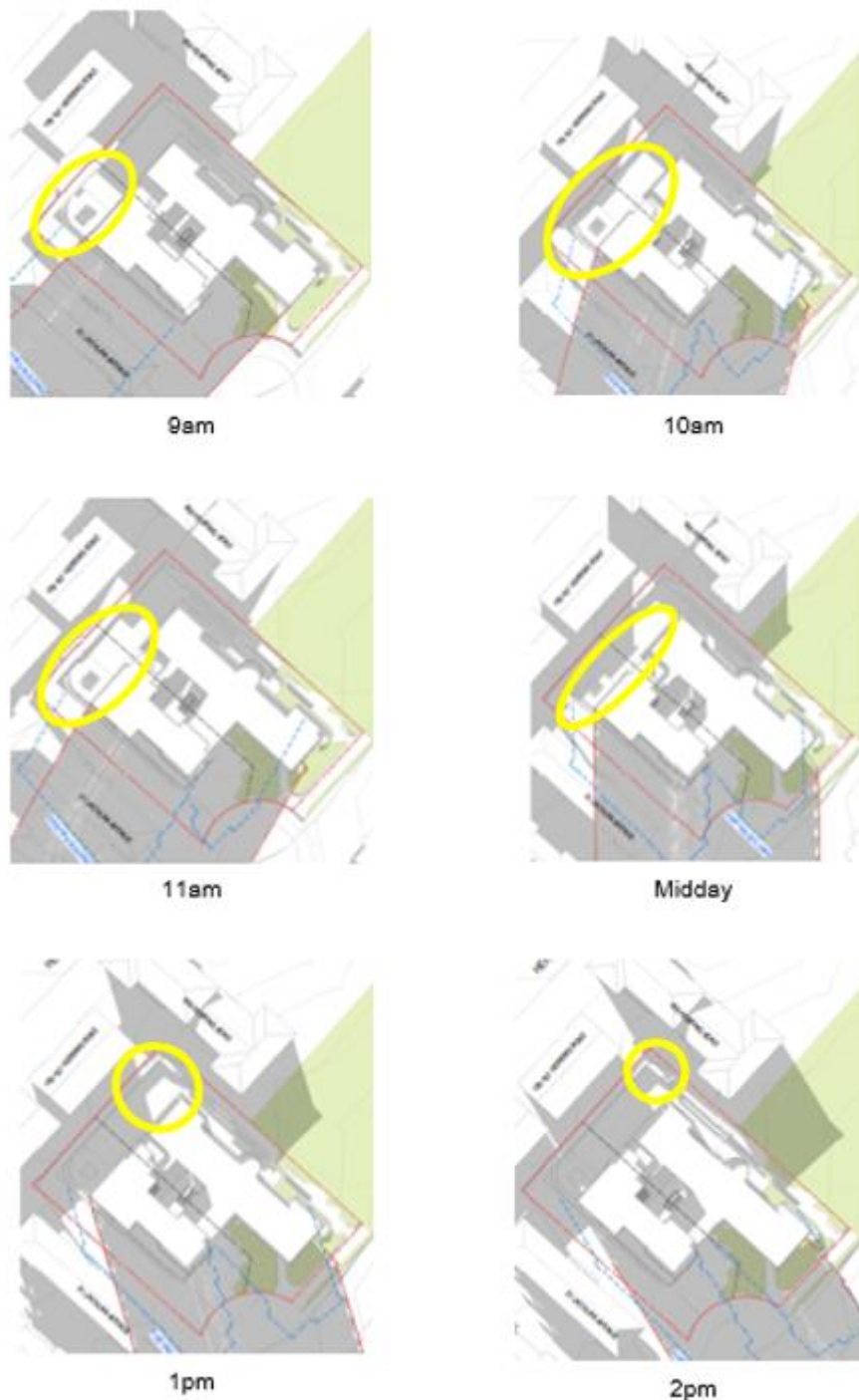


Figure 23: Extracts from the proposed Shadow Diagram Plans demonstrating the portions of the primary outdoor communal open space area at the rear of the site which receive direct sunlight in mid-winter (areas circled in yellow).

It is acknowledged that the adjoining sites are capable of redevelopment and revitalisation in line with the Herring Road Urban Activation Precinct and are likely to accommodate residential towers in future. However, in the absence of DAs being lodged/approved on the surrounding sites, this subject DA is not required to demonstrate estimate or assume overshadowing. Any future development on adjoining properties will need to consider the impact on the COS areas. The applicant has demonstrated in the Site Isolation Analysis Plans at **Attachment 5** that the adjoining site can be redeveloped without unacceptable impact to the subject development.

The applicant amended the plans to include the recommendations of the Qualitative Wind Assessment and confirmed that a partial awning was added to the balcony to protect downdraft to common area tables while still maintaining good winter solar access to ground floor common areas.

D. Adverse wind impacts of the proposal on the local wind environment.

Comment: The Qualitative Wind Assessment report was prepared by CPP and states that as the development is slightly larger than most of the surrounding structures, the addition of the proposed development will have some impact on the local wind environment, though any changes are not expected to be significant from the perspective of pedestrian comfort or safety. The extent of these impacts that *“from a pedestrian comfort perspective, the wind environment around the proposed development site is likely to be classified as suitable for public accessways, and for stationary short-term exposure activities using the criteria of the City of Ryde DCP 2014. All locations would be expected to satisfy the safety/distress criterion defined in the DCP.”* Therefore, the report does not require any amelioration measures to be installed to address pedestrian comfort and safety.

The condition and comfort of the spaces surrounding the site are not considered to be adversely affected from wind conditions as result of this development.

E. Lack of on-site parking. Non-compliance with clause 30(1)(h) of the AH SEPP for motorcycle parking spaces.

Comment: Consideration of the provision of car and motorcycle parking on the site is considered in detail above, and also considered by Council's Development Engineering section below. Council nominated parking rates and quantities which are considered warranted for this development and in this context. The applicant amended the proposal to provide the required parking. Detailed consideration of a Clause 4.6 Request to vary the development standard for motorcycle parking under the AH SEPP is provided above. The provision of parking is supported in this instance.

F. Non-compliant accommodation size for the multi-room boarding rooms, which exceed the maximum area of 25m² under clause 30(1)(b) of the AH SEPP.

Non-compliant accommodation size for the boarding rooms, with single occupant rooms as small as 6m² inclusive of wardrobes, where 12m² is required.

Inadequate minimum room sizes for single and double rooms.

Unacceptable 'apartment' amenity as the multi-room apartments do not satisfy the minimum required area under SEPP 65 and the Apartment Design Guide.

Comment: The applicant has deleted double rooms from the proposal.

The single 'studio' apartments satisfy the minimum required area of 12m², as shown on Drawings TP13.01 and TP13.02 at **Attachment 1**.

This objection relates to the multi-bed rooms and the area for each individual student bedroom and the combined area inclusive of the shared living room and kitchen.

Detailed consideration of multi-bed rooms is provided above, which includes consideration of the breakdown of the areas afforded to each student in a multi-bed room.

The applicant has also submitted Comparative Analysis of Purpose Built Student Accommodation which is provided at **Attachment 7** and demonstrates that the design and living arrangements of multi-bed rooms are consistent with other approved and existing student accommodation developments in Greater Sydney.

This application is lodged under the provisions of the AH SEPP, which sets out the minimum/maximum room sizes permitted. Therefore, the minimum apartment sizes nominated in the Apartment Design Guide are not relevant to this development. Furthermore, SEPP Housing (which has been considered in the report above) does not require minimum apartment sizes to apply to boarding rooms. As outlined in this report, the multi-rooms are considered to be of adequate size to provide amenity to occupants.

