

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSSNH-237
DA Number	LDA2021/0187
LGA	City of Ryde
Proposed Development	Demolition of existing building and construction of a 16-storey residential apartment building comprising 123 units with basement parking.
Street Address	1-3 Lachlan Avenue, Macquarie Park
Applicant	Eco World (Macquarie) Pty Ltd
Owner	Eco World (Macquarie) Pty Ltd
Disclosures	No disclosures with respect to the <i>Local Government and Planning Legislation Amendment (Political Donations) Act 2008</i> have been made by any persons.
Date of DA lodgement	2 June 2021
Total number of Submissions Number of Unique Objections	<ul style="list-style-type: none"> • 24 unique submissions during the first notification period. • Nil submission during the second notification period.
Recommendation	Approval
Regional Development Criteria SEPP (Planning Systems) 2021	General Development over \$30 million. Capital Investment Value: \$55,500,000 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 • Water Management Act 2000 • 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 • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development • Ryde Local Environmental Plan 2014 • City of Ryde Development Control Plan 2014 • City of 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: Clause 4.6 Request to Vary a Development Standard• Attachment 3: Assessment Against the ADG & DCP• Attachment 4: Massing Scheme for No. 155 Herring Road• Attachment 5: Draft Conditions of Consent
Clause 4.6 requests	<ul style="list-style-type: none">• Request to vary Height of Buildings Development Standard under the Ryde Local Environmental Plan 2014
Summary of key submissions	<ul style="list-style-type: none">• Site isolation issue from owners of No. 155 Herring Road.• The overshadowing will increase moisture to surrounding buildings and negatively impact on liveability.• Overdevelopment of the site.• The building has breaches on the setback and building separation controls at higher levels, infringing on the space of the neighbouring properties and potentially blocking out further sunlight and air movement.• Construction impact from noise and dust.
Report prepared by	Holly Charalambous, Senior Coordinator Development Assessment
Report date	1 November 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 demolition of the existing structures, removal of trees and construction of a residential flat building comprising 123 residential apartments, basement car parking and associated landscaping and stormwater management works at 1-3 Lachlan Avenue, Macquarie Park.

Community notification and advertisement

The DA was notified and advertised as lodged in accordance with Part 2.1 of *Ryde Community Participation Plan* and 23 submissions were received objecting to the proposal. 1 submission was received in support of the proposal. The key issues raised objecting to the proposal relate to:

- Site isolation issue from owners of No. 155 Herring Road.
- The overshadowing will increase moisture to surrounding buildings and negatively impact on liveability.
- Overdevelopment of the site.
- The building has breaches on the setback and building separation controls at higher levels, infringing on the space of the neighbouring properties and potentially blocking out further sunlight and air movement.
- Construction impact from noise and dust.

In response to the issues raised, the applicant submitted amended plans and supporting information which were re-notified to surrounding property owners and occupants and the original submitters. No further submissions were received.

The applicant has addressed each of the issues raised and are considered in detail in the assessment of the DA below. The issues are not considered to warrant the refusal of this application.

Section 4.15 Assessment summary

The proposal satisfies the relevant development standards, with the exception of height of buildings under clause 4.3 of the Ryde Local Environmental Plan 2014. The proposal exceeds the maximum permitted height of 45m by 2.83m (6%).

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 this application offers an improved outcome as it delivers a usable rooftop area which features communal open space and associated landscaping. Council concurs with the Applicant that strict compliance with the development standard is both unreasonable and unnecessary, in this case. It is considered that 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 Clause 4.6 variation request is reasonable and well founded. The variation sought to the standard is considered to be satisfactory.

The proposal was considered by the Urban Design Review Panel (UDRP) on 22 July 2021. The Panel raised minor concerns to revise the layout at the ground plane to address pedestrian priority and provided further deep soil areas, improve building separation, improve the street address and connection to the primary lobby,

clarification that trees on neighbouring sites can be retained and protected and the reduced use of painted render on the external facades.

The applicant amended the plans, which were again reviewed by the UDRP. The Panel have provided their general support of this application in accordance with clause 30 of State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development.

The proposal is subject to the Apartment Design Guide and does not strictly comply with building separation. Despite this breach, the building separation as proposed will support residential amenity for the development application and surrounding properties.

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 residential section of Macquarie Park.

The proposal does not comply with the Ryde DCP 2014 with regard to the encroachment of the building and basement in the minimum required setback, deep soil area and not providing sufficient visitor and car share spaces. The non-compliances are considered in this report and are supported on their merits, subject to conditions of consent.

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).

WaterNSW has provided General Terms of Approval in support of the dewatering licence required to be obtained for the tanked basement under the *Water Management Act 2000*. Transport for NSW and the NSW Local Police have provided their support for the proposal.

Other key issues considered in this report includes:

- The removal of all trees on the site.
- The minimum requirements for building separation are not met.
- An alternate approach to natural ventilation is proposed.
- Potential site isolation of the adjoining site to the north, No. 155 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 site is considered suitable for the proposal and is not contrary to 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 5**. These conditions have been reviewed and agreed to by the applicant.

2. THE SITE & LOCALITY

The site is located at 1-3 Lachlan Avenue, Macquarie Park with an area of 2,751m². The site is generally rectangular in shape, with the exception of the eastern corner of the site which follows the curvature of the street frontage to Lachlan Avenue and Peach Tree Road. The site has a cross fall of 7.48m from the western corner of the site to the street frontage at the eastern corner of the site.

There are various trees located on either side of the driveway of varying species, height and condition. This includes 1 tree reported to be in 'Fair' condition which is located at the eastern corner of the site which is a Lemon Scented Gum (Tree 7). This is a mature tree with a height of 18m of medium significance and medium retention value. Refer to **Section 8** below for further details regarding likely impacts.

Photos of the site and surrounds are at **Figures 1, 2 and 3** below. The site currently comprises a vacant 3 storey walk up residential flat building, with undercroft parking. The development is elevated above street level and follows the slope of the land. The surrounding properties to the north and south-east also feature similar residential buildings.

The adjoining property to the south-west is known as 'Ivanhoe Estate' and benefits from State Significant Development (SSD) consents approved in April 2020. Concept Development Application (DA) SSD 8707 approved a high density mixed use development accommodating a mix of public and private housing. Detailed DA SSD 8903 approved Stage 1 works which includes a new road connecting Herring Road with Lyon Park Road (still privately owned and to be dedicated to Council at the completion of the Estate works) and the construction of residential apartment buildings A1 and C1. Works are currently underway for Stage 1 works.

The components of the Ivanhoe Estate redevelopment that immediately adjoin the proposed development are a new public road known as Mahogany Avenue; and Building B1.1 which is approved for a residential building with a maximum building height of 45m and maximum gross floor area of 8,000m². Refer to **Figure 2** below.

The first 5 levels of Building B1.1 are required to have a setback of 10m to the shared boundary, and the remaining upper levels are required to have a setback of 12m. A 6m wide deep soil area is to be provided along the northern boundary, which enables the retention of significant existing trees.

Recently completed high density residential developments are also located along Herring Road, as shown in **Figure 1** below.

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 area to the west of Herring Road and south of the site has already seen significant new developments. The area to the north and east currently consists of 3 storey walk-ups and is likely to change with several recent approvals.

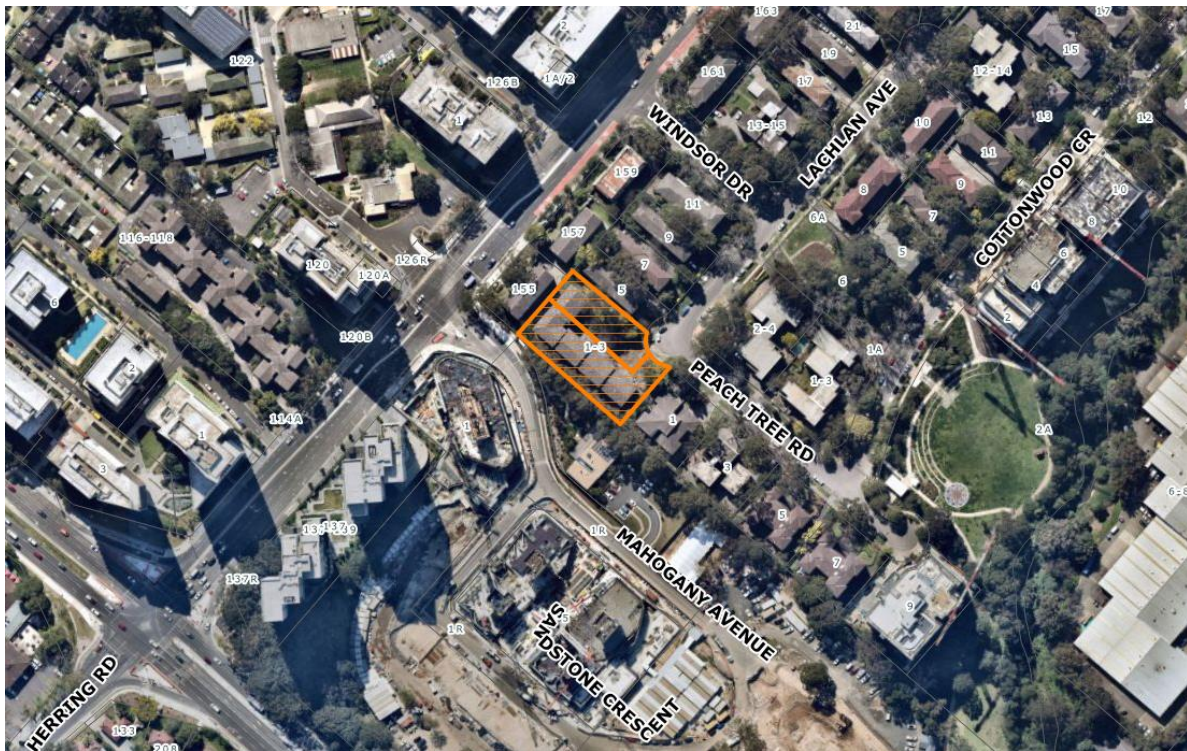


Figure 1: Aerial view of the site (outlined in orange) and surrounds.



Figure 2: Aerial view of the site and immediate locality. The site is outlined in orange. Part of the redevelopment of Ivanhoe Estate is overlaid on this photo. The Building Envelope Control Plan approved in SSD 8707 demonstrates the relationship of adjoining residential Building B1.1 and the location of 'Mahogany Avenue' which is the new road currently under construction.

The location of the proposed resident access to Mahogany Avenue is identified by the red arrow.



Figure 3: Photo of the subject site taken from the intersection of Lachlan Avenue and Peach Tree Road. Existing Tree 7 is shown on the left.



Figure 4: Photo of the subject site as viewed from Lachlan Avenue. Existing Tree 7 is marked with '7'. (Source: Google maps).

3. THE PROPOSAL

This application proposes to construct a residential flat building development on land at 1-3 Lachlan Avenue, Macquarie Park comprising:

- Demolition of the existing structures;
- Earthworks, removal of all trees and excavation for basement parking levels;

- Construction of a residential flat building comprising 123 residential apartments including 23 double storey apartments at the lower levels;
- Basement/mezzanine parking levels accessed via Lachlan Avenue comprising 105 resident car parking spaces, 2 visitor car parking spaces and parking for 15 bicycles;
- Ground level and rooftop communal open space areas and landscaping;
- Rooftop communal open space and landscaping; and
- Stormwater management works.

In response to the shape of the site, the podium and tower form is orientated on an east-west axis.

The proposed plans are provided at **Attachment 1**. Photomontages of the proposal are provided at **Figures 5-7** below. A site plan showing the layout of Level 5 of the proposed building is at **Figure 8** below. A summary of the development statistics for the development is provided at **Table 1** below.



Figure 5: Photomontage of proposal as viewed from Lachlan Avenue.



Figure 6: Photomontage of proposal as viewed from the west of the site (in the vicinity of Herring Road). This image assumes there is no building on No. 155 Herring Road, which would otherwise be seen in the foreground of this image.



Figure 7: Photomontage of the proposed building entrance as viewed from Lachlan Avenue.

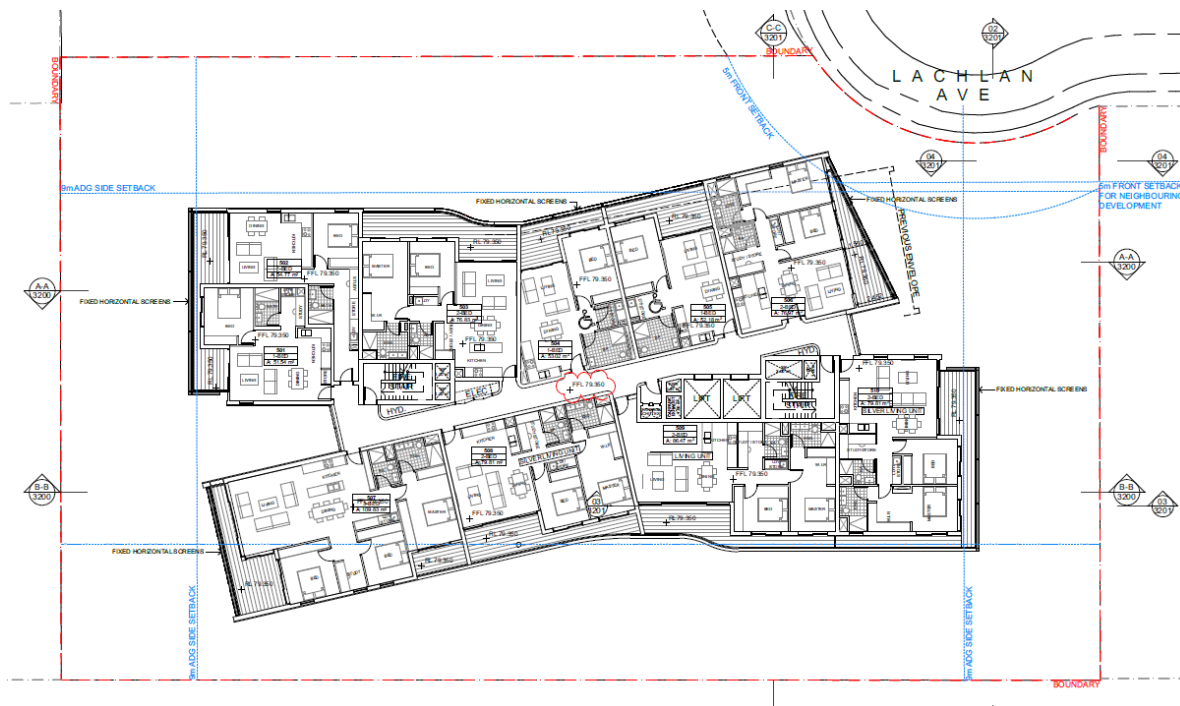


Figure 8: Level 5 floor plan. This is also the typical floor plan between Levels 4 and 12.