G. Non-compliance with clause 30(1)(g) of the AH SEPP which does not permit the ground floor of a boarding house to be for residential purposes where the land is zoned primarily for commercial purposes.

Comment: Clause 30(1)(g) of the AH SEPP is a standard for boarding houses that states that *“if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.”*

This site is zoned B4 Mixed Use which permits a residential and non-residential land uses, including Boarding houses under the RLEP 2014. As such, the use of the site, including the ground floor level, is permitted to be utilised for a residential component of this development. In this case, the ground level comprises the Manager’s residence, entry foyer, office, communal spaces and associated services for the use of staff, residents and their guests. The proposal is not contrary to this clause.

H. Non-compliance with clause 30 of the AH SEPP which prohibits development standards to be varied.

Comment: Clause 30 of the AH SEPP sets out development standards that cannot be used to refuse consent, and states that a consent authority must not consent to development to which this Division applies unless it is satisfied of these clauses.

The applicant seeks to provide only 21 motorcycle parking spaces, where 97 are required by clause 30(10)(h) *“at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every 5 boarding rooms.”*

The applicant has submitted a written Clause 4.6 Request to vary a development standard which is provided at **Attachment 2** justifying this variation. Council’s consideration of the variation is discussed in detail above. Consideration of the provision of motorcycle parking is to be considered by the Sydney North Planning Panel, which is the consent authority permitted to undertake this assessment.

I. Impact on the function and amenity of Lachlan Avenue (being a cul-de-sac with unrestricted resident parking), access and the broader road network.

Comment: Consideration of the functionality of the street network is undertaken by Council’s Traffic section below. It is acknowledged that the immediate locality is

anticipated to experience significant congestion along Herring Road and Waterloo Road by the year 2031. However, this development is not the sole contributor to traffic along these roads and there are no plans within Council's planning controls/studies detailing specific infrastructure improvements at the affected intersections. Therefore, this development is not considered to trigger infrastructure improvements to the road network.

Furthermore, Council's Senior Development Engineer directed parking rates and quantities that are warranted for this development and this site as discussed in detail below. When considered as a high density residential building, the proposal is anticipated to generate 60-80 additional vehicle trips to and from the site during weekday peak hour periods, which equates to approximately 1 vehicle movement every minute.

To alleviate the potential vehicle movements, the applicant also proposes measures to support modes of travel other than cars and motorcycles/scooters which are more cost effective modes of travel, such as walking, cycling and shared electric bikes.

With regard to on-street parking, students are not permitted to park their private vehicles off-site, nor participate in any future parking scheme in the area (**Condition 221**).

J. Security concerns regarding public access to the carpark.

Comment: The provision of car share spaces available for public use has been deleted from the proposal. All entries to the development are secure. The car share spaces proposed will be within a private scheme for residents only.

K. Incompatible with Clause 30A Character of local area of the AH SEPP. The development is out of character with the 3 storey mid-rise established development and the open leafy nature of the neighbourhood.

Comment: Detailed consideration of Clause 30A is provided above. The proposal includes the retention of substantial mature trees in the front setback area and along the southern boundary of the site, which is in keeping with the character of the local area. The general locality is undergoing transition and revitalisation in line with the Herring Road Urban Activation Precinct which is represented by approved and constructed high density buildings ranging in height up to 22 storeys. The proposed residential tower is in keeping with the progression of high rise buildings nearby, and is a use which is compatible with the educational facilities, shops and services in the area. It is considered that the proposed development is consistent with the desired future character of the area.

L. The Acoustics Report does not address the use of the communal outdoor areas near Elouera Reserve and the rooftop terraces.

Comment: Council's Environmental Health Officer has reviewed the proposal and accompanying Acoustics Report and does not raise objection to the outdoor areas and advises that "*social noise associated with the proposed development are adequately addressed in the Operational Management Plan (OMP) for excessive noise from communal spaces.*" The OMP is provided at **Attachment 4**, and limits the hours of use of all of the external recreation areas from 7am to 9pm daily. The limitations on the use of outdoor areas is considered sufficient to protect the amenity of neighbouring properties.

M. *The outdoor gym at Basement Level 1 and the rooftop courtyards are required to be included as gross floor area (GFA) as they have outer walls greater than 1.4m.*

Comment: These areas are excluded from the definition of GFA as part of the basement external area faces a retaining wall which is not part of the building, and the balustrades to the courtyards are less than 1.4m in height. The GFA calculation is correctly applied to this development.

N. *Private access from the site to Elouera Reserve is inappropriate.*

Comment: The private access along the northern boundary of the site to Elouera Reserve is deleted. Access is available via the public pathway.

O. *The Arboricultural Impact Report fails to identify and assess all trees on the site.*

The Arboricultural Report states that Tree 10 is a Eucalyptus nicholii (Narrow Leaved Black Peppermint) which is listed on the Schedules of the NSW Biodiversity Conservation Act 2016. This species is listed as an endangered species in Part 1 Schedule 1 of that Act. Eucalyptus scoparia is also listed as a nationally vulnerable species under the Commonwealth Environment Protection and Biodiversity Conservation (EPBC) Act 1999. A Commonwealth referral is required to the Department of Agriculture, Water and the Environment under the provisions of the EPBC Act 1999.

The removal of trees and lack of deep soil area will impact the established vegetation and fauna habitat.

Comment: The applicant's Arboricultural Impact Report (AIR) was updated to include all omitted trees and states that *"the specimens of Tree 10 Narrow Leaved Black Peppermint and Tree 34 Wallangarra White Gum are planted specimens rather than remnant vegetation as these species are not recorded as occurring naturally at this locality. Taking this into account it is considered that there will not be a significant impact on a threatened species arising from the proposal."*

The location of Trees 10 and 34 are shown in the **Figure 24** below.

This report states that the reason for removal of Tree 10 is that *"the tree's past canopy development has been significantly suppressed. Exposed roots on nature strip and conflict with adjacent infrastructure. At the time of inspection, the tree was of poor health and poor vigour and exhibited very high levels of dieback and epicormic shoots on the trunk. The tree has a very short useful life expectant (ULE) of less than 5 years."*

This report states that the reason for removal of Tree 34 is that *"the tree displays fair branch attachment with codominant leaders from ground level – not considered at risk of failure. At the time of inspection, the tree was of poor health and poor vigour and exhibited reduced foliage size and density and high levels of dieback (smaller leader is dead). Very short ULE."*

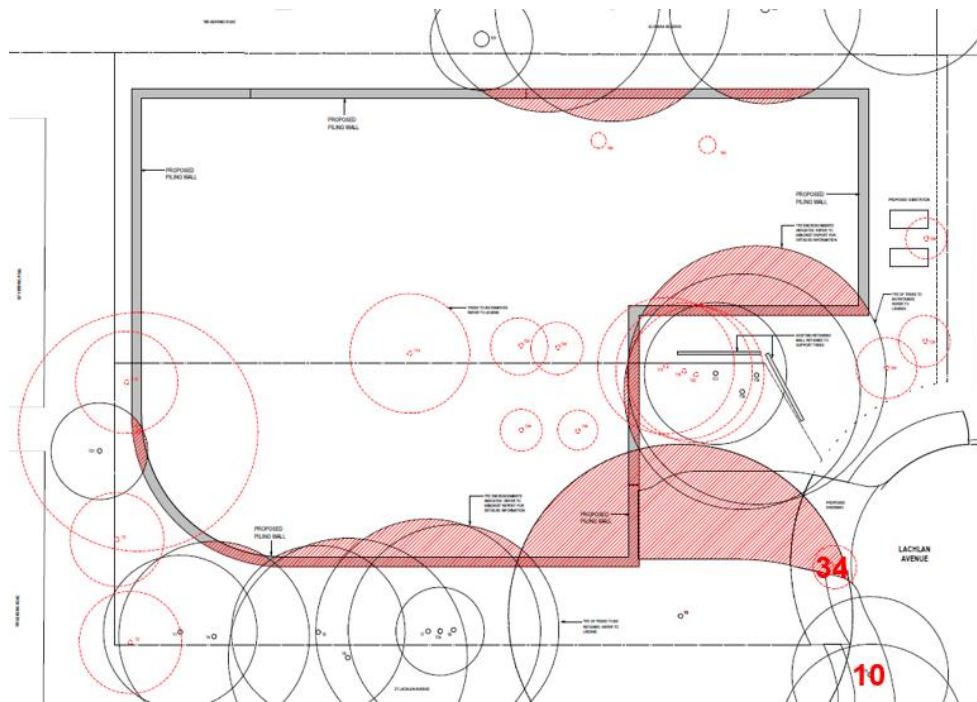


Figure 24: Extract from the Arboricultural Impact Report indicating the location of Trees 10 and 34.