Table 1: Summary of the development statistics of the proposed development.

Component	Proposal (as amended)
Site Preparation	Demolition of all existing structures on the site including contamination and remediation works. Removal of all trees.
Scale	16 storeys (including basement levels) Up to 47.83m Building Height (the centrally located lift and lift overrun exceeds the maximum permitted by 2.83m or 6%).
Floor Space	Gross floor area: 11,004m ² Floor space ratio: 4:1
At-grade Services	Lobby Waste collection and loading bay, bulky waste storage area, and bin storage area for collection. 2 visitor parking spaces. Padmount substation, fire brigade booster assembly, meters and services.
Basement levels	Parking is provided at the lower ground, B1 basement and mezzanine levels comprising: 105 resident parking spaces 15 bicycle parking spaces Water tanks and pumps are provided at B2 basement level.
Apartments	123 total apartments comprising: 8 dual level townhouses with attached double car parks below 15 dual level villa apartments 100 single level apartments
Dwelling Mix	44 x 1 bed apartments (35%) 48 x 2 bed apartments (39%) 8 x 3 bed apartments (7%) 15 x 2 bed villas (12%)

	8 x 3 bed townhouses (7%)
Communal Open Space Areas	847.61m ² communal open space area as follows: Lower ground and mezzanine levels: Lobby Courtyard Upper ground level: Turf area Level 13 Rooftop: Outdoor sky gym BBQ and seating area Open turf area
Landscaping	22 existing trees to be removed (2 are large trees over 15m high) comprising (refer to Section 8 below for further details): 16 trees in fair condition 4 trees of poor quality 2 exempt trees 3 replacement trees a mature height of 15m (Spotted Gums). 22 replacement trees with mature heights of 6m to 8m. 617.3m ² landscaping (22.4% of the total site area) 195.63m ² deep soil area (7.1% of the total site area)

4. APPLICATION HISTORY & RESOLUTION OF KEY ISSUES

Application History	
3 June 2021	This DA was lodged for demolition of the existing building and construction of a 16 storey residential apartment building comprising 124 units with 2 basement levels.
8 June to 13 July 2021	The DA was notified and advertised. 23 submissions were received objecting to the proposal. One submission was received in support of the proposal.
29 June and 6 July 2021	RFI letters were sent to the applicant outlining concerns regarding: <ul style="list-style-type: none"> Request for additional information from Transport for NSW regarding traffic generation rates. Planning matters regarding the shortfall in visitor car parking, written confirmation from a car share provider demonstrating agreement for its operation. Submission of a detailed site investigation report as required by SEPP No. 55 Remediation of Land. Clarification of the through site link from Mahogany Avenue and clarification of the proposal. Issues raised by our City Works section with regard to the new stormwater pipe connection. The location of the driveway clear of an existing electrical light pole. The design of the waste storage and collection system.
22 July 2021	Urban Design Review Panel meeting held.
11 August 2021	A RFI letter was sent to the applicant outlining concerns regarding: <ul style="list-style-type: none"> Forwarding matters raised by the Urban Design Review Panel, as discussed below. Issues raised by the Landscape Architect including updating the Arboricultural Impact Assessment to address Trees 33 and 34 located on the adjoining site, the impact of the proposed

	<p>substation and stormwater pipes on the trees of the adjoining site, insufficient provision and dimensions of deep soil area, fencing, surface treatments and a requirement to provide compensatory tree planting.</p> <ul style="list-style-type: none"> • Provision of at least 10% adaptable apartments. • Clarification of reasonable efforts undertaken by the applicant to negotiate the purchase of the adjoining property to the north-west (No. 155 Herring Road) which has the potential to be adversely affected by site isolation. • Forwarding a summary of the issues raised in submissions (detailed below).
31 August 2021	A RFI letter was sent to the applicant outlining concerns regarding issues raised by Council's Development Engineering section regarding the design of the on-site stormwater detention system, relocation of the rainwater tank to mitigate the risk of flooding the basement, relocation of the power pole to be clear of the driveway, swept path diagrams which demonstrates that vehicles can safely pass each other and provision of visitor parking.
6 September 2021	WaterNSW requested additional information requesting clarification if the basement will be water-tight (tanked).
22 September 2021	<p>Briefing meeting held with the Sydney North Planning Panel. Key issues discussed included:</p> <ol style="list-style-type: none"> i. Site isolation ii. Lack of deep soil planting area iii. The removal of all existing trees iv. The minimum requirements for building separation are not met v. Deep soil landscaping <p>These issues were relayed to the applicant to address.</p>
24 September 2021	Meeting held between Council officers and the applicant to discuss site isolation and how the proposal has been amended.
24 November 2021	Meeting held between Council officers and the applicant to discuss legal advice regarding site isolation and the submitted Stage 1 Contamination report.
17 March 2022	Amended concept plans and response regarding site isolation received from the applicant.
21 March 2022	Correspondence sent to the applicant requesting confirmation of the "other reasonable expenses" included in the offer to purchase the adjoining properties with regard to the site isolation principles.
5 May 2022	Site Audit Statement and Site Audit Report regarding site contamination received from the applicant.
26 May 2022	Amended plans and reports submitted by the applicant.
13 June 2022	Desktop review of the amended plans held by the Urban Design Review Panel. Further design refinement to address the revised ground plane.
26 June 2022	The applicant confirmed they wish to retain the tanked basement and are still seeking concurrence from WaterNSW for a water use approval under the Water Management Act 2000 (i.e. the DA as submitted).
27 June 2022	Clarification of the gross floor area plans submitted by the applicant.

4 July 2022	Revised Geotechnical Report submitted by the applicant in response to the request for additional information from WaterNSW on 6 September 2021.
7 July 2022	Amended plans and reports submitted by the applicant.
11 July 2022	The DA was re-referred to Water NSW and Transport for NSW.
30 June to 20 July 2022	The DA was re-notified to the surrounding property owners and occupants, including to those who previously objected to the proposal. No submissions were received.
1 August 2022	WaterNSW provided their concurrence and General Terms or Approval in support of the proposal, as amended.
26 August 2022	Amended plans and information submitted by the applicant.
1 September 2022	NSW Police referral received advising no objection.
6 September 2022	Updated Clause 4.6 Request to vary a development standard submitted by the applicant to reflect the amended plans.
13 September 2022	Desktop review undertaken by the Urban Design Review Panel. Comments and recommended conditions provided.
14 September 2022	RFI sent to the applicant requesting a long section plan of the site and driveway.
19 September 2022	The applicant submitted a long section plan.
12 October 2022	Referral response received from Transport for NSW.
30 November 2022	The applicant submitted correspondence requesting the deletion of proposed Conditions 1(f) and (g) regarding parking spaces.

5. **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:

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

This State Environmental Planning Policy (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 was accompanied by a Preliminary Site Investigation (Contamination) prepared by Doulas Partners and dated May 2021 and advises that potential sources of contamination at the site include fill, hazardous building materials from the current apartment building on the site and the sites former agricultural use as an orchard. The report concluded that the likelihood of significant groundwater contamination is low and investigation of groundwater and soil vapour is not considered to be necessary at this stage. Consequently, the report recommends the preparation of a detailed site investigation and hazardous building materials survey.

The applicant subsequently submitted Site Audit Statement (SAS) No. 405 completed by NSW EPA Licensed Auditor Mr Rod Harwood, (Accreditation No: 0304) and dated 5 May 2022. The SAS has been submitted to the NSW Environmental Protection Authority, being a standard requirement of a statutory site audit. The SAS reviewed the above Preliminary Site Investigation (Contamination), as well as a Detailed Site Investigation prepared by EI Australia (reference E25550.E02, Revision 1, dated 3 May 2022), a Hazardous Material Survey prepared by EI Australia (Reference E25550.E10, dated 4 May 2022) and Site Audit Report (SAR) No. 22008_SAR_v00, prepared by Harwood Environmental Consultants and dated 5 May 2022. The SAS concludes that the Auditor is satisfied that the site has been demonstrated through assessment and intrusive sampling to be suitable for the planned use as residential apartments with 2 levels of underground basement carparking with no remediation required. No Remedial Action Plan is required.

Council's Environmental Health Officer supports the proposal. Standard conditions are recommended to address potential discovery of contaminated materials during works. See **Conditions 25 and 132**.

Given the above assessment, Council is satisfied that sufficient information has been provided to demonstrate that the site can be made suitable for its continued residential use in line with the strict requirements of Clause 4.6 of this SEPP.

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

Under clause 2.122 Traffic-generating Development of this SEPP (formerly Schedule 3 of SEPP (Infrastructure) 2007), the development is considered to be traffic generating development. The DA was referred to Transport for NSW for consideration.

On 12 October 2022, Transport for NSW advised that they have no requirements as the proposed development will have a negligible impact on the classified road network.

5.3 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 the site is mapped as containing Urban Bushland – Inadequately Conserved along the southern boundary of the site and part of the northern portion of the site as shown in **Figure 9** below.

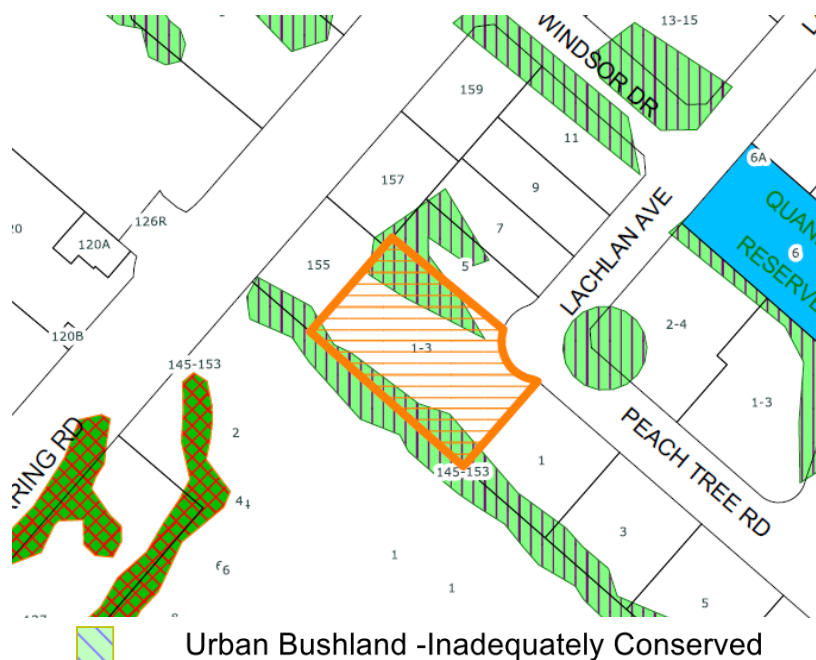


Figure 9: Extract from Ryde Maps indicating areas mapped as Urban Bushland (Inadequately Conserved) (hatched in green).

The area of the site mapped as containing Urban Bushland along the southern boundary relates to the trees along the boundary shared with the 'Ivanhoe Estate.' The proposal enables the retention and protection of these trees and is consistent with this SEPP.

The northern part of the site consists of 4 trees within the site which are sought to be removed, comprising 1 x Willow Peppermint (categorised as 'remove' in terms of retention value for Tree 37), 2 x Broad leaved Paperbarks (categorised as medium retention value for Tree 40 and low retention value for Tree 41) and 1 x Jacaranda (categorised as low retention value). Tree 39 on the adjoining site is to be retained.

The proposal seeks to remove all trees on the site. However, in response to concerns raised by Council, additional deep soil area has been provided to accommodate the planting of 25 new trees in an effort to contribute to the treed environment of the locality.

Trees in the adjoining sites are to be retained and protected, including Tree 39 on the adjoining site to the north which is mapped as containing Urban Bushland – inadequately Conserved.

Council's Landscape Architect 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.

Chapter 6 Bushland in urban areas

The general objectives of Chapter 6 of this SEPP (formerly SEPP No. 19 Bushland in Urban Areas) are 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 apartment buildings and associated hardstand areas. As shown in **Figure 9** above, minor portions of the site are mapped as containing Urban Bushland (inadequately conserved) along the southern boundary of the site and part of the northern portion of the site.

The remainder of the site is not mapped as containing any form of Urban Bushland that requires protection. Therefore, the proposal does not unduly impact upon any existing bushland on the site.

As discussed above, the proposal provides for the planting of 25 new trees, as well as palms, shrubs and ground covers which assists with maintaining the treed and landscaped 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.

5.4 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.

5.5 SEPP (Building Sustainability Index: BASIX) 2004

The proposed development includes BASIX affected buildings and therefore requires assessment against the provisions of this SEPP, including BASIX certification.

A revised BASIX Certificate was submitted with the final plans for the DA in line with the provisions of this SEPP. This BASIX Certificate demonstrates that the proposal complies with the relevant sustainability targets and will implement those measures required by the certificate. See **Conditions 3 and 141**.

5.6 SEPP No. 65 – Design Quality of Residential Apartment Development.

SEPP 65 applies to the assessment of DAs for residential flat buildings 3 or more storeys in height and containing at least 4 dwellings.

Clause 30 of SEPP 65 requires a consent authority to take into consideration:

- advice (if any) obtained from the design review panel
- design quality of the residential flat development when evaluated in accordance with the design quality principles
- the Apartment Design Guide (ADG).

As lodged, the application was reviewed by the Ryde Urban Design Review Panel (UDRP) on 22 July 2021. The table below provides the UDRP comments. The Panel further considered amended plans on 13 June 2022 and 13 September 2022. The comment by the Panel on the later dates are considered after this table.

Design Principles	Urban Design Review Panel Comments on 22 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 at Lachlan Avenue in Macquarie Park. It has frontage to Peach Tree Road and Lachlan Ave. It also has a secondary frontage to Mahogany Place.</p> <p>The area is undergoing a major transition from 3-4 storey walk ups to new developments up to 45m in height and 4:1 FSR.</p> <p>The site benefits from a number of mature trees within the site and along street boundary edges. These trees play an important part in establishing the landscape character of the street and area. Given the extensive renewal underway in the area, these trees are highly valuable and should be retained wherever possible.</p> <p>The proposal is for 124 dwellings in a tower and podium form. The proposed extent of basement has been reduced along the southern and western boundaries and the remaining soil volume and associated levels have been described in the documents. It is critical to ensure the retention of existing trees noted for retention, and for the establishment of additional boundary planting for the entire site perimeter.</p> <p>The Panel had previously raised concerns for the risk of site isolation for the narrow site to the west (No. 155 Herring Road). The Panel understands the applicant has made endeavours to acquire this site and has presented a scenario indicating how the adjacent site can be reasonably developed should the subject proposal proceed. The Panel is satisfied this development scenario does demonstrate the site is capable of renewal in isolation.</p> <p>The proposal includes a relatively minor exceedance of the height control in order to facilitate communal rooftop access.</p> <p>The scale of the podium relates to the height of existing adjacent development. The tower element has been vertically modelled and the formal proposition is supported by the Panel</p>	<p>The applicant substantially revised the layout at the ground plane to address pedestrian priority and provided further deep soil areas. Additional information was submitted to address potential site isolation, which is discussed below.</p>

Design Principles	Urban Design Review Panel Comments on 22 July 2021	Resolution of Panel comments
	<p>subject to the recommendations made within this report.</p> <p>The proposal presents a secondary frontage to Mahogany Avenue. The Panel encourages this frontage to be treated as a positive site address configured with ground level apartments with front gardens and pedestrian links. The most recent amended plans go some way towards achieving this ground level address, but this could be further enhanced as discussed below.</p> <p>Similarly, an earlier proposal for a vehicular 'porte cochere' has been modified, but as the practical constraints of basement entry and waste collection come to bear on the site, the Panel suggests the overall strategy for building address and lobby entry may need to be reconfigured to optimise the needs of both pedestrians and vehicles.</p> <p>The Panel is concerned that the current configuration does not adequately prioritise pedestrians and the anticipated landscape undercroft arrival sequence may ultimately be compromised by the service vehicle turn table warranting an alternative design strategy and solution.</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 Panel supports the articulation of the proposal into a podium base and articulated tower form.</p> <p>To further improve the relative adjacencies with larger scale neighbouring developments, the Panel had cautiously invited the applicant to investigate adjustment of the proposed tower form to increase separation to the western neighbour by reducing the proposed southern setback where the site is not bounded by any neighbouring development. This adjustment is evident in the current amended proposal, and is supported in principle, partly on the basis it does not increase the proposed yield and does not compromise the viability of tree retention along the southern boundary.</p> <p>The Panel identified some instances where the physical separation between the south-facing podium and the immediate southern neighbour does not yet meet the targets established in the ADG. These separations should be increased. Wherever possible, the south-facing podium townhouses should be oriented to address Ivanhoe Estate, with improved landscape design to provide a clearly configured, direct internal pedestrian street level address for ground floor townhouses.</p> <p>The proposal continues to breach the height limit to a minor extent. The Panel supports this minor breach in building height for the purposes</p>	<p>The applicant addressed these matters by improving building separation.</p> <p>This has been discussed in further detail later in the report.</p>

Design Principles	Urban Design Review Panel Comments on 22 July 2021	Resolution of Panel comments
	of providing access to communal open space, but this needs to be combined with the retention of the proposed architectural roof feature that terminates the top of the building.	
Density Good design achieves a high level of amenity, resulting in a density appropriate to the site and its context. Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment.	The site has a permissible floor space ratio (FSR) of 4:1. The proposal seeks the achievement of the maximum FSR. The Panel's recommendations in this report aim to better integrate the proposed floorspace within the site and on this basis, the proposed density is the maximum the site can carry.	Noted. The proposal satisfies the maximum permitted FSR.
Sustainability Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs. Other elements include recycling and re-use of materials and waste, use of sustainable materials and deep soil zones for groundwater recharge and vegetation.	Sustainability was not specifically discussed but the Panel encourages a development of this scale to set sustainability targets beyond minimum BASIX compliance. Detailed technical information has been provided to demonstrate how cross ventilation is achieved within the two level townhouses and the general achievement of cross ventilation was discussed during the meeting. The Panel supports the general approach to achieving cross ventilation, noting the need to 'design out' a number of amenity issues associated with 'snorkel' bedrooms in some apartments.	The applicant addressed these matters by removing the use of 'snorkel' bedrooms and improving opportunities for ventilation. With regard to sustainability, the applicant met the threshold for Thermal Comfort ('pass'), and exceeded the minimum target for water (target: 40 and score: 42) and energy (target: 25 and score: 27).
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	As noted, the Panel is concerned the ground level communal space associated with the primary lobby needs to be re-thought as a result of the increasing constraints resulting from the accommodation of waste vehicles on a turntable. These constraints are serving to disconnect the lobby from its primary street address. The Panel had previously recommended altering its relationship to the southern boundary to reduce the extent of retaining walls close to the boundary and to terrace the	The applicant addressed these matters by relocating the waste loading area and kiosk substation, revising the extent of retaining structures, improving the

Design Principles	Urban Design Review Panel Comments on 22 July 2021	Resolution of Panel comments
<p>of the streetscape and neighbourhood.</p> <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>landscape levels from lobby to existing boundary level as garden beds.</p> <p>This was to preserve a greater extent of soil volume close to the boundary and support retention of the existing boundary trees. This remains a key objection.</p> <p>However, the Panel would consider an alternative lobby configuration that improves street address, potentially eliminating the provision of communal open space in an undercroft configuration.</p> <p>The roof top communal space is supported by the Panel and has the potential to achieve a high quality outcome.</p> <p>A detailed arborist report has been prepared to assess the health and significance of the trees around and within the site, and all major trees should be retained. Structural root zones have been mapped and basements set out to support tree retention.</p> <p>The Panel encourages all attempts to increase tree retention on the site - particularly the mature trees contributing to the character of Lachlan Avenue. The kiosk substation is sited in a highly prominent location and further constrains the residential address and presentation.</p>	<p>provision of deep soil planting areas, redesigning the lobby, and demonstrating that trees on adjoining sites can be retained and protected.</p>
<p>Amenity</p> <p>Good design positively influences internal and external amenity for workers and pedestrians. Achieving good amenity contributes to positive environments and well-being.</p>	<p>Further care is needed to ensure adequate visual privacy is achieved where adjacent elements of the tower are in close proximity.</p> <p>Snorkel bedrooms should be improved or eliminated (M01/M02/UG02/UG03), and the tapering balconies at 405-805 should be increased sufficiently to allow the arrangement of outdoor furniture adjacent to the primary living space. Otherwise, the general planning of apartments is supported.</p> <p>As noted previously, controlled street level entries should be provided to all ground level townhouses, particularly along the southern boundary.</p> <p>No detailed information has yet been provided on the plans indicating the volumetric provision of storage.</p>	<p>The applicant addressed these matters by improving privacy, removing 'snorkel' bedrooms, and revising the pedestrian entry to the street.</p> <p>The proposal demonstrates adequate storage within apartments and basement.</p>
<p>Safety</p> <p>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</p>	<p>The primary lobby arrangement requires some amendment in order to balance pedestrian address, amenity and safety.</p> <p>The secondary site address to Ivanhoe Estate needs further extension to serve ground level townhouses.</p>	<p>The applicant addressed these matters by improving pedestrian access from the street and reinforcing pedestrian access to</p>

Design Principles	Urban Design Review Panel Comments on 22 July 2021	Resolution of Panel comments
<p>passive surveillance of public and communal areas pro-mote safety.</p> <p>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.</p>		<p>Mahogany Avenue (which will be made available when this road is dedicated to Council as part of the Ivanhoe Estate).</p> <p>The road will be under private ownership until the completion of the Ivanhoe Estate.</p> <p>Therefore, Condition 1 is recommended to limit the extent of the pedestrian pathway to within the site.</p>
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>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.</p>	<p>Acceptable.</p>	<p>Noted.</p>
<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to</p>	<p>The Panel supports the general approach to architectural expression but seeks the applicant's further elaboration on finishes and materials selection, noting the sections on DA2300 Plan do not yet go far enough to fully describe the anticipated design intent.</p> <p>The Panel encourages the inclusion of full 1:50 sections detailing each primary facade type to establish the design intent for wall and balcony types.</p>	<p>The applicant addressed these matters by providing further details on the architectural design, finishes and materials. Refer to further discussion below which ensures these matters are</p>

Design Principles	Urban Design Review Panel Comments on 22 July 2021	Resolution of Panel comments
the existing or future local context, particularly desirable elements and repetitions of the streetscape.	The Panel does not support large extents of painted render due to the long term maintenance burden and poor weathering. The applicant should commit to a material palette of self finishing or natural materials to create a more interesting building and lower life cycle and maintenance costs.	implemented in the construction of the development.

In response to amended plans submitted by the applicant, the UDRP undertook a desktop review on 13 June 2022 and 13 September 2022. The table below summarises the issues raised, and how each item has been resolved.

UDRP comments on 13 June 2022	UDRP comments on 13 September 2022	Council comment
The amended proposal has reconfigured the ground level basement entry and residential lobby arrangement. On balance, the amendments are positive, bringing the residential address closer to the primary street address and coinciding with the formal landscape presentation. The basement and service access has been relocated to the rear of the site and to the east boundary, making it more discreet than in previous iterations. Further refinement of this new arrangement is required:	These further amended plans address the previously raised points. These amendments are all positive but, in some cases, still fall a little short of meeting the Panel's feedback. The scheme is supportable but risk the diminution of design quality through further substitution and simplification of the construction systems and methodology. Conditions are recommended to ensure that the design intent is more completely defined, as discussed below.	The final proposal is supported, subject to the imposition of Conditions as discussed below.
i. Any visual impacts associated with the pad-mounted kiosk substation which risks being visually prominent at the termination of the driveway.	The final location and design treatment of the kiosk substation (palisade fencing 2m in height) is considered acceptable. The location is relatively discreet and set back from the street. Conditions of consent could be considered to ensure consistency of the fence with the 'timber look balustrade' used elsewhere across the podium.	Condition 1 is imposed requiring the design and treatment to the kiosk substation fencing to match the 'timber look balustrade' used on the podium.
ii. The extent of unsecured undercroft associated with the visitor parking, waste management vehicle turning and collection area.	CCTV security cameras are a welcome addition, but do not address the underlying concern for the sense of safety and security evident in the dog-leg driveway and undercroft arrangement. The	The addition of a further sliding gate is not supported, as this obstructs access to the fire hydrant booster and services, and substation located at the rear of the site.

This area is not secure and open to the street, offering concealment opportunities, which should be designed out.	Panel still advocates for a design solution to constrain opportunistic access. A possible solution might be a sliding gate with a similar expression to the 'timber look balustrade' used elsewhere across the podium, located within a direct line of sight from the site boundary and potentially in the vicinity of the kiosk substation.	The transition from the public domain into the site clearly distinguishes the spaces of the public and private domain, and access to the site is managed by the secure access gate to the garage. Condition 1 is also recommended requiring suitable sensor lighting for this area.
iii. Replacement tree planting to compensate for tree loss against the eastern boundary.	No comment.	The planting of new trees and landscaping which is in keeping with the desired future character of the locality to foster a green environment.
iv. The scale and design treatment - including landscape design - of retaining walls which present to the driveway and undercroft spaces.	The limited use of painted render associated with external retaining walls is acceptable.	The appearance of the external retaining walls is supported.
v. The extent to which this undercroft is revealed to the southern boundary as an open slot should be reconsidered with the 4 townhouses in this area being 'grounded.'	The more formal pedestrian path serving each of the ground level apartments along the southern boundary is supported. However, it is noted that the open slot to the undercroft below remains in the scheme and works against any notion that the last 4 town houses are 'grounded.' They remain suspended above the site.	The pedestrian path to the courtyard entrance of the 4 townhouses to the southern boundary are supported.
vi. The secondary residential address to Ivanhoe Place has developed positively, with a clear pedestrian address to the southwestern corner of the site leading to an upper ground level lobby. However, the sense of street address and frontage provided to the south-facing units in this location could be amplified with a more formalised pathway system. The stepping stones and offset stair serving the last 4 units to the east feel too disconnected. The character of this area should be more like a residential/pedestrian laneway and 'grounded' as noted above.		
vii. Further information regarding the proposed material palette and façade details has been	A fully pre-cast design solution colour-differentiated between podium and tower is supported. The use of an	Condition 1 imposed requiring these design and treatment matters to be incorporated.

provided but does not go as far as the Panel had suggested. ('The Panel encourages the inclusion of full 1:50 sections detailing each primary facade type to establish the design intent for wall and balcony types.')	integral mineral concrete stain on pre-cast concrete is supported. The 1:50 details are generally supported and demonstrate the majority of the design intent, although they are silent on the following components:	
viii. The tower is proposed to be clad in a white porcelain panel, which is supported subject to the provision of physical samples and further elaboration on the approach to detailing and the scale or format of the panels. Particularly critical will be junctions between façade / balcony / windows, and to ensure that elements such as balcony drainage, down pipes and air conditioning condenser units are all properly integrated.	<ul style="list-style-type: none"> - Downpipe locations (which should be integrated into walls and not left exposed.) - The location/treatment of air conditioning condenser units (which are not nominated on the plans and should not be located unscreened/unattenuated on balconies.) - The podium pre-cast panels appear to rely on a typical 150mm panel thickness, while the renders and podium plans show the eastern and western ends of the podium with a deeper panel profile (perhaps 300mm) necessary to achieve the splayed window reveals evident on the east and west podium elevations. - The 1:50 details do not yet incorporate the proposed 'timber look balustrade.' 	
ix. The podium is proposed to be a sandstone-coloured cement render with timber look balustrading. It is not clear is the proposed colour is integral or paint applied.		
x. The scale of the podium is significant, comprising the lower 3-4 stories and the majority of the site frontage. The Panel typically discourages the over-reliance of rendered painted surfaces and encourages the use of integral, self-finishing materials. I think this is warranted in this case given the podium is intended to be the more characterful, textured and domestic component of the proposal (in contrast to the even, white tower above).		
The final form and scale of the tower, and its relationship to neighbouring sites, including building separations, is supportable,	The Panel's concern here is that the architect's design intent be clearly described and form part of any DA consent.	The final proposal is supported, subject to the imposition of Conditions identified above to ensure

on the basis that other aspects of the desktop review are accommodated.		that the architect's design intent is properly carried out.
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The Design Quality Principles are also considered in detail at **Attachment 3**. From an urban design perspective, the amended proposal is considered satisfactory and is supported, subject to the imposition of conditions as discussed above.