The proposal has been reviewed in detail by Council's Consultant Landscape Architect/Arborist as discussed in the referral comments below. This includes consideration of all trees on the site and surrounding properties. Street Tree 10 is recommended to be retained and protected. Tree 34 within the site is considered to be capable of replacement. Council's Consultant Landscape Architect/Arborist also provided the following advice regarding Trees 10 and 34:

Tree 10 Eucalyotus nicholii is listed as 'vulnerable' and T34 Eucalyptus scoparia is listed as 'endangered' under the Biodiversity Conservation Act 2016. However, these trees are planted specimens which are not locally endemic and significantly outside their natural range of distribution.

Tree 10 is sufficiently distanced from any proposed works and is unlikely to suffer any impacts as a result of the development. Tree 10 can be retained and protected.

Tree T34 is listed as a 'threatened' species under the Biodiversity Conservation Act 2016 and is a planted specimen (i.e. Council street tree) that is well outside of its natural range of distribution (i.e. Macquarie Park). There are no specific requirements under the Biodiversity Assessment Method for removal of individual threatened flora species that are not native to the location of the site. We have experience with removal of threatened species outside of its natural distribution and typically there are no issues. For example, we often come across threatened flora species outside their range including Macadamia sp., Syzygium paniculatum and Eucalyptus nicholii, and they rarely cause issues in the application process. There is no further requirement from a legislation/ecological assessment perspective before removal can be considered in this application.

Based on the above, there is no requirement for a Commonwealth referral.

P. The removal of trees and lack of deep soil area will impact the established vegetation and fauna habitat.

Comment: The proposal includes the removal of 17 trees within the site, the retention of 11 trees within the site, and replacement planting throughout the perimeter of the site. **Figure 25** below shows the extent of landscaping and deep soil on the site. The Softworks Planting Schedule Plan at **Attachment 1** shows the range of trees and plants proposed to be planted which are all selected from Council's Tree Planting Lists, including 1 *Cupaniopsis anarcardiodes* (Tuckeroo) (which is a bird attracting and Australia wide native tree) and 5 *Tristaniopsis 'Luscious'* (Luscious Water Gum) (which is a hardy screening tree that is native and a local endemic species). The replacement planting will help to preserve the native vegetation communities and the fauna habitat.

The proposal also provides deep soil for 602.1m² or 26.6% of the site, and landscaping for 913.7m² or 40.3% of the site, which is satisfactory.

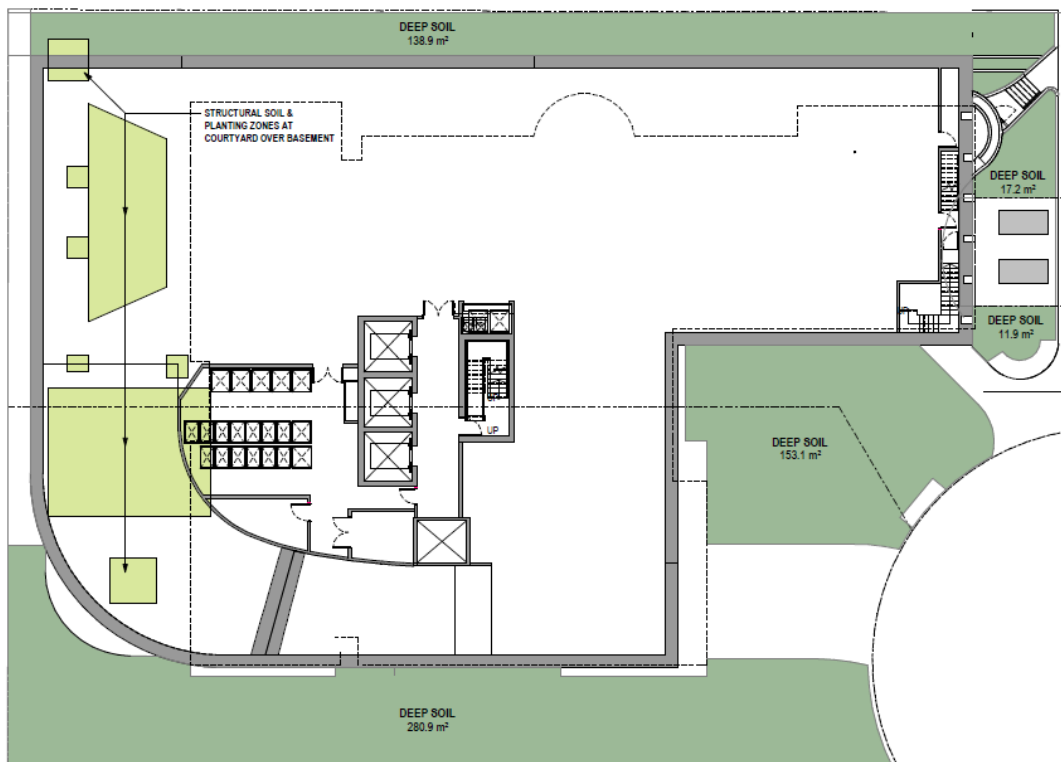


Figure 25: Extract from the Landscape and Deep Soil Plan.

Q. The 'desktop' Geotechnical Report is inadequate.

Comment: The application is accompanied by a Geotechnical Desktop Study prepared by Douglas Partners. The Study comprised a review of available information from published maps and reports and other projects Douglas Partners has undertaken in the area as shown in **Figure 26** below. No intrusive investigations were undertaken for the assessment.



Figure 26: Extract from the Geotechnical Desktop Study demonstrating the locations of previous nearby Douglas Partners studies.

The Study states that the nearest investigations generally encountered:

FILL: pavement layers and/or sandy or clayey fill with varying compaction and varying proportions of silt, gravel, organic matter, and building rubble to relatively shallow depths; overlying

RESIDUAL SOILS: stiff to hard clay with varying proportions of silt, sand and gravel to depths of between approximately 1m and 3m; overlying

SANDSTONE BEDROCK: initially very low strength, extremely to highly weathered sandstone, becoming stronger and less weathered with depth.

Groundwater observed during previous investigations varied between depths of approximately 5m to 15m below natural ground level. It is noted that groundwater levels vary over time due to climactic and human influences and will temporarily rise following prolonged rainfall.

The Geotechnical Desktop Study has been prepared by a suitably qualified and experienced Geotechnical Engineer and is considered to sufficiently assess the site, regional geology, soil landscapes, salinity, acid sulfate soils and hydrogeology. This includes consideration of excavation works and support, groundwater, foundations, slabs on ground and structural design in response to seismicity.

The report recommends further geotechnical investigations as follows:

- Boreholes for soil and rock identification. Boreholes should be extended into bedrock to obtain continuous rock-core samples;
- Laboratory testing of soil and rock samples for identification and material properties;

- Installation of groundwater monitoring wells to measure groundwater levels before and during construction, and permeability testing of the rock mass; and
- Shoring wall analyses.

This Desktop Study interprets the geotechnical model of the site, and the above geotechnical investigations will be required to be undertaken prior to the issue of any Construction Certificate on the site to ensure the appropriate management of the site. See **Condition 69**.

It is noted that the site and surrounds are not identified as at risk of slope instability in accordance with Council's mapping.

R. A Detailed Site Investigation is required to determine the suitability of the site for its intended purpose under SEPP (Resilience and Hazards) 2021, Chapter 4 Remediation of Land.

Comment: The application is accompanied by a Preliminary Site Investigation (Contamination) report prepared by Douglas Partners and dated August 2021. The report considers the historic uses of the site for residential / agricultural purposes and confirms that the site can be made suitable for the proposed residential development. Council's Environmental Health Officer supports the proposal, subject to conditions of consent in line with the requirements of the report. This includes the submission of a detailed site investigation report, Remediation Action Plan (RAP) and Validation Report prior to the issue of a Construction Certificate for building work. Conditions are also required to be imposed on any consent issued requiring the removal of asbestos and contaminated soil/waste to be disposed of at an EPA licensed waste facility.

Given the above assessment, Council is satisfied that sufficient information has been provided to demonstrate that site management strategies can be devised, as required by the *Contaminated Land Planning Guidelines*. Therefore, the land can be remediated and made suitable for its continued residential use in line with the strict requirements of Clause 4.6 of this SEPP.

S. Inadequate provision for laundries.

Comment: The amended plans increase the capacity of the communal laundry facilities to 15 washers and dryers at a ratio of 1:35 students and are equipped with commercial grade washing and drying machines with 36 and 45 minute cycle times which are considered to be adequate to meet student demands. The use and management of the laundry area is also addressed in the Operational Management Plan. The indoor communal laundry facilities are considered to be sufficient to meet the needs of students.

11. THE PUBLIC INTEREST

The public interest is best serviced by the consistent application of the requirements of the relevant environmental planning instruments, and by Council ensuring that any adverse effects on the surrounding area and the environment are minimised.

Although the proposal seeks to vary to maximum height of buildings development standard under the RLEP 2014, when considered on merit, the applicant has demonstrated that the scale of the proposed building is consistent with the objectives of the development standard and the B4 Mixed Use zone.

The proposal also seeks to vary the motorcycle parking development standard under the AH SEPP. The Applicant has adequately addressed the matters in Clause 4.6(4) and demonstrated that the provision of motorcycle parking would not be contrary to the public interest as it is consistent with objectives of the B4 Mixed Use Zone of Ryde LEP 2014.

The proposal assists with supporting the availability of accommodation for domestic and overseas students in this educational section of Macquarie Park and in turn improves housing affordability by freeing up demand for more conventional housing stock in the Herring Road Priority Precinct.

The proposed Student housing development is supported by an Operational Management Plan which addresses the appropriate operation of the development to protect the amenity of occupants, neighbours and the community.

This provision of car, motorcycle and bicycle parking is considered sufficient to cater to the parking needs of the development and mitigate the risk of pressure on street parking. On balance, the limited parking aligns with Council's intentions for the redevelopment of Macquarie Park to alleviate demand for parking and to provide incentive for lodgers to utilise more cost effective modes of transport including public transport, walking and cycling.

The proposal has been assessed against the relevant planning instruments and is considered to be acceptable as it offers a high quality development outcome that does not significantly or unreasonably affect surrounding sites and is consistent with the development envisaged by the level of development afforded to the site.

The issues raised in the submissions do not warrant the refusal of the DA.

On this basis, the proposal is not considered to raise any issues that would be contrary to the public interest.

12. REFERRALS

The following section outlines the response and conditions recommended from each of the internal and external referrals in relation to the subject application.

12.1 External Agency Referrals

Transport for NSW

No objection was raised. Transport for NSW considered the traffic generated as a result of this proposal and advises that is not likely to adversely impact the classified road network.

NSW Police Force

No objection was raised. The Ryde Police Area Command recognised that the application is accompanied by a well prepared CPTED report and Operational Management Plan. The Police agree with the recommendations of the CPTED report.

12.2 Internal Referral Comments

Consultant Landscape Architect/Arborist

Council's Consultant Landscape Architect/Arborist supports the proposal subject to conditions. The following comments were provided:

Tree Removal

An Arboricultural Impact Assessment (AIA) prepared by Landscape Matrix Pty Ltd; dated 23rd August 2021 has been submitted with the subject application. This assessment has identified 37 trees which may be impacted by the proposed development. The assessment recommends the removal of 17 trees located within the site, as well as the retention of 20 trees positioned both within the site, adjoining allotments, and the street verge fronting Lachlan Avenue.

The following table is a synopsis of the species identified by the AIA including relevant tree identification number, along with the proposed recommendation of the assessment in terms of removal or retention, as well as CPS's comment on the proposed recommendation in terms of whether it can be supported.

The location of the trees is shown in **Figure 27** below.

Tree No.	Species 'Common Name'	Arborist's Recommendation	CPS Comment
1	<i>Brachychiton acerifolius</i> Illawarra Flame Tree	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions
2	<i>Ligustrum lucidum</i> Large Leaved Privet	Remove	Agreed – Site Tree - Capable of replacement
3	<i>Pittosporum undulatum</i> Sweet Pittosporum	Remove	Agreed – Site Tree - Capable of replacement
4	<i>Casuarina glauca</i> Swamp Oak	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions
5	<i>Melaleuca quinquenervia</i> Broad Leaved Paperbark	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions
6	<i>Corymbia citriodora</i> Lemon Scented Gum	Retain & Protect	Agreed – Neighbouring Tree - Subject to tree protection conditions
7	<i>Melaleuca quinquenervia</i> Broad Leaved Paperbark	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions
7A	<i>Melaleuca quinquenervia</i> Broad Leaved Paperbark	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions
8	<i>Melaleuca quinquenervia</i> Broad Leaved Paperbark	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions
9	<i>Eucalyptus elata</i> Weeping River Peppermint Gum	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions
10	<i>Eucalyptus nicholii</i> Narrow Leaved Black Peppermint	Retain & Protect	Agreed – Street Tree - Subject to tree protection conditions
11	<i>Liquidambar styraciflua</i> Liquidambar	Retain & Protect	Agreed – Street Tree - Subject to tree protection conditions
12	<i>Cinnamomum camphora</i> Camphor Laurel	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions
13	<i>Ligustrum lucidum</i> Large Leaved Privet	Remove	Agreed – Site Tree - Capable of replacement
14	<i>Cupressus macrocarpa</i> CV Monterey Cypress cultivar	Remove	Agreed – Site Tree - Capable of replacement
15	<i>Casuarina glauca</i> Swamp Oak	Remove	Agreed – Site Tree - Capable of replacement
16	<i>Casuarina glauca</i> Swamp Oak	Remove	Agreed – Site Tree - Capable of replacement
17	<i>Corymbia citriodora</i> Lemon Scented Gum	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions
18	<i>Eucalyptus saligna</i> Sydney Blue Gum	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions

19	<i>Eucalyptus saligna</i> Sydney Blue Gum	Retain & Protect	Agreed – Site Tree - Subject to tree protection conditions
20	<i>Casuarina glauca</i> Swamp Oak	Remove	Agreed – Site Tree - Capable of replacement
21	<i>Syncarpia glomulifera</i> Turpentine	Retain & Protect	Agreed – Neighbouring Tree - Subject to tree protection conditions
22	<i>Agonis flexuosa</i> Willow Myrtle	Remove	Agreed – Site Tree - Capable of replacement
23	<i>Agonis flexuosa</i> Willow Myrtle	Remove	Agreed – Site Tree - Capable of replacement
24	<i>Thuja orientalis</i> Chinese Arborvitae	Remove	Agreed – Site Tree - Capable of replacement
25	<i>Juniperus chinensis</i> Chinese Juniper	Remove	Agreed – Site Tree - Capable of replacement
26	<i>Cupressus sempevirens</i> 'Stricta' Pencil Pine	Remove	Agreed – Site Tree - Capable of replacement
27	<i>Melaleuca quinquenervia</i> Broad Leaved Paperbark	Retain & Protect	Agreed – Neighbouring Tree - Subject to tree protection conditions
28	<i>Melaleuca quinquenervia</i> Broad Leaved Paperbark	Retain & Protect	Agreed – Neighbouring Tree - Subject to tree protection conditions
29	<i>Melaleuca quinquenervia</i> Broad Leaved Paperbark	Retain & Protect	Agreed – Neighbouring Tree - Subject to tree protection conditions
30	<i>Melaleuca quinquenervia</i> Broad Leaved Paperbark	Retain & Protect	Agreed – Neighbouring Tree - Subject to tree protection conditions
31	<i>Pittosporum undulatum</i> Sweet Pittosporum	Retain & Protect	Agreed – Neighbouring Tree - Subject to tree protection conditions
32	<i>Thuja orientalis</i> Chinese Arborvitae	Remove	Agreed – Site Tree - Capable of replacement
33	<i>Cupressus sempevirens</i> 'Stricta' Pencil Pine	Remove	Agreed – Site Tree - Capable of replacement
34	<i>Eucalyptus scoparia</i> White Gum	Remove	Agreed – Site Tree - Capable of replacement
35	<i>Casuarina glauca</i> Swamp Oak	Remove	Agreed – Site Tree - Capable of replacement
36	<i>Casuarina glauca</i> Swamp Oak	Remove	Agreed – Site Tree - Capable of replacement

See **Condition 94 for Tree Protection Conditions.

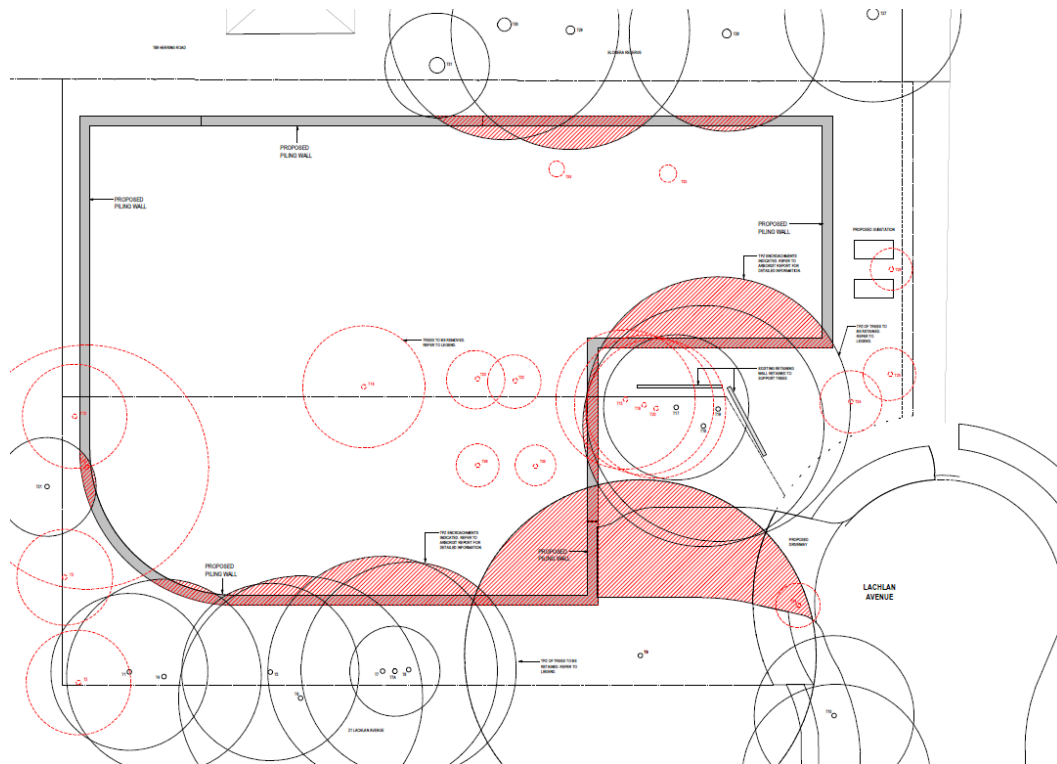


Figure 27: Tree Management Plan showing the location and tree canopy of trees on the site (Source: Landscape Matrix).

Landscape Plans

A review of the DA documentation has revealed a landscape design that is generally able to be supported from a landscape perspective. The design of the proposed development and adjacent public path link is generally considered compliant with the objectives of Part 4.5 Macquarie Park Corridor of Ryde DCP 2014 and Chapter 6: Macquarie Park Corridor of the City of Ryde Public Domain Technical Manual (RPDTM).

Access arrangements into and throughout the site have been well considered through an integrated arrangement of at-grade access and stairs to the perimeter of the development, as well as a Disability Discrimination Act 1992 (DDA) complaint ramp. The activation of space within the rear and side setback of the development is defined by a variety of seating arrangements, divided spaces of activation, perimeter planting and quiet student study areas.

A widened public path link for Lachlan Avenue to Elouera Park has been proposed and its material choice is consistent with the requirements of the RPDTM.

Existing, mature trees have been retained where possible to retain local habitat and biodiversity, and subsequently proposed tree plantings will further bolster the green cover of the site.

The plans are generally considered satisfactory and well-thought-out as they provide suitable embellishment planting and overall open space arrangements to the rear greenspace and curtilage areas of the development site. The minimum landscaped area (20%) and deep soil zones (20%) have been provided within the proposal, street setbacks have adequate extents of soft landscaping and proposed tree plantings within raised planters reflect the minimum soil depths of 800mm.

Whilst the proposal is generally able to be supported from a landscape perspective, a minor concern has been raised in regard to the proposed landscape scheme as follows:

Relocation of Proposed Front Setback Tree: The submitted landscape plan indicates that a proposed tree planting is to be installed within the 'North-eastern interface' area, in between the proposed substation adjacent to Lachlan Avenue. The specimen closest to the proposed development built-form is located within the basement extents below, and therefore will not be able to effectively mature due to lack of soil depth extents. As such, a condition is proposed requiring the tree specimens chosen for planting within the North-Eastern interface to be excluded from the proposed basement extents below and relocated into the adjacent area of deep soil zone. (See **Condition 1**). The location of the affected tree is shown in **Figure 28** below.



Figure 28: Extract from the North Eastern Interface Landscape Plan identifying the location of the tree (identified in red) which is required to be relocated to be clear of the basement (outlined in blue). (Source: Landscape Matrix).

Traffic

Council's Acting Transport Manager supports the proposal and provides the following comments:

Traffic generation

The Guide to Traffic Generating Developments (GTGD) and its technical direction (TDT2013/04a) does not provide traffic generation

rates specific to boarding houses. The applicant was asked to undertake surveys of an existing boarding house development similar in size to the proposed development to estimate the peak hour traffic that is likely to be generated by the proposed development. The applicant has advised that an accurate survey could not be undertaken due to the current COVID-19 restrictions, which is on-going at the time of preparing this assessment report.