The tables below contain Council's assessment where the numerical guidelines of the Apartment Design Guide are not fully complied with.

ADG Requirement		Proposal	Compliance
The application has been assessed against the relevant provisions of the ADG and the table below only identifies where compliance is not fully achieved. It is compliant with all other matters under the ADG.			
2F Building Separation	<p>Up to 4 storeys/12 m: 12 m between habitable rooms/balconies 9 m between habitable rooms/balconies and non-habitable rooms 6 m between non-habitable rooms</p> <p>5 to 8 storeys/up to 25 m: 18 m between habitable rooms/balconies 13 m between habitable rooms/balconies and non-habitable rooms 9 m between non-habitable rooms</p> <p>Nine storeys and above/over 25 m: 24 m between habitable rooms/balconies 18 m between habitable rooms/balconies and non-habitable rooms 12 m between non-habitable rooms</p>	Variations sought as discussed below this table.	The siting and design of the proposed apartment building does not strictly follow the tiered approach of building separation. However, the proposal takes into account the context of the site as well as the existing and future desired character of adjoining sites to provide a building with interesting shapes and proportions which is considered to achieve suitable building separation and privacy to its occupants and surrounding residents and is supported.
3F Visual privacy	Building Separation: refer to 2F above.	No, variations sought.	Also refer to justification below this table for building separation.

ADG Requirement		Proposal	Compliance
Designing the building			
4A Solar and daylight access	<p>Living rooms and private open space receive minimum 2 hours direct sunlight between 9 am to 3 pm in mid-winter > 70% of units.</p> <p>(Minimum 1m² of direct sunlight measures at 1m above floor level is achieved for at least 15 minutes).</p>	<p>The applicant states that 87/123 (70.7%) of apartments receive at least 2 hours of direct sunlight to their living room and private open space area.</p> <p>However, this includes 2 apartments on the top level (Level 13) which receive sunlight via a skylight.) Therefore, only 85/123 (69.1%) of apartments receive direct sunlight to their living room and private open space.</p>	<p>No. However, the orientation of the site and building, as well as the layout of the apartments has been carefully considered to take advantage of solar access.</p> <p>The proposal demonstrates a suitable level of amenity to residents and is supported.</p>
	Maximum number with no sunlight access < 15%.	28 (23%) of apartments receive no sunlight.	<p>No. Refer to justification above. In addition, the proposed floorplan comprises a central corridor with apartments to each side. The floorplan layout orientates balconies and living areas in locations to capture sunlight, including providing corner apartments. However, due to the scale of the site, there is limited opportunity to provide cross-through apartments, which usually contribute to avoiding apartments which are solely south facing. The proposal is considered to optimise the number of apartments</p>

ADG Requirement		Proposal	Compliance
			receiving sunlight and is supported.
4B Naturally ventilation	All habitable rooms naturally ventilated. Number of naturally cross ventilated units in the first 9 storeys > 60%.	All habitable rooms are ventilated. 64.4% of apartments are cross ventilated (47/73 in the first 9 storeys, being the Mezzanine Level to Level 7 inclusive).	Yes. However, 19 double storey apartments rely on cross ventilation between the levels (i.e. they are not dual aspect/cross-through apartments). Also refer to further discussion below this table. Satisfactory.
4F Common circulation and spaces	Buildings over 10 storeys - maximum of 40 units sharing a single lift.	123 apartments share 2 lifts. This is a ratio of 1 lift to 61 units.	No. Despite this shortfall, the provision of 2 lifts is considered sufficient to properly service the movement of occupants throughout the building.

The minimum requirements for building separation are not met

The Statement of Environmental Effects submitted with the DA states that '*the scheme complies largely with the setback controls and building separation controls with the exception of some breaches at higher levels and some over compliance at lower levels which respond to the immediate context. The separation to the western neighbour is increased, and the southern setback where the site is not neighbouring development is reduced.*' The applicant also argues that '*setbacks to neighbouring properties provide adequate building separation whilst minimising the scale of the tower component.*'

As detailed above, the Urban Design Review Panel considered the proposal as lodged regarding the siting of the building and its separation to neighbouring buildings. The Panel directed the applicant to investigate revising building separation by increasing separation to the western neighbour (No. 155), reducing separation to the southern boundary where parts of the building are clear of neighbouring buildings, and increasing separation to the southern boundary where parts of the building are in the vicinity of buildings in Ivanhoe Estate.

The applicant submitted amended plans which improve the building separation. The following table provides an assessment of the proposal (as amended) against the minimum requirements of Part 2F Building Separation of the Apartment Design Guide (ADG):

ADG Minimum required separation distances	Proposed separation distance				Compliance
	West to 155 Herring Rd	North to 7 Lachlan Ave	East to 1 Peach Tree Rd	South to Ivanhoe Estate	
9 storeys & above: 12m	9m - 10.5m	6.5m - 11m	11.5m - 18m	4m - 12m	No
5 to 8 storeys: 9m	8.5m - 11.5m	6.5m - 11m	8m - 17.5m	4m - 8.8m	No
Up to 4 storeys: 6m	6m	6m	6m	3.88m - 6m	No

Notes: The distances are between habitable rooms/balconies and the boundary.
Separation distances that comply are shown in black.
Separation distances that do not comply are shown in red.

An extract from the Site Analysis Plan is provided at **Figure 10** below which shows the relationship between the habitable rooms/balconies at each level relative to the existing/approved adjoining residential properties.

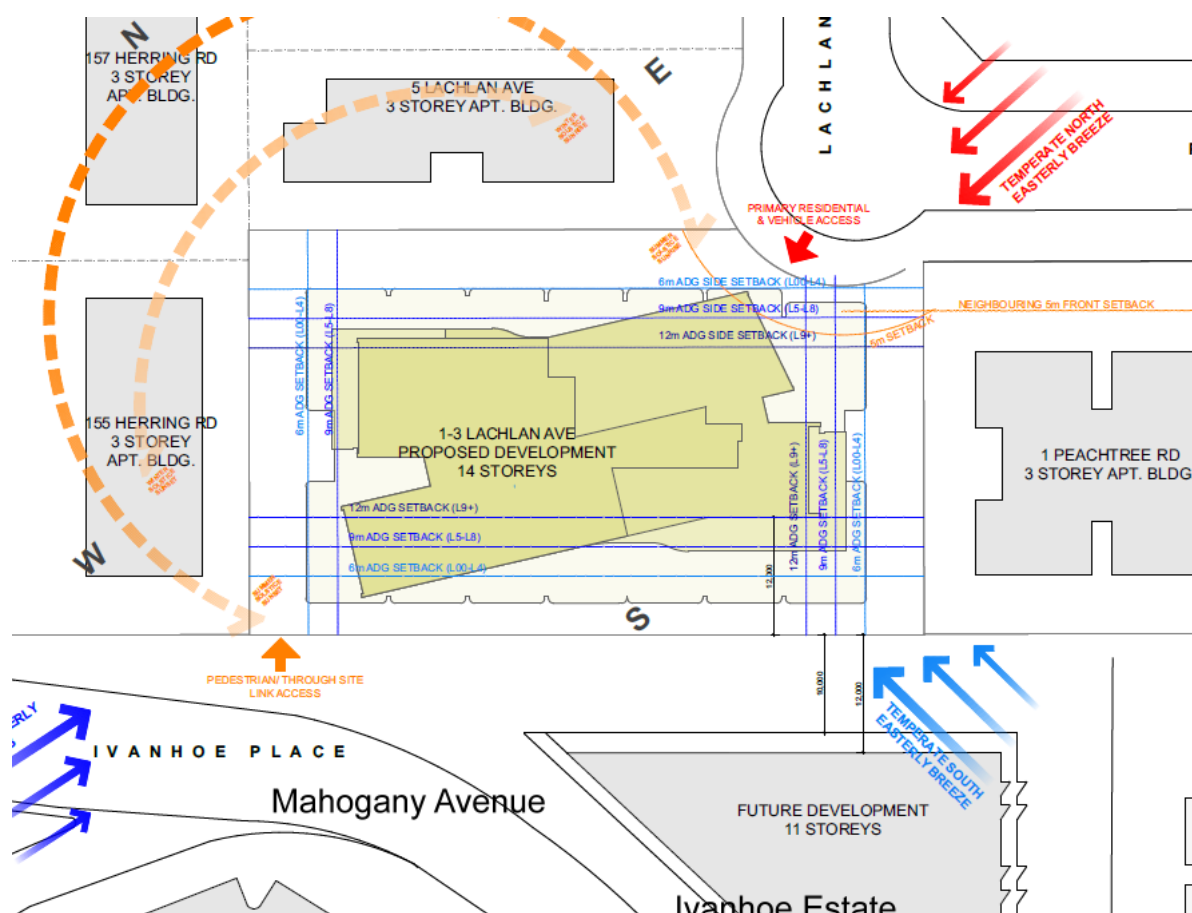


Figure 10: Extract from the Site Analysis Plan showing the shared obligations for building separation which apply to this development. The 6m, 9m & 12m building separation distances are depicted by the blue lines.

Consideration of building separation to the western boundary to No. 155 Herring Road: Variations occur on the mid and upper levels to the western boundary. The

northern wing assists with mitigating potential privacy impacts by setting the living rooms further back behind an inset balcony. The southern wing orientates the windows and balconies to the south-west to direct views away from the adjoining site. These encroachments are considered to be minor and are supported as the proposal provides a suitable level of amenity for building occupants and a desirable building form.

Consideration of building separation to the northern boundary to No. 5 Lachlan Avenue: Variations occur in the vicinity of the front setback which is due to the articulation provided in the tower. The floorplan layout in this location consists of bedroom and bathroom windows and does not risk undue overlooking or privacy impacts to the adjoining property.

Consideration of building separation to the eastern boundary to No. 1 Peach Tree Road: To the east, the tower has been split into two articulated wings. One wing to the street complies with the required setback and the other wing results in minor variations. The encroachment does not result in further overshadowing and will not be readily noticeable from the street or adjoining property.

Consideration of building separation to the southern boundary to Ivanhoe Estate: Variations occur to the southern boundary in the vicinity of Mahogany Avenue. This is acceptable as the siting of this tower wing is a suitable distance from the approved building envelope of Ivanhoe Estate. This is also consistent with the design direction provided by the Urban Design Review Panel.

The siting and design of the proposed apartment building does not strictly follow the tiered approach of building separation. However, the proposal takes into account the context of the site as well as the existing and future desired character of adjoining sites to provide a building with interesting shapes and proportions which is considered to achieve suitable building separation and privacy to its occupants and surrounding residents and is supported.

An Alternate Approach to Natural Ventilation is proposed:

The DA is accompanied by a Natural Ventilation Assessment Report prepared by Vipac and considers the intent of Part 4B Natural Ventilation of the Apartment Design Guide for selected typical double-storey dwellings which are not on the corner and do not satisfy the ADG's deemed-to-satisfy requirements as a cross-through or cross-over ventilation type.

This relates to 19 double storey apartments which rely on cross ventilation between the levels (i.e. they are not dual aspect/cross-through apartments).

Including double storey apartments within an apartment building is not a feature commonly seen in this Precinct. However, the provision of 19 (15%) of apartments in this form is supported as it contributes to the variety of housing types available.

The Natural Ventilation report analysis the minimum natural ventilation levels quantified under the *Alternative natural ventilation of apartments in noisy environments - performance pathway guideline – City of Sydney Council - 17 September 2018*. (It is noted that a similar policy/design approach is not set out in

the Apartment Design Guide or a City of Ryde policy). With the windows fully opened, this Guideline requires *Alternative natural ventilation* to meet the following:

1. Selected apartments have been evaluated to demonstrate the following performance requirements are achieved for 90% of all hours of the year:
 - If the apartment area is less than the threshold area: 10 litres/second/person for each apartment, where the number of people equals the number of bedrooms plus 1, or
 - If the apartment area is more than or equal to the threshold area: 0.3 litres/second/m² for each apartment.
2. Each habitable room must also be provided with effective natural ventilation at a rate of 10 litres/second for 90% of all hours in the year.