Due to the abovementioned constraints, the traffic demands associated with the subject proposal has been estimated based on the peak hour traffic generation rates specified within GTGD and its technical direction TDT2013/04a for a high density residential flat building due to the nature and scale of the proposed development (i.e. student accommodation) being similar to such land uses. The GTGD and its technical direction TDT2013/04a specify the following peak hour traffic generation rates for a high density residential flat building:

AM peak hour vehicle trips = 0.19 trips per dwelling

PM peak hour vehicle trips = 0.15 trips per dwelling

Application of the above rates to the development yield of 386 dwellings, the proposed development is anticipated to generate between 60 – 80 vehicle trips to and from the site during weekday peak hour periods.

Traffic impacts

The development site is located within a landlocked residential catchment bound by Waterloo Road in the north, Herring Road in the west, Ivanhoe Estate in the south and Shrimpton's Creek in the east. Based on the current public road network, access into this residential catchment can only occur via Herring Road (at Windsor Drive) and Waterloo Road (at Cottonwood Crescent).

The following table provides a summary of the 2031 peak hour traffic conditions of intersections along Herring Road and Waterloo Road in the vicinity of the development site based on the traffic study undertaken by Bitzios Consulting associated with Local Development Application LDA2020/0243 for a nearby mixed use development (comprising 200 residential apartments and a child care centre) at 2–10 Cottonwood Crescent:

SIDRA OUTPUT - 2031 ROAD NETWORK OPERATIONAL PERFORMANCE DURING WEEKDAY PEAK HOUR PERIODS		
Intersection	Weekday AM	Weekday PM
Herring Rd/Ivanhoe PI Level of service Average vehicle delay (seconds)	F 101	A 14
Herring Rd/Windsor Dr Level of service Average vehicle delay (seconds)	A 11.1	B 26.3
Waterloo Rd/University Ave/Herring Rd Level of service Average vehicle delay (seconds)	F 128	F 105

Waterloo Rd/University Ave/Cottonwood Cres		
Level of service	A	D
Average vehicle delay (seconds)	5.1	7.2

The above table indicates that significant congestion along Herring Road and Waterloo Road is anticipated to occur during weekday peak periods by the year 2031, resulting in poor levels of service (i.e. significant vehicle delays) at the junction of Herring Road/Ivanhoe Place and Waterloo Road/University Avenue/Herring Road.

The additional vehicle trips generated by the proposed development is expected to exacerbate the poor traffic conditions along Herring Road and Waterloo Road during weekday peak periods in the future, which will require infrastructure improvements within the surrounding road network to ameliorate future traffic impacts associated with the subject development and surrounding land uses. However, as the proposed development is not the sole contributor to traffic along Herring Road and Waterloo Road and there are no plans within Council's planning controls/studies detailing specific infrastructure improvements at the affected intersections, it is understood that there is no mechanism to impose on the applicant for the design and implementation of a viable solution (in part or in whole) to address traffic issues at the affected intersections.

Parking considerations

The parking rates and quantities are set out by Council's Development Engineer as discussed below and summarised in the following table taken from the Applicant's Traffic Study:

Uses	Council Recommended Provision	Proposed Parking Provision
Resident	77	40
Car Share (for residents only)	-	5 Car Share Spaces (equivalent to 40 resident spaces)
Visitor	19	17
Staff	2	2
TOTAL	98	64 (equivalent to 99)

The above table indicates that the off-street parking provision is generally consistent with the advice Council provided during the assessment of this DA.

Development Engineering

Council's Senior Development Engineer supports the proposal subject to conditions of consent. Comments regarding their assessment is as follows:

Stormwater Management

The stormwater system has been amended to be separate to the existing connections to the stormwater service in the private easement which is located along the northern boundary within the site and services the adjoining site to the west.

The proposed stormwater works are clear of the private easement and are supported.

Vehicle Access and Parking

Driveway and Intercom Entry: Concern was raised that the location of the intercom system on the southern wall, for the purpose of enabling access for visitors/service vehicles to the basement is impractical, as it is opposite the driver position. The configuration warrants an intercom to be mounted on a median and the entry widened accordingly.

However, the applicant had investigated the matter and argues that the installation of a median and widening of the driveway would have significant impact on trees to be retained in the front setback. As such, the applicant appealed to have the intercom mounted on the side of the driveway, against the northern wall.

It was acknowledged that the development would accommodate a low number of visitor spaces (19 spaces are deemed warranted based on the Development Engineering Services estimations). Therefore, such an arrangement would not be frequently utilised and, in combination with the relatively low number of potential conflicting vehicle movements, the arrangement could be tolerated.

In consultation with the applicant concerning desired design outcomes, the architectural plans were subsequently modified such to have a demarcated standing area intended for visitor standing so as to utilise the intercom.

The plans are ambiguous concerning the driveway width at this point, with multiple parallel lines possibly representing gutter edges, kerb faces or top of kerb outlines resulting in possible widths from 5.3m up to 5.9m. A condition has been advised then that a minimum 5.5m wide driveway must be provided for the first 7m in from the site boundary, allowing for vehicles to overtake another at the entry to the site, as per the DCP and AS 2890.1 requirements.

*Council's Traffic section have advised that a swept path analysis be prepared demonstrating that a waste truck may stand in the site. The applicant has advised recently that such vehicles will no longer need to utilise the intercom as an automatic heavy vehicle detection system will be implemented to trigger the opening of the garage) whilst allowing a standard passenger vehicle (B99 design vehicle) to pass. It is considered this will be able to be accommodated in the 5.5m wide carriageway. However, to ensure this is achieved, the recommended condition has implemented this as a requirement to be satisfied. (See **Conditions 64 and 65**).*

Driveway access ramp: The applicant proposes the installation of an internal traffic control system to manage one way vehicular traffic on the access ramp. However, specific details are not provided. A standard condition is recommended to be imposed which dictates Council's requirements for an internal traffic control system, which are considered capable of being readily implemented in the proposed design. (See **Condition 65** "Basement Garage Traffic Signal System").

Provision of car parking: As lodged, the degree of parking was considered unacceptable for the scope of this development. As noted in the comments above, the following rates and quantities are considered warranted:

- 77 Student parking spaces based on 1 space per 5 students as per the educational requirements in Ryde DCP 2014 Part 9.3 Parking Controls.
- 19 Visitor parking spaces based on 1 space per 20 students derived from similar developments and accounting for the demographics of occupants.
- 2 Staff parking spaces based on the commercial parking requirements for commercial use in Ryde DCP 2014 Part 9.3 Parking Controls.

In response, the applicant submitted amended plans which acknowledge Council's estimated parking rates and allocation, as shown in the table below (Table 4.1 from the applicants Traffic Report):

Uses	Council Recommended Provision	Proposed Parking Provision
Resident	77	40
Car Share (for residents only)	-	5 Car Share Spaces (equivalent to 40 resident spaces)
Visitor	19	17
Staff	2	2
TOTAL	98	64 (equivalent to 99)

The amended plans have implemented the following changes:

- 5 Car Share Spaces – The ratio of car share spaces to resident (student) parking has been agreed upon as representing 1 space per 8 student spaces. This is higher than the conventionally adopted rate presented by Go-Get which is 1 car share space for 12 resident parking spaces. Accordingly, the presented equivalent of 40 resident spaces is accepted.
- Visitor Spaces – The amended proposal provides 17 visitor spaces, which is short of the 19 recommended by Development Engineering Services in the initial review. Noting the loading bay and adjoining manoeuvring area is an extensive area in the basement, it is forwarded that the location could accommodate 2 visitor spaces outside the areas of use of the Loading Bay (anticipated to be in the early morning period, contrary to visitor peak parking demand in the evening and weekend periods). This is addressed by **Conditions 64 and 217**.
- Car Stackers – The basement parking area now accommodates car stackers capable of stacking 8 vehicles in a unit. Whilst the plans / report have not noted the specific model of the stacker, based on the product datasheet and given plan dimensions, the device will be capable of accommodating a B99 design vehicle, which is required. Whilst Council's Traffic section has drawn

concern regarding waiting times for access to the stacker, any vehicle queuing to enter would be contained in the basement garage and not imposing on the public domain. There is some concern that the implementation of stackers and delays related to accessing vehicles may discourage residents from their use. However, given the high demand for on-street parking in the surrounding area, there is a strong incentive to utilise the facility.

Provision of motorcycle parking: The applicant has submitted a Clause 4.6 Request to vary a development standard concerning the non-compliance of the provision of motorcycle parking. This is in reference to clause 30(1)(h) of the AH SEPP (2009) which requires 1 motorcycle space for every 5 boarding rooms. The applicant's statement has conservatively adopted 1 motorcycle space per 5 students which presents as a requirement for 97 motorcycle spaces. The application has provided a total of 21 motorcycle spaces. The applicant has provided the following information to justify this level of parking which is considered:

- The Traffic Engineer (TTPP) has presented results from a Travel Demand survey for Macquarie University indicating that 1% of students travel to the university on motorcycle. This implies that a low ratio of ownership.
- The Traffic Engineer has presented results of a Travel Demand survey for a similar establishment (Urbanest) in Quay Street in Sydney with a capacity of 330 students. These results indicate that 1% of respondents travelled by motorcycle for study purpose and 2% travelled for work purposes.
- The Clause 4.6 Request has attempted to correlate 2013 NSW motorcycle license survey data to the student population. The table in the statement summarising this is confusing and unclear. In considering the survey data, there are also many variables between registered NSW motorcycle riders and students which have not been accounted for (e.g. economic status). Nonetheless, the study indicates that motorcycle ownership in the younger age bracket is relatively low (4.8% aged 17-20 and 8.7% aged 21-25) and when accounting for lower economic status and the low demand for a motorcycle (considering the proximity of the site to the University and public transport hub), the provision of motorcycle parking in the development (4.3%) appears appropriate.

It is noted that most of the survey information provided pre-dates the recent uptake of electric bikes which present a more cost effective means of travel for students and have very likely reduced the rate of motorcycle ownership in students.

The development has provided 21 motorcycle spaces which presents as 4.3% of the student capacity. In consideration of the factors presented above, it is considered the proposed number of motorcycle spaces are adequate.

Recommendation

*There are no objections to the proposed development with respect to the engineering components, subject to the conditions of consent. (See **Conditions 18-21, 64-72, 92, 93, 121-126 and 183-190**).*

City Works – Drainage

Council's Drainage Engineer supports the proposal subject to **Conditions 58-63, 91, 120 and 179-182**.

City Works – Public Domain

Council's Public Domain Engineer supports the proposal subject to conditions. Public Domain identifies that the site lies within a residential cul-de-sac and adjacent to Elouera Reserve which is connected to the cul-de-sac by an existing footway. Both vehicular and pedestrian access are limited to the site frontage on Lachlan Avenue. The frontage of the site must be upgraded in accordance with the City of Ryde Development Control Plan DCP 2014 Part 4.5 Macquarie Park Corridor, and the City of Ryde Public Domain Technical Manual, Section 6 – Macquarie Park (**Condition 50**).

Public Domain also states that as the main pedestrian access to Waterloo Road will be via Elouera Park and a connecting pathway, conditions are to be imposed requiring any necessary works to the pathway to facilitate safe and functional pedestrian access. The Public Domain Technical Manual does not specify improvements. However, as the pathway will play a critical role to access to the site, this condition has been included in case works are necessary (**Condition 51**).


Waste

No objections were raised from Council's waste section. It is noted that the development is to be serviced by a private waste contractor and does not rely on Council collection.

Parks

Council's Senior Coordinate of Parks Planning supports the proposal, given the following matters have been addressed:

Issues raised	Resolution
The proposed treatment of the public pedestrian way is to be consistent with the Ryde DCP 2014 and Public Domain Technical Manual. Lighting along this section is to be consistent with the lighting within Elouera Reserve including pole colour and type and luminaire type.	Addressed in Condition 16 and lighting details confirmed on the Landscape Plan.
The glass balustrade parallel to the property boundary with Elouera Reserve is to be replaced with a more vandal resistant material, such as powder coated metal or the like. Council does not object to the proposed permeability of the glasses but it's limited resistance to vandalism.	Balustrade material replaced with a 1.8m high powder coated metal palisade fence.
The pit within the cul-de-sac is to be relocated and off-set from the alignment of the public pathway to provide direct connection for cyclists.	The connection between the public pathway and Lachlan Avenue is direct and enables a smooth transition for cyclists.
The new access point along the northern boundary of the site into Elouera Reserve is not supported. The design is to be adjusted to enable access via the public pathway.	The private entry to Elouera Reserve has been deleted. Access is

	<p>provided via the public pathway.</p>
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Public Art

The application is accompanied by a Public Art Opportunities Report prepared by Polding Road Studio. The report identifies the most suitable artwork types with proposed locations for artwork integration, considers the value of public artwork make in place making and its relationship to the overall architectural design intent of the development.

The report identifies opportunities for public artworks are at the vertical plane, ground plane and landscape/sculptural as shown in **Figure 29**. The report states that these three artwork opportunities are suitable the scale and footprint of the development, allowing easy access for the public to appreciate the artworks. These public artwork locations can resonate both with the development intent and the surrounding precinct.



Figure 29: Extract from the Public Art Opportunities Report identifying the location overview of future public artworks.

It is noted that the amended proposal has altered the setback area to Lachlan Avenue and the public pathway during the assessment of this DA to accommodate the retention of existing trees and widen the driveway access. This has also resulted in the relocation of the substations from the southern corner of the site (to enable the retention of Tree 9) to the setback area along the laneway. Whilst it is preferred that services are shielded from being viewed from the public domain; it was considered that the retention of Tree 9 was a priority. As a result, the siting of the

substations is acceptable, as attention can be drawn away from these structures by the landscaping and public art, as shown in **Figure 30** below.