The results of the simulated study of this proposed development are as follows:

Requirement 1: The results demonstrate that the assessed apartments meet the minimum performance requirements for greater than 90% of all the hours of the year. As such, **the requirement 1 has been met** and adequate natural ventilation is achieved via the alternative ventilation proposal.

Apartment No.	Apartment Area (m ²)	Number Of Bedrooms	Verification Method	Required Volume Flow Rate (l/s)	% Of Year Achieved
UG07	124	3	Simulation	40	100 %
UG10	101	2	Simulation	30	100 %
102	101	2	Simulation	30	100 %

Table 1. Requirement 1 – Overall Performance of the assessed apartments.

Requirement 2: The results demonstrate that most of the habitable rooms are provided with effective natural ventilation at a rate of 10 litres/second for 90% of all hours in the year. All the assessed habitable rooms comply with the performance Requirement 1.

Habitable Room No.	Required Volume Flow Rate (l/s)	% Of Year Required	% Of Year Achieved
UG07-Living	10	90%	98.3 %
UG07-MASTER	10	90%	94.3 %
UG07-BED1	10	90%	95.0 %
UG07-BED2	10	90%	90.1 %
UG10-Living	10	90%	98.5 %
UG10-MASTER	10	90%	95.5 %
UG10-BED	10	90%	94.6 %
UG10-STUDY	10	90%	90.3 %
102-Living	10	90%	99.1 %
102-MASTER	10	90%	96.0 %
102-BED	10	90%	94.1 %
102-STUDY	10	90%	90.8 %

Table 2. Requirement 2 – Performance of the individual habitable rooms.

This analysis takes into the account the position of the dual level apartments, orientation to wind effects, and dimensions of openings, etc. Overall, the apartments receive sufficient flow of ventilation for 90% of all hours of the year. The level of natural / simulated ventilation is supported.

5.7 Ryde Local Environmental Plan (LEP) 2014

This section provides a detailed assessment of Ryde LEP 2014 and its relevant development standards.

Zoning and Permissibility of Ryde LEP 2014

The site is zoned B4 Mixed Use as shown in **Figure 11** below.

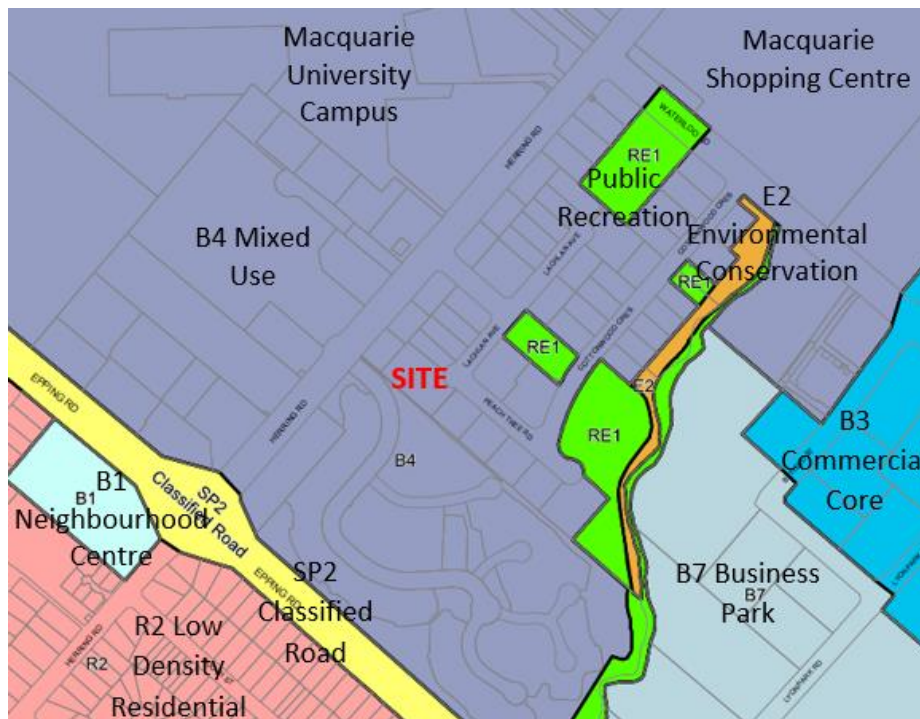


Figure 11: Extract from Ryde Maps indicating the zoning of the site and surrounds.

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 land uses.	The proposed residential apartments are compatible with the surrounding residential, commercial 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 residential apartments which are serviced by existing public transport (bus and metro). The proposal provides storage for bicycles and suitable links to nearby retail, commercial and educational establishments which encourage walking and cycling.
c. To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.	Despite not offering any businesses or activities the proposal offers residential apartments which are compatible with the employment and education activities in the immediate vicinity.
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.
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The B4 Mixed Use zoning of the site includes the following proposed land use which is permissible with consent:

Residential flat building means ‘a building containing 3 or more dwellings but does not include an attached dwelling or multi dwelling housing.’

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 291**).

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 Ryde LEP 2014

Clause 4.1 Minimum subdivision lot size: The size of any lot resulting from a subdivision of land is not to be less than 1,800m². As shown in **Figure 12** below. The proposal satisfies this requirement as the lot size of 2,751m² is existing, and further subdivision is not sought in this application.



Figure 12: Extract from Ryde Maps indicating the minimum lot size requirements for subdivision of the site and surrounds.

Clause 4.3 Height of buildings: The maximum height permitted on the site is 45m in accordance with clause 4.3 Height of buildings, as shown in **Figure 13** below. The maximum height of the proposed building is 47.83m. Due to the slope of the land, portions of the roofline of the Level 12 and 13 apartments, rooftop plant, equipment and services encroach above the height plane by up to 2.83m. The application is accompanied by a Clause 4.6 Request to vary this development standard, which is considered below.



Figure 13: Extract from Ryde Maps indicating the maximum permitted height of buildings of the site and surrounds.

Clause 4.4 Floor space ratio: The maximum floor space permitted on the site is 4:1 in accordance with clause 4.4 Floor Space Ratio, as shown in **Figure 14** below. Based on a site area of 2,751m², the maximum permitted gross floor area is 11,004m². The proposed complies with the maximum permitted floor space ratio.

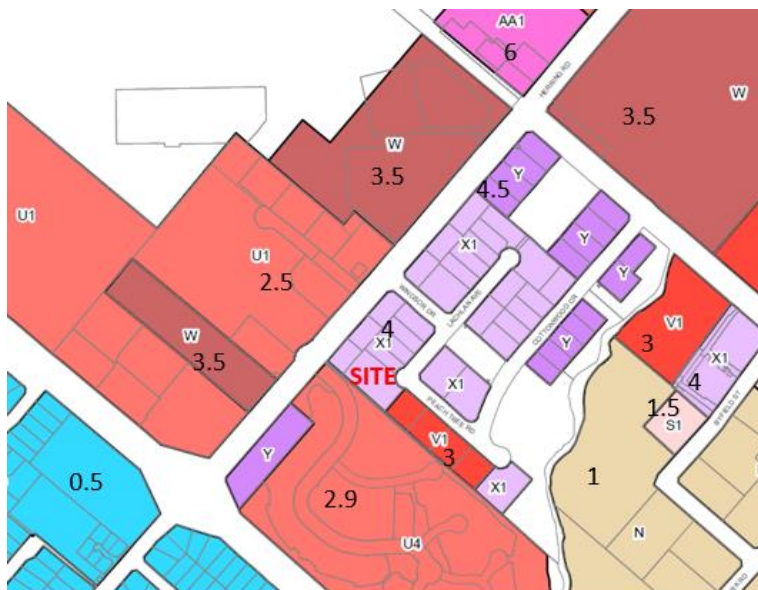


Figure 14: Extract from Ryde Maps indicating the maximum permitted floor space ratio of the site and surrounds.

Miscellaneous Provisions of Ryde LEP 2014

Clause 5.10 Heritage Conservation: The site is not identified as a heritage item nor heritage conversation area.

Schedule 5 Environmental Heritage of the Ryde LEP 2014 identifies that:

- Item 10 is of local heritage significance, being ruins within the Macquarie University site.

- Item 345 is of local heritage significance, being “Macquarie Ice Rink” - Olympic-sized rink and its setting within retail premises, including rink seating and associated rink facilities.

Due to the distance between the site and these items as shown in **Figure 15** below, the proposal is not considered to affect the heritage significance of the above heritage items.

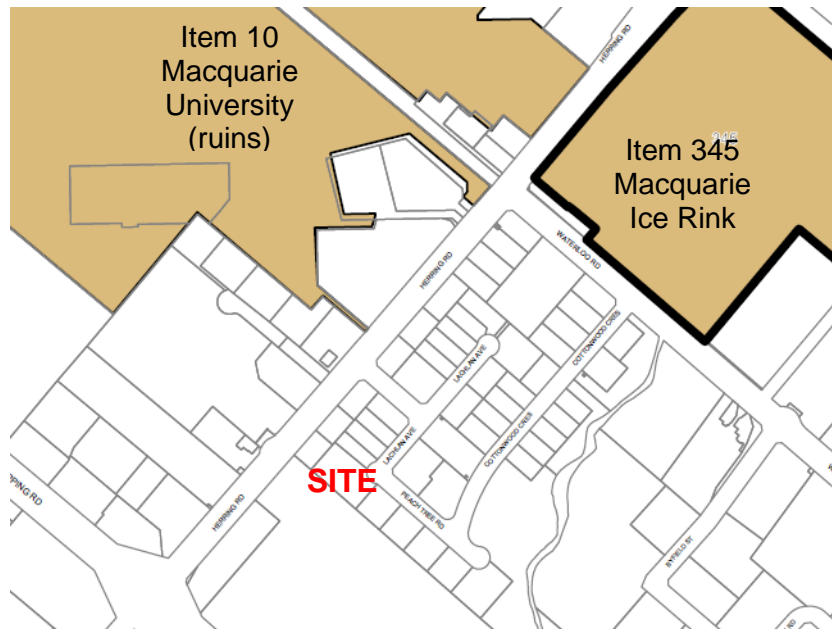


Figure 15: Extract from Ryde Maps indicating the location of heritage items in the vicinity of the site.

Clause 5.21 Flood planning:

Council’s mapping identifies the subject site and neighbouring properties are at risk of flooding as shown in **Figure 16** below.

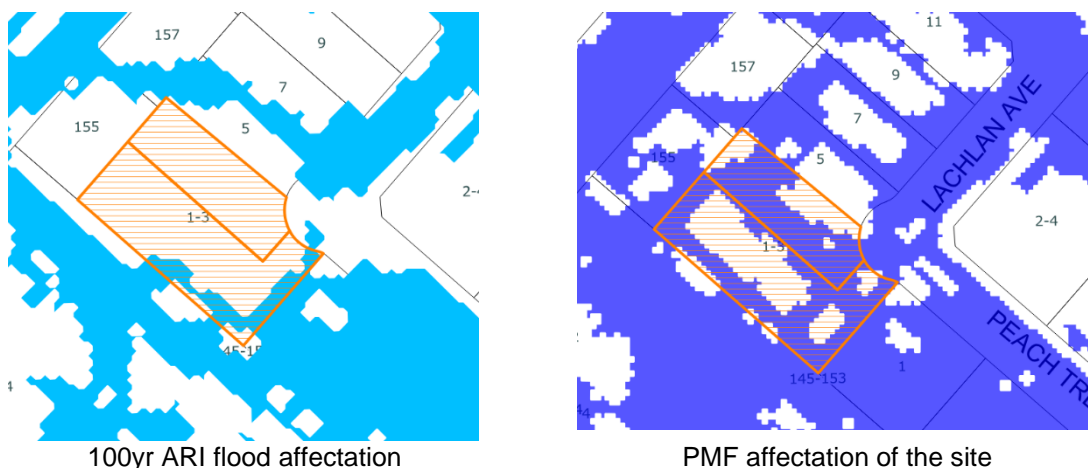


Figure 16: Extract of Council’s Flood affectation maps.

The applicant submitted amended plans demonstrates that the level of the driveway crest and other openings to the basement suitably demonstrate flood immunity. This has been considered by Council’s Stormwater Engineer and no objection is raised.

Council is satisfied that the application demonstrates that the development is compatible with the flood function and behaviour on the land, will not adversely affect flood behaviour in a way that results in detrimental increases in the potential flood affectation of other development or properties and will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood. The proposal also incorporates appropriate measures to manage risk to life in the event of a flood and will not adversely affect the environment.

Additional Local Provisions of Ryde LEP 2014

Clause 6.2 Earthworks: 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 taking into consideration flooding affectation. The proposal satisfies this clause given the potential impacts of the earthworks are able to be managed by **Condition 78**.

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. Council's Senior Development Engineer supports the proposal.

Clause 4.6 Request to Vary a Development Standard

The maximum permitted building height for the site is 45m under Ryde LEP 2014. The proposal has a maximum building height of 47.83m which exceeds the maximum building height control by 2.83 metres or 6% as shown in **Figure 17** below.



Figure 17: Extract from the Applicant's Clause 4.6 Request showing the portions of the development which are above the height of the building line (overlaid in red).

Clause 4.6 of the Ryde LEP 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.

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 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.

The Land and Environment Court judgment in *Initial Action Pty Ltd v Woollahra Council [2018] NSWLEC 2018*, assists in considering the sufficient environmental planning grounds. Preston J observed:

“...in order for there to be 'sufficient' environmental planning grounds to justify a written request under clause 4.6, the focus must be on the aspect or element of the development that contravenes the development standard and the environmental planning grounds advanced in the written request must justify contravening the development standard, not simply promote the benefits of carrying out the development as a whole; and

...there is no basis in Clause 4.6 to establish a test that the non-compliant development should have a neutral or beneficial effect relative to a compliant development”

This application is accompanied by a written Clause 4.6 justification seeking an exception from the height of buildings development standard, prepared by Natalie Yasmine from Urbis and provided at **Attachment 2**.

The applicant has advised that the written request has been set out in accordance with the relevant principles set out by the court.

As required by Clause 4.6(3), the consent authority shall consider this written request from the applicant which is to demonstrate:

- (a) That compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
- (b) That there are sufficient environmental planning grounds to justify contravening the development standard.

Unreasonably or unnecessary:

The applicant's reason for why compliance with the standard is unreasonable or unnecessary is outlined in the following relevant excerpt:

- *Full compliance with Clause 4.3 would restrict residents from utilising the rooftop communal open space or benefit from the views and solar amenity associated with the building's orientation. The proposed exceedance will have nil impact on the local community as the protrusions do not result in any additional shadow impact and are not visible from the public domain.*

The applicant also demonstrates that strict compliance is unreasonable or unnecessary by complying with the objectives of the height of buildings development standard as follows:

Ryde Local Environmental Plan 2014	
Objectives of the development standard: cl 4.3 Height of Buildings	Applicant's justification for how the proposal achieves the objectives
a. To ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.	This objective is not relevant to the current character of building in this locality but is most relevant to the intended future character which is encouraged through the current height and floor space ratio provisions applicable to this part of Macquarie Park.

	<p>The existing residential flat building typologies on sites immediately adjoining the site are designs that responded to the previous planning framework, with a 3 storey presentation to the street. These are not representative of the development character envisaged by the current planning controls – being tall residential towers and mixed-use developments. Nonetheless, the proposed design responds to the existing form with a 4-storey podium the sits comfortably in the existing landscape.</p> <p>The proportioning of the entire building façade fronting Lachlan Avenue is consistent with what is envisaged for this precinct which is undergoing transition. The height exceedance is limited to the following elements which will not be visible when viewed from Lachlan Avenue:</p> <ul style="list-style-type: none"> • Lift overrun; • Communal open space pergola structure; • Upper part of the wash closet; • Services such as stair pressurisation; • Building articulation elements such as the parapet walls; and • Some minor encroachment by the top corner of unit 1205 and 1305. <p>Overall, the street frontage presentation of the building is commensurate with the anticipated building height envisaged for this precinct by the current planning controls.</p> <p>The proposed building height achieves this objective.</p>
b. To minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area.	<p>The shadow diagrams contained within the Architectural Package demonstrate that the protrusions do not result in any additional shadow impact. The generally compliant building envelope shadow impacts are not expedited by the proposed variation.</p> <p>The proposal will significantly improve the appearance of the Macquarie Park area and is consistent with future character of the area, which is undergoing transition.</p> <p>The proposal achieves this objective.</p>
c. To encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure.	<p>As part of the DA process, multiple efforts to consolidate the site and adjoining site at No. 155 Herring Road was made. An offer was made at market value and was rejected by the landowners. The principles of site isolation and the approaches with the adjoining landowner are detailed in the Statement of Environmental Effects submitted with this DA.</p> <p>The site is in close walking distance of the Macquarie University Metro Station and bus interchange.</p> <p>The proposal achieves this objective.</p>
d. To minimise the impact of development on the amenity of surrounding properties.	<p>The elements that project above the height plane do not impact the amenity of surrounding properties in any way. Shadowing cast by these elements falls within the shadows of the building below the height plane. The elements do not result in imposition of building bulk or cause privacy impacts to neighbours as the exceedances are internalised on the roof plane.</p>

	<p>The exceedances are not visible from the immediate public domain.</p> <p>The proposal achieves this objective.</p>
e. To emphasise road frontages along road corridors.	<p>The subject site does not front a major road corridor; however, its design has been articulated to create an attractive interface with Herring Road. The minor exceedance in height by the lift overrun, pergola, upper element of the wash closet, services, building articulation elements and minor encroachment by the top corner of unit 1205 and 1305 does not detract from the achievement of this objective.</p> <p>The proposal achieves this objective.</p>

Assessing Officer's comments:

In this particular circumstance, the site is capable of being redeveloped to accommodate a new residential flat building which steps down with the slope of the land with basement parking to suit the parking needs of 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 benefit from the use of the rooftop communal open space area.

The applicant has demonstrated in the above table that the development satisfies the objectives of the height control and therefore that compliance with the standard would be unreasonable and unnecessary.

Environmental Planning Grounds:

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

- *There are no material impacts arising from the elements projecting above the building height plane. These elements comprise lift overrun, the pergola structure in the communal open space, upper element of the wash closet, services, building articulation elements and some minor encroachment by the top corner of unit 1205 and 1305. No material overshadowing or other amenity impact to surrounding properties will arise from these elements.*
- *Those elements projecting above the height plane do not comprise habitable floor area and so do not contribute or intensify the proposed use. Further, these exceedances assist in ensuring a high quality and complete design for the building through architectural façade elements and the rooftop pergola and creation of appropriate access to the communal roof top open space. This is shown in the level 13 floor plan, where by the lift core is built into the internal corridor, offering a level of separation between the communal open space area as well as indirect wind amelioration onto the adjoining seating areas.*

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 proposed height offers a compatible form of development in this

context, and it reflects the intended revitalisation of the Herring Road Urban Activation Precinct. The roofline steps down with the slope of the land and the portion of the building which exceeds the building height does not generate non-compliances with the other 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. The previous table contains the applicant's justification for how the development achieves the objectives of the development standard. The table below contains Council's consideration of how the proposal is consistent with the objectives of this standard and zone objectives:

Ryde Local Environmental Plan 2014	
Objectives of the development standard: cl 4.3 Height of Buildings	How the proposal achieves the objective
f. To ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.	As viewed from Lachlan Avenue and Mahogany Avenue, the proposed development is considered to reflect the proportions of recently constructed towers, and to be in keeping with the future desired character of this locality.
g. To minimise overshadowing and to ensure that development is generally compatible with or improves the appearance of the area.	The siting of the proposed development is split along the east-west axis and enables some of the building which breaches the roofline to cast shadows on its own rooftop. The resulting overshadowing is reduced due to the building stepping down with the slope of the land. The proposed roofline offers an interesting and varied roof form which improves the appearance of this area in transition.
h. To encourage a consolidation pattern and sustainable integrated land use and transport development around key public transport infrastructure.	The site is in the vicinity of key public transport and travel connections and offers suitable connections to these services for residents and their guests.
i. To minimise the impact of development on the amenity of surrounding properties.	The proposal steps down with the slope of the land and is designed to minimise the extent of the rooftop features that encroach above the height plane. As a result, the rooftop area has minimal visibility and impact from the perspective of surrounding properties.
j. To emphasise road frontages along road corridors.	Not applicable.
Objectives of the B4 Mixed Use zone	How the proposal achieves the objective
a. To provide a mixture of compatible uses.	The proposed residential apartments are compatible with the surrounding residential, commercial 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 residential apartments which are serviced by existing public transport (bus and metro). The proposal provides storage for bicycles and suitable links to nearby retail, commercial and educational establishments which encourage walking and cycling.
c. To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.	Despite not offering any businesses or activities the proposal offers residential apartments which are compatible with the employment and education activities in the immediate vicinity.

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.
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The proposal is not contrary to the public interest because the development is consistent with the objectives of this particular development standard and 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 height of buildings development standard, this application offers an improved outcome as it delivers a usable rooftop area which features apartments and the rooftop communal open space and associated landscaping. 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 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).

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 standard.

5.8 Draft Environmental Planning Instruments

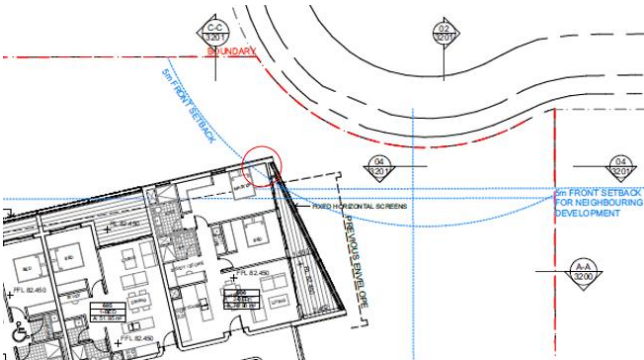
There are no draft instruments relevant to the site and proposed development.

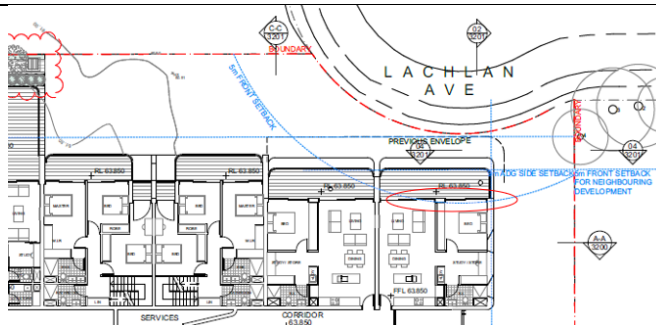
5.9 Ryde Development Control Plan (DCP) 2014

The proposal has been assessed against the following relevant sections of the Ryde DCP 2014:

- Part 4.5 – Macquarie Park Corridor;
- Part 7.1 – Energy Smart, Water Wise;
- Part 7.2 – Waste Minimisation and Management;
- Part 8.1 – Construction Activities;
- Part 8.2 – Stormwater and Floodplain Management;
- Part 8.3 – Driveways;
- Part 9.2 – Access for People with Disabilities;
- Part 9.3 – Parking Controls; and
- Part 9.5 – Tree Preservation.

The detailed assessment is provided at **Attachment 3** and demonstrates that the proposal complies with Ryde DCP 2014, with the exception of the following which are supported on merit.

Ryde DCP 2014 Control	Comment
Part 4.5: Macquarie Park Corridor	
4.4 Sustainable Transport	
<p><u>Parking Rates:</u> g. Parking is to be provided in accordance with DCP Part 9.3 Parking Controls.</p> <p><u>Car Share Parking</u> h. All parking spaces for car share schemes are to be:</p> <ol style="list-style-type: none"> Publicly accessible 24 hours a day 7 days per week. Located together in the most convenient locations. Located near and with access from a public road and integrated with the streetscape through appropriate landscaping where the space is external. Designated for use only by car share vehicles by signage. Parking spaces for car share schemes located on private land are to be retained as common property by the Owners Corporation of the site. <p><i>Car-share Parking: City of Ryde Council supports the provision of car share parking spaces both within private development and on-street in the Macquarie Park Corridor as part of a commitment to sustainability and reducing private vehicle use for the journey-to-work.</i></p>	<p>Required: 2 car share spaces. Provided: Nil.</p> <p>In its current form, the proposal fails to achieve the relevant objectives of this control: to minimise rates of private vehicle use; support car-sharing; and to manage private parking in the area.</p> <p>It is recommended that Conditions 1, 69 & 176 are imposed requiring the applicant to assign 2 of the spaces in the vicinity of the loading dock as car share spaces.</p>
7.4 Setbacks and Build-to Lines	
<p>5m minimum setbacks to all existing and new streets.</p>  <p>Encroachment on Levels 3-6 (circled in red).</p>	<p>Part of the podium encroaches into the 5m front building line setback to the cul-de-sac. The majority of the encroachment is balconies, which is permitted under clause 7.4(g) and shown in the image below.</p> <p>The encroachment is for minor parts of the building (excluding balconies). Given the site has a narrow street frontage to a cul-de-sac, the minor</p>

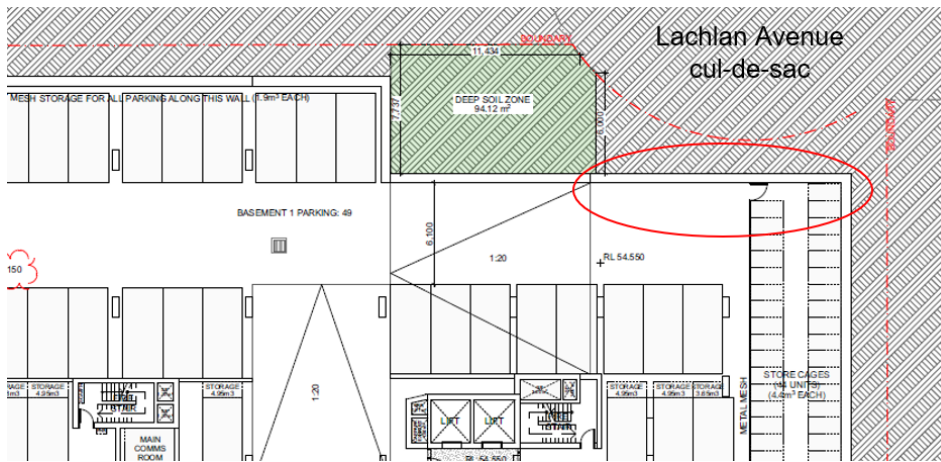


Encroachment on the Upper Ground Level up to Level 2 (circled in red).

shortfall will not be visually discernible.

The setback breach relates to corner elements of the apartments and contributes interest to the building presentation, which is supported.

Underground parking is not permitted to encroach into the front setback areas unless it can be demonstrated that the basement is designed to support significant mature trees and deep root planting.



The portion of the basement which encroaches into the 5m front setback to Lachlan Avenue is circled in red.

Part of the Basement Level (B1) encroaches into the 5m front setback to Lachlan Avenue as shown in the image below.

This encroachment is supported, as the basement layout provides a deep soil area within part of the setback area which is capable of accommodating mature tree plantings. Council's Landscaped Architect has reviewed the amended landscape plans and raises no objection to the proposed deep soil areas within the front setback. In this instance, non-compliance with the front setback control for the basement levels is acceptable on merit as the proposal satisfies the objectives of the setback controls.

No. However, encroachment supported on merit given suitable deep soil planting area is provided.

8.2 Site Coverage, Deep Soil Areas and Private Open Space

<p>A minimum 20% of a site must be provided as deep soil area.</p> <p>For the purpose of calculating deep soil areas, only areas with a minimum dimension of 20m x 10m may be included.</p>	<p>0% of the site area is provided as deep soil area according to definition in the DCP.</p> <p>The deep soil areas have a minimum depth of 2m within the front, side and rear setbacks which can accommodate suitable planting. However, these areas do not achieve the minimum dimensions of 20m x 10m and are not included in deep soil area calculations in accordance with the DCP controls.</p> <p>In accordance with deep soil provisions under the ADG, the site is required to provide deep soil areas no less than 7% of the site area with a minimum dimension of 6m. The proposal satisfies this requirement.</p> <p>The overall landscaping at the ground plane and balconies provides sufficient planting to complement the presentation of the building and assist with privacy screening.</p> <p>No. However satisfies the minimum dimensions and areas we required by the ADG and is acceptable on merit.</p>
8.7 Onsite Parking – Basement parking	
<p>Basement parking areas should be located directly under building footprints to maximise opportunities for deep soil areas unless the structure can be designed to support mature plants and deep root plants.</p>	<p>The Basement is outside of the building footprint in places. However, the minimum required providing of deep soil under the ADG is achieved and is capable of supporting new plants and trees.</p> <p>The proposal is considered satisfactory given the minimum required deep soil areas of the ADG are met.</p>
<p>Basement parking areas must not extend forward of the building line along a street.</p>	<p>The basement car park extends into the 5m building line to the street. As addressed above, sufficient deep soil landscaping can be provided within the front setback which will contribute positively to the landscaped character of the development and streetscape.</p> <p>The proposed variation is supported on merit.</p>
Part 9.3 Parking Controls: 2.2 Residential Land Uses	
<p>Car share spaces are required at the rate of 1 space per 50 car parking spaces.</p>	<p>Required: 2 Provided: Nil.</p> <p>Refer to the discussion above requiring 2 car share spaces to be provided.</p>
<p>Visitor spaces are required at the rate of maximum 1 space per 10 dwellings.</p>	<p>Required: 13 (maximum) Provided: 2.</p> <p>In its current form, the proposal fails to satisfy the relevant objectives of the DCP, being to provide adequate parking for visitors. The site is proposed to accommodate 123 apartments, and an</p>

allowance of parking for only 2 visitors arriving by car at any one time is considered to place undue pressure on street parking. **Conditions 1 and 201** are recommended to be imposed requiring 10 resident spaces to be converted to visitor spaces to accommodate the visitor parking demand generated by this use. On balance, the provision of 10 visitor spaces is sufficient as alternate modes of transport are available in the form of the 2 car share spaces and bicycle parking.

5.10 Development Contributions: City of Ryde Section 7.11 Development Contributions Plan 2020

Council's current Section 7.11 Development Contributions Plan 2020 (effective 1 July 2020) requires a monetary contribution where a DA results in a net increase in residents on the land. The purpose of this is to fund a range of urban improvement and economic infrastructure projects.

The proposal seeks to increase the number of dwellings from 30 to 123.

The contributions that are payable (being for residential development inside the Macquarie Park Area) are included in **Condition 37** and are as follows:

A – Contribution Type	B – Contribution Amount
Community Facilities	\$ 531,806.68
Open Space & Recreation	\$ 1,025,295.28
Transport & Traffic Facilities	\$ 72,676.40
Plan Preparation & Administration	\$ 24,466.40
The total contribution is	\$ 1,654,224.76

6. ANY PLANNING AGREEMENT

This application is not accompanied by a voluntary planning agreement.

7. ANY MATTERS PRESCRIBED BY 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. THE LIKELY IMPACTS OF THE DEVELOPMENT

The likely impacts of the proposed development have already been addressed in this report. The additional impacts associated with the development or those requiring further consideration are discussed below.

i. The proposal seeks to remove all existing trees

There are 22 existing trees on the site which are all sought to be removed to enable redevelopment. The location of the trees is shown in **Figure 18** below.

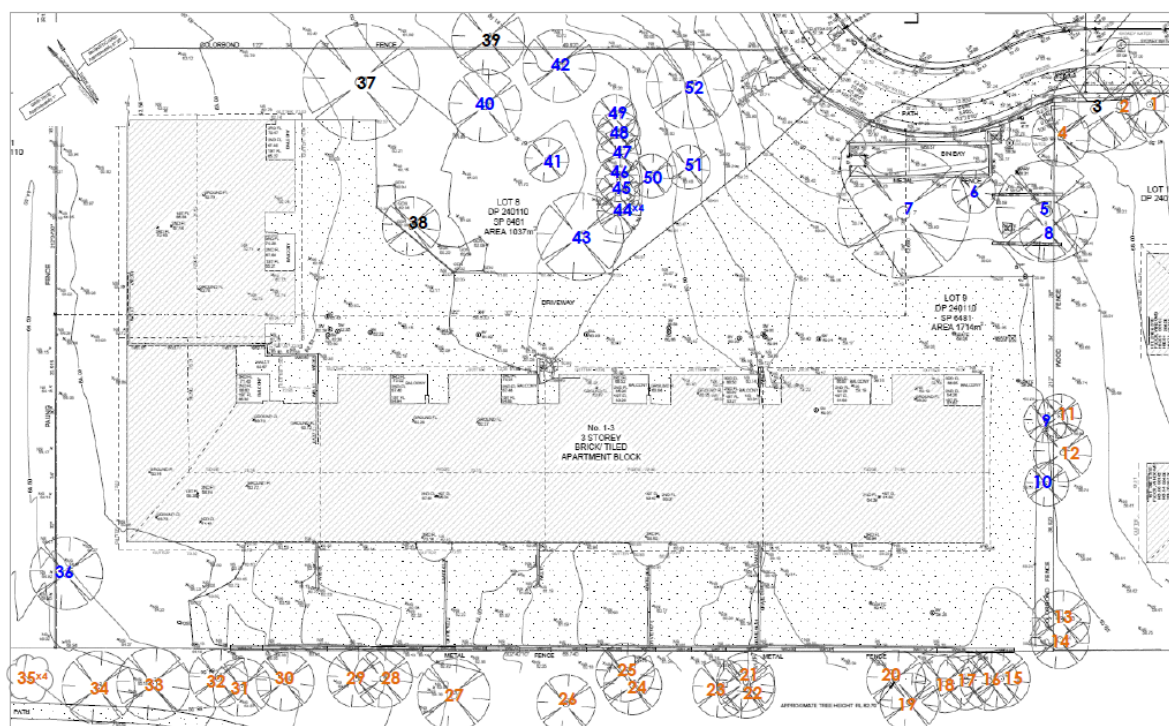


Figure 18: Extract from the Arboricultural Impact Assessment showing the existing trees on the site and providing the following recommendations:

- Trees numbered in **blue** are recommended for removal.
- Trees numbered in **black** were found to be hazardous and recommended for removal independent to the proposed development.
- Trees numbered in **orange** are recommended for retention (all located on neighbouring properties).

Of the 22 existing trees on the site, 16 are in fair condition, 4 are poor quality and 2 are exempt. As detailed in the Arboricultural Impact Assessment, a summary of the trees is provided in the following table:

Tree	Species	Quality	Significance Scale	Retention Value	Height
5	Monterey Cypress	Fair	Medium	Medium	14m
6	Water Gum	Fair	Medium	Low	6m
7	Lemon Scented Gum	Fair	Medium	Medium	18m
8	Juniper	Fair	Medium	Medium	15m
9	Crimson Bottlebrush	Poor	Low	Remove	7m
10	Crimson Bottlebrush	Poor	Low	Remove	6m
36	Mulberry	Exempt	-	-	-
37	Bracelet Honey Myrtle	Poor	Low	Remove	20m **
38	Ornamental Plum	Fair	Low	Remove	4m
40	Broad Leafed Paperbark	Fair	Medium	Medium	9m
41	Broad Leafed Paperbark	Fair	Medium	Low	8m
42	Jacaranda	Fair	Medium	Low	11m
43	Sweet Gum	Fair	Medium	Medium	13m

44	Photinia	Fair	Low	Low	5m
45	Photinia	Fair	Low	Low	5m
46	Photinia	Fair	Low	Low	5m
47	Photinia	Fair	Low	Low	5m
48	Photinia	Fair	Low	Low	5m
49	Photinia	Fair	Low	Low	5m
50	Small Leafed Lilly Pilly	Poor	Low	Remove	5m
51	Rubber Fig	Exempt	-	-	-
52	Sweet Viburnum	Fair	Medium	Low	6m

** Comment for Tree 37: Hazardous. Declining high volume epicormic, bracket fungi at wound at 4m.

Of the 22 trees: 2 are exempt, 5 are categorised as 'remove' in terms of retention value, 10 are of low retention value and 5 are of medium retention value.

This includes Tree 7 in the front setback area which is a Lemon Scented Gum *Corymbia citriodora* which has been assessed as a mature tree with a height of 18m, with Low Vigour, Fair Condition and medium estimated life expectancy. Tree 7 is in poor form with medium significance and medium retention value. There is no objection from Council's Landscape Architect for the removal of this tree.

25 new trees are proposed to be planted within the site, as well as shrubs and groundcovers. This includes 3 trees a mature height of 15m (Spotted Gums). The remaining 22 new trees are to be planted within the development site with mature heights of 6m to 8m.

Overall, the proposal provides a favourable balance between the built form, retention of existing trees on adjoining sites and the planting of new trees and landscaping which is in keeping with the desired future character of the locality to foster a green environment.

ii. Site Isolation

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*.

As lodged, it was Council's opinion that the applicant had not addressed this requirement regarding the adjoining property to the north-west, No. 155 Herring Road, Macquarie Park ('No. 155') (refer to the Massing Study provided at **Attachment 4**). In response, the applicant amended the proposal, including improving the building separation to No. 155, to ensure that the proposal does not impinge on the redevelopment potential of No. 155 to provide a residential flat building or mixed use development with the potential to benefit from appropriate building separation, privacy and amenity.

Due to the constraints of both sites, it is Council's preference that the sites are amalgamated to achieve a better planning and design outcome. However, the applicant has demonstrated that the process and requirements of the Land and Environment Court principles relating to site isolation are satisfied. The applicant has submitted sufficient documentary evidence that due process has been undertaken;

and the proposal does not constrain neighbouring sites from meeting their highest and best use.

The following table provides details of the Applicant's efforts to purchase No. 155.

Date	Action
21 Aug 20	Valuation Report prepared by Urbis valuing the market value of the site at \$9 million based on FSR of 3:1 and \$3,036/m ² .
24 Dec 21	The applicant offers \$9 million to purchase No. 155.
27 Jan 21	<p>Tracy Yap Realty responds to the applicant on behalf of No. 155 declining the offer and stating the \$9 million materially undervalues the site and identifies the following shortcomings of the Urbis valuation report:</p> <ol style="list-style-type: none"> 1. The GFA and yield used in the calculations is incorrect and too low. 2. 100% unit entitlement should reflect a premium. 3. Market conditions have improved since August 2020. <p>No. 155 obtains their first independent valuation report from Access Valuations dated January 2021 which is provided to the applicant. No. 155 is valued at \$13,630,000 based on the total market value utilising recent comparable transactions.</p> <p>No. 155 confirms that <i>'the Owners are willing to consider a revised offer for their properties.'</i></p>
19 Mar 21	<p>Updated Valuation Report prepared by Urbis which re-values the site at \$9,750,000 and provides the following comments justifying their valuation:</p> <ol style="list-style-type: none"> 1. The valuation is based on the "highest and best use" market value of the site for redevelopment purposes based on the expert advice of Bureau SRH Architecture (the applicant's architect) for a 14 storey residential building comprising 31 apartments. This is based on: <i>"The scheme we have provided for 155 Herring Road is a reasonable development as it takes consideration of Council's LEP & DCP controls, as well as the ADG. Some of the key controls that determines the envelope are the 45m height limit, 5m front setbacks and ADG building separations. Minimum building separation increases proportionally to the building height. The separation distance is 6-12m for building up to 4 storeys, 9-18m for building up to 8 storeys and 12-24m for building 9 storeys and above. The resulting FSR of approximately 3.1:1."</i> <p>The valuation report also states: <i>"We note that due to the unique shape, size and positioning of the site, we have been advised by Bureau SRH Architecture that the site could likely only achieve an FSR of 3.1:1 and a GFA of 3,087m². Due to the site constraints, we have adopted the advised GFA. The difference between the advised GFA and what is detailed as being permissible under the RLEP 2014 (FSR 4:1), equates to a shortfall of 861m² in GFA, between the advised GFA (3,087m²) and the RLEP 2014 permissible GFA (3,948m²).</i></p> <ol style="list-style-type: none"> 2. The valuation comprises an additional GFA allowance for the shortfall of FSR described above, being 861m² valued at 20% of the full GFA rate per sqm (i.e. 20% of \$3,000) at \$600/m². The

	report states that this additional value is to account for the element of speculation and development risk associated in achieving the maximum GFA.
26 Mar 21	The applicant offers \$9,750,000 to purchase No. 155.
9 Apr 21	Tracy Yap Realty responds to the applicant on behalf of No. 155 declining the second offer and reiterates that the offer still materially undervalues the site and requests to meet with the applicant. No. 155 confirms that <i>'the Owners are reasonable and would be willing to sell their properties if there was a revised offer that reflects the development potential of 155 Herring Road.'</i>
27 May 21	Tracy Yap Realty forwards a letter to the applicant on behalf of No. 155 which is accompanied by their second independent valuation report from Blueprint Property dated 25 May 2021. No. 155 is valued at \$13 million. The valuation analysis in this report states that: <i>'Having regard to the age and condition of the existing improvements, the current planning provisions under Ryde LEP 2014, and the demand for development sites, it is considered that the subject property is ripe for redevelopment. Therefore, we are of the opinion that the existing improvements do not represent the highest and best use and have valued the site as a mixed use (predominately residential) on the bases that it is amalgamated with the adjoining site in order to achieve its maximum allowable density which is considered to be the highest and best use.'</i> No. 155 confirms that <i>'the Owners would welcome a revised offer from EcoWorld that more closely reflects the development potential and market value of their properties.'</i>
3 Jun 21	DA lodged. The DA documentation only included documentation until 9 April 2021.
29 Jun 21	Tracy Yap Realty sent an email to EcoWorld on behalf of No. 155 requesting a meeting to discuss the DA and offer to purchase and confirms: <i>'The Owners have asked me to inform you that although the independent valuation reports they have commissioned support a higher valuation, they have an asking price of \$11,900,000 for their properties and they are willing to negotiate on this price. They are disappointed that EcoWorld so far has been unwilling to discuss the offers for 155 Herring Road. They also intend to object to the development application submitted.'</i>
12 Jul 21	A submitter confirmed that <i>'the agent acting on behalf of the owners has approached the executive of EcoWorld to arrange to meet in person or by phone on numerous occasions over a number of months in order to negotiate a reasonable price and these requests have been declined. Most recently, phone calls and emails from the agent have not been acknowledged or returned. EcoWorld has not been willing to engage with the agent in a way conducive to negotiation. A letter sent on 29 June 2021 by the agent to EcoWorld with a fair and reasonable counteroffer from the owners has not been acknowledged or responded to at the time of writing, 12 July 2021.'</i>
11 Aug 21	Council sent a request for additional information to the applicant including site isolation. Concern was raised that the applicant has not undertaken reasonable efforts to contact the owners of No. 155 and to negotiate the purchase of the property.

15 Nov 21	<p>The applicant submitted legal advice prepared by Mills Oakley and dated 9 November 2021 which at a high level concludes:</p> <ul style="list-style-type: none"> - There is a case that 155 Herring Road is NOT an isolated site and the Karavellas planning principle does not apply at all. - Notwithstanding, EcoWorld has appropriately followed and satisfied the planning principle in any case.
28 Aug 22	<p>The applicant submitted amended plans and supporting report, which were re-notified to the surrounding owners and occupants, and submitters. No further submissions were received.</p> <p>These final plans are the subject of this assessment and are provided at Attachment 1.</p>

A merit 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?
<p><i>Grech:</i></p> <p>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 early stage and prior to the lodgement of the DA.</p>	<p>Yes. The adjoining site at No. 155 Herring Road is considered to be isolated. The applicant obtained a Valuation Report on 21 August 2020. Negotiations commenced on 24 December 2021, prior to lodgement of the DA on 3 June 2021.</p>
<p>Secondly, and where no satisfactory result is achieved from the negotiations, the development application 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 development application 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. (<i>First principle of Karavellas v Sutherland Shire Council [2004] NSWLEC 251: Is amalgamation of the sites feasible</i>).</p>	<p>Yes. The development application included details of the negotiations. The valuations put forward on behalf of the applicant were prepared by Urbis. Urbis has clarified that although the company provides services for both town planning and valuation; these are separate professional services. Therefore, the 2 valuations put forward by Urbis were prepared by independent and qualified property valuers. The applicant is entitled to rely on a valuation from Urbis. However, it would have been prudent and an expression of good faith to obtain a second valuation as well. The offers made are based on recent valuations and the second offer by the applicant (increased by \$750,000) was sufficient to cover any reasonable expenses likely to be incurred by each property owner (such as the cost of obtaining a property valuation report). Given the difference in the valuations, and subsequent offers, it could not be argued that amalgamation is feasible. The issue then turns on whether the negotiations were reasonable.</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 unreasonable, any relevant planning requirements and the provisions of s79C of the Act.</p>	<p>Yes. It is not the role of the Council to determine which party is being more reasonable, and nor is it relevant that another valuation obtained for the owners of No. 155 may have been higher. Neither party appeared to move much from their own valuations. At [20] of Karavellas the price is not for the Court to say what is reasonable, rather the Court is satisfied that a reasonable offer has been made.</p> <p>As shown in the above 2 questions which are fact-dependent; the valuation provided by Urbis is sufficiently independent and the offer includes reasonable expenses.</p> <p>In response to concerns raised by Council, the applicant amended the plans to improve the building separation and installation of privacy screens on any habitable rooms and balconies orientated towards No. 155. The assessment in this report concludes that the proposal satisfactorily addresses the relevant planning provisions and is supported.</p>
<p><i>Cornerstone:</i> Can orderly and economic use and development of the separate sites be achieved if amalgamation is not feasible? (<i>Second principle of Karavellas v Sutherland Shire Council [2004] NSWLEC 251</i>)</p>	<p>Yes. The applicant has demonstrated on the Massing Study Plans at Attachment 4 that No. 155 can be redeveloped in an orderly and economic manner as a stand-alone site. It is also acknowledged that a suitable form of development can be delivered by the amalgamation of No. 155 and further surrounding sites, including Nos. 157-159 Herring Road and 5-11 Lachlan Avenue, which is currently the subject of pre-lodgement discussions by a separate applicant. Although, this alternate amalgamation option is not the subject of the assessment of this DA.</p>

9. SUITABILITY OF THE SITE FOR THE DEVELOPMENT

The site currently accommodates vacant walk up apartment buildings. The proposal is for improvements to the site which delivers 123 apartments comprising a mix of sizes styles including dual level 'townhouses.' While the proposal does not meet the maximum height of building requirement, it seeks an appropriate intensification of the site that otherwise satisfies relevant planning requirements including vehicular access and parking, landscaped/deep soil areas, private and communal open space areas. The submitted clause 4.6 variation is considered to meet the jurisdictional prerequisites to enable the consent authority to support the proposed departure from the development standard.

The proposed siting and setbacks demonstrate that the shared obligations of building separation have been carefully considered to each adjoining site. The applicant has also demonstrated that the surrounding sites are capable of

redevelopment to a similar scale, and that appropriate attempts were made in the form of offers to purchase the adjoining property to the north, No. 155 Herring Road.

The proposal will deliver a mix of dwellings within the proximity of educational, commercial and retail services which will benefit skilled workers and students looking for housing close to the major employment hub and University and existing and proposed transport infrastructure.

The assessment demonstrates the proposal will not result in any significant adverse impacts upon adjoining properties or the streetscape. The proposed site is therefore considered to be suitable for the Residential Flat Building.

10. SUBMISSIONS

In accordance with the Ryde Community Participation Plan, owners of surrounding properties were notified from 8 June to 13 July 2021. In response, 24 submissions were received raising the following issues (as summarised):

- a. Site isolation issue from owners of No. 155 Herring Road.
- b. The overshadowing will increase moisture to surrounding buildings and negatively impact on liveability.
- c. Overdevelopment of the site.
- d. The building has breaches on the setback and building separation controls at higher levels, infringing on the space of the neighbouring properties and potentially blocking out further sunlight and air movement.
- e. Construction impact from noise and dust.

There was also 1 submission raised in support of the proposal: 'What a fantastic building! I may purchase one when they are completed. The developer has really taken into consideration the local community and the environment. The approval of this development will enhance our area considerably.'

In response, the applicant submitted amended plans which were re-notified from 30 June to 20 July 2022. No further submissions were received in response.

A summary of each issue raised (in response to the proposal as submitted) and our response is as follows:

A. Issue: Site isolation issue from owners of No. 155 Herring Road.

Comment: Detailed consideration of potential site isolation is provided in **Section 8** above. The applicant submitted amended plans which improved the building separation to No. 155 and demonstrates that No. 155 is capable of being redeveloped in isolation to provide a mixed use development or residential flat building. In addition, the applicant demonstrated that they undertook appropriate steps to offer to purchase No. 155.

B. The overshadowing will increase moisture to surrounding buildings and negatively impact on liveability.

Comment: The applicant submitted amended plans which increase the setbacks to neighbouring properties and reduce the level of overshadowing. The upper portion of the building is a slender built form, which assists with casting a 'fast-moving' shadow and enabling surrounding properties to have access to sunlight. The orientation of the 'wings' of the building are also designed to avoid excessive overshadowing to surrounding properties. Although the proposal results in increased shadows compared to the existing walk up apartments, the design optimises the opportunity for neighbouring properties to avoid overshadowing.

C. Overdevelopment of the site.

Comment: The applicant submitted amended plans which reduce the overall building envelope and also satisfies the maximum permitted floor space ratio. The proposal maintains a variation to the maximum permitted building height which is discussed in detail in **Section 5.7** above. On this basis, and as discussed throughout this report, the proposal is considered to be a satisfactory level of development for the site.

D. The building has breaches on the setback and building separation controls at higher levels, infringing on the space of the neighbouring properties and potentially blocking out further sunlight and air movement.

Comment: The applicant submitted amended plans which increase the building separation between the balconies and habitable rooms of the development and the boundaries of the site which adjoin residential apartments. Some non-compliances remain, as discussed in detail in **Section 5.6** above. However, the proposal is considered to allow for sufficient sunlight and air movement to surrounding properties.

E. Construction impact from noise and dust.

Comment: Controls are set out in Part 8.1 of the Ryde DCP 2014 for construction impacts. Similar to any major development work, some level of inconvenience/impact such as increased noise level, may result once the construction commences.

Conditions are recommended to be imposed to ensure that the concerns by the adjoining property owner are sufficiently mitigated. See **Conditions 78 and 112**.

The issues raised in the objection are not considered sufficient to warrant refusal of the DA.

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.

The proposal has been assessed against the relevant planning instruments and is considered to be acceptable. The proposed residential development does not significantly or unreasonably affect surrounding sites.

The proposal introduces residential apartments which positively contribute to the high quality housing stock and provides for housing diversity in the Macquarie Park Corridor.

The proposal also comprises suitable flood mitigation measures, the provision of replacement tree planting and new landscaping, and a high quality built form which is in keeping with the uplift of this locality. The overall design of the proposed development offers a high quality development outcome which is not contrary to the public interest.

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. INTERNAL AND EXTERNAL 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 Internal Referrals

Development Engineer: Council's Senior Development Engineer supports the proposal, subject to **Conditions 68-78, 95-100, 182-190, 201 and 202**. The following comments are also provided:

*Pedestrian Path to Ivanhoe Estate: Pedestrian access is proposed at the rear of the site that leads to the pedestrian path within the Ivanhoe Estate. The pedestrian access from the development can only formally be made available once the pedestrian path within the Ivanhoe Estate is dedicated to Council as a public asset as addressed in **Condition 1 and 197**.*

Parking: The parking provision is near the maximum parking demand set out in the parking controls in Section 2.3 of Part 9.3 of the Ryde DCP 2014, as shown in the table below:

Use	Quantity	Parking Demand	Required parking	Provided parking
1 bedroom	44	Max. 0.6 space/1 bed	26.4	-
2 bedrooms	63	Max. 0.9 space/2 bed	56.7	
3 bedrooms	16	Max. 1.4 spaces/3 bed	22.4	
Total for RFB			105.5	105
Visitor		Max. 1 space/10 dwellings	12.3	2
Car share		1 space/50 parking spaces	2.1	0
Residential - Accessible	13	1 space/accessible or adaptable unit	13	13
Bicycle		10% of required parking spaces	10.5	15

Planner's comment:

- i. Shortfall of Car Share Spaces: As discussed in **Section 5.9** above, the proposal fails to achieve the relevant objectives of RDCP 2014 regarding car share parking to minimise rates of private vehicle use; support car-sharing; and to manage private parking in the area (see Development Controls g. Parking Rates and h. Car Share Parking in Section 4.4 Sustainable Transport in Part 4.5 Macquarie Park Corridor).

It is recommended that **Conditions 1, 69 and 176** are imposed requiring the applicant to assign the 2 spaces in the vicinity of the loading dock as car share spaces.

- ii. Shortfall of Visitor Spaces: As discussed in **Section 5.9** above, the proposal fails to satisfy the relevant objectives of the DCP, being to provide adequate parking for visitors. The site is proposed to accommodate 123 apartments, and an allowance of parking for only 2 visitors arriving by car at any one time is considered to place undue pressure on street parking. **Conditions 1 and 201** is recommended to be imposed requiring 10 resident spaces to be converted to visitor spaces to accommodate the visitor parking demand generated by this use.

The site benefits from being located in the vicinity of retail and educational establishments and public transport. This accessibility is taken into consideration in the parking rates set out in the RDCP 2014 which permits a maximum number of parking spaces (consistent with the minimum required under the Apartment Design Guide (ADG)) and a low rate of visitor spaces (being 1 per 10 dwellings: compared to the rate of 1 per 5 dwellings under the ADG in accordance with the *RMS Guide to Traffic Generating Developments*.)

To account for the low rates of on-site parking, the intent of the DCP objectives and controls is to foster complementary modes of transport to ensure that each development can respond to the demand it creates for parking/transport. It is reasonable to require the site to accommodate suitable parking and transport modes on site, including parking for resident vehicles, car share vehicles, visitor vehicles and bicycles. In the absence of this, the development relies on limited metered street parking, which is not supported in this Precinct. This is addressed in Conditions of consent, as discussed above.

*Parking circulation: There is a one-way circulation aisle proposed at the mezzanine level. Although such an arrangement is not ideal, the justification provided by the applicant is considered acceptable, being that the proposal is a residential development which anticipates dominant outbound movements during the morning and dominant inbound movements during the afternoon. This reduces the probability of inbound and outbound vehicles approaching the same area within the car park at the same time. **Condition 68** is recommended to be imposed requiring a convex mirror to be installed on the mezzanine level to ensure drivers can view oncoming vehicles.*

Recommendation: There are no objections to the proposed development with respect to the engineering components, subject to the imposition of the above conditions of consent.

Landscape Architect: Council's Landscape Architect supports the proposal, subject to **Conditions 101-107 and 128-131**. The amended proposal has addressed concerns raised by Council's Landscape Architect with regard to:

Tree 2: The longitudinal section plan shows the relocation of the driveway reduces the encroachment of the driveway into the Tree Protection Zone of Tree 2 located in the adjoining property to the east. The encroachment on Tree