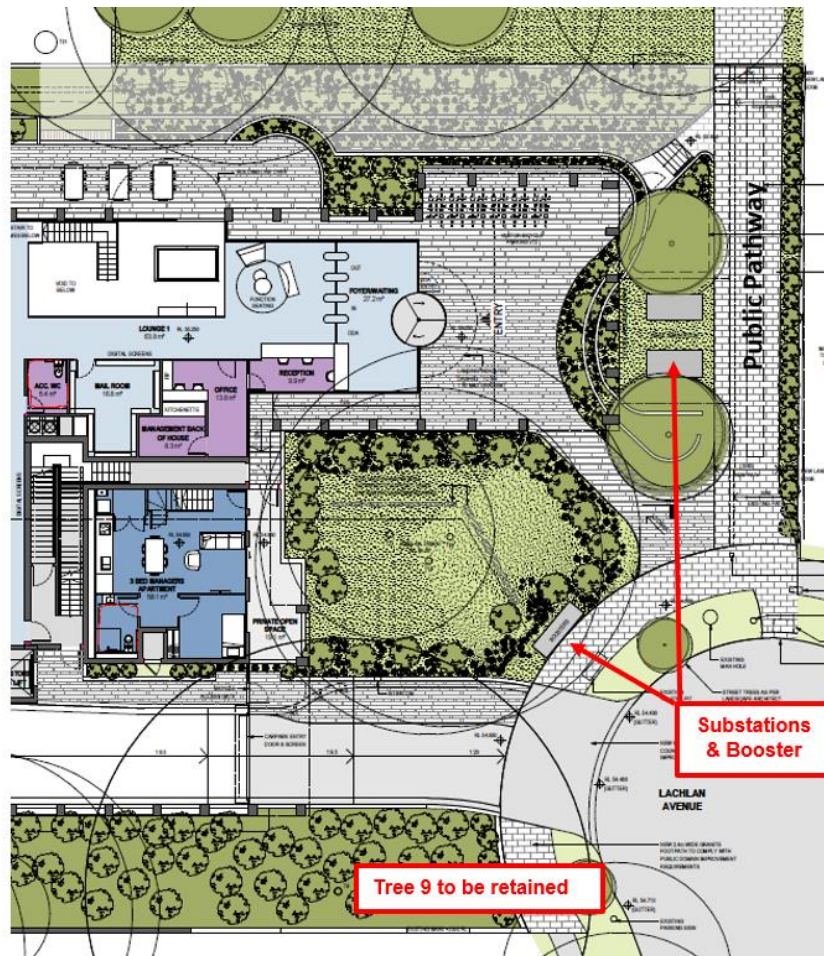


Figure 30: Extract from the Public Art Opportunities Report showing examples of artworks.

Council's Centres Coordinator supports the proposal and confirms that the concepts benefit the local community of Macquarie Park and align with Council's requirements. **Condition 77** is recommended to be imposed requiring a site specific Public Arts Plan to be submitted for approval by Council.

Environmental Health Officer

Council's Environmental Health Officer supported the proposal and provides the following comments:

Land Contamination:

A revised Preliminary Site Investigation (Contamination) Report by Douglas Partners and dated 13 August 2021 has determined that the proposed site can be made suitable for residential development, subject to implementation of the following works:

- *Hazardous Building Material Survey of the existing buildings onsite, prior to demolition. A clearance certificate by an occupational hygienist is to be provided, if required.*

- *An Intrusive Soil Investigation is to be conducted to qualify potential risks from identified contamination sources following demolition, to allow reasonable spatial coverage of the site.*
- *Remediation. Management of any minor contamination risks to be addressed through waste classification and off-site disposal of soils. If significant contamination is identified, a remedial action plan (RAP) is to be developed and implemented.*

These matters are addressed in **Conditions 24, 73, 74 and 194.**

Waste:

The revised Waste Management Plan and amended architectural plans adhere to the requirements of the Ryde DCP 2014 Part 7.2 Waste Minimisation and Management, in particular providing a sufficiently sized waste room to cater for 13 x 660L recycle bins to be stored and collected twice per week, and a 10m² bulky waste storage room.

Acoustics:

The Acoustical Report prepared by Stantec Australia Pty Ltd assessed potential noise impacts of the development upon nearby sensitive receivers and external noise sources within the proposed development, including recommendations for noise mitigation measures. The main acoustic considerations include:

- *Noise emissions from the proposed mechanical plant to the surrounding sensitive receivers.*
- *Noise emissions from vehicle movement due to increased traffic noise generated.*
- *Noise from vehicle movements on Herring Road intruding into habitable spaces within the proposed development.*

A statement of compliance with local government regulatory planning tools for noise and vibration emissions was provided for the referenced design for impacts on affected residential receivers. The following recommendations were provided:

- *Minimum glazing types to achieve internal noise requirements.*
- *Maximum sound power levels for mechanical plant equipment to meet mandatory project noise trigger levels.*

Social noise associated with the proposed development are adequately addressed in the Operational Management Plan for excessive noise from communal spaces and hours of operation for games room, basement level gym and cinema. The gym and cinema are located on lower basement level and would be acoustically separated by a floor for the foyer.

*An acoustic report will be required at the Construction Certificate stage, to ensure fan selection for mechanical plant and exhaust for anticipated trigger sound power levels are not exceeded in meeting the noise criteria for industry. (See **Condition 76**).*

13. CONCLUSION

After consideration of the development against Section 4.15 of the *Environmental Planning and Assessment Act 1979* and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest. The proposal provides an opportunity to redevelop the site with a contemporary building that is generally consistent with the AH SEPP and strategic intentions of the associated planning controls that have been adopted for the locality by Council. The proposed development was amended as per the recommendations of the UDRP which provide a high degree of amenity for future occupants in terms of access to educational establishments, public transport, shops and services.

The development is recommended for approval subject to appropriate conditions of consent provided in **Attachment 8** of this report.

The reasons for approval are as follows:

1. The proposed student accommodation development is consistent with the objectives of the B4 Mixed Use zone under the RLEP 2014. The development is also consistent with the development standards and relevant provisions of the REP 2014 with the exception of height of buildings.
2. The applicant's Clause 4.6 written request to vary the maximum height of buildings development standard in Clause 4.3 of the RLEP 2014 is acceptable, on merit, as the proposal still meets the objectives of the zone, provides a building form which is responsive to the slope of the land and existing levels on the site. The presentation of the building form is consistent with the scale anticipated on this site and will read favourable in the context of the future redevelopment of neighbouring sites.
3. The applicant's Clause 4.6 written request to vary the minimum motorcycle parking development standard in Clause 30(1)(h) of the AH SEPP is acceptable as the proposal still meets the objectives of the zone and the provision of motorcycle parking in this student accommodation development is sufficient to meet the transport demands of its occupants in a location which is in close proximity to the University, Shopping Centre and public transport. The transport opportunities provided by the development reflects the intended revitalisation of the Herring Road Urban Activation Precinct in a manner which is consistent with the applicable development standards and controls. Compliance with this development standard is unreasonable or unnecessary in the circumstances of this specific proposal. There are sufficient environmental planning grounds to justify contravening the development standard.
4. The proposal includes suitable provision of car, motorcycle and bicycle parking, and fosters the use of cost effective travel modes, including walking and shared schemes for cars and electric bikes.
5. The proposal is accompanied by a comprehensive Operational Management Plan which supports positive social outcomes for the students and community.

6. The proposed development does not create unreasonable environmental impacts to existing adjoining development with regard to visual bulk, overshadowing, solar access, amenity or privacy impacts.
7. The issues raised in the submissions do not warrant the refusal of the Development Application and have been addressed in the Assessment report.
8. The proposed development is consistent with the intent of the Herring Road Activation Precinct and will foster additional housing opportunities for students.
9. The proposal is not contrary to the public interest.
10. The site is considered suitable for the proposed development.
11. The development will provide adequate amenity to future residents whilst maintaining amenity to the adjoining residential properties.

14. RECOMMENDATION

Pursuant to Section 4.7 of the *Environmental Planning and Assessment Act 1979*, the following is recommended:

- That the Sydney North Planning Panel accepts that the Clause 4.6 written request under clause 4.6 of Ryde LEP 2014 to vary the motorbike parking development standard (Clause 30(1)(h)) in State Environmental Planning Policy (Affordable Rental Housing) 2009) has adequately addressed the matters in clause 4.6(4) and would not be contrary to the public interest as it is consistent with objectives of the B4 Mixed Use Zone of Ryde LEP 2014.
- That the Sydney North Planning Panel, as the consent authority, grant consent to LDA2021/0138 for the construction and operation of a Boarding house at 23-25 Lachlan Avenue, Macquarie Park, subject to the recommended conditions in **Attachment 8**.
- That Transport for NSW be advised of the decision; and
- Submitters be notified of the decision.

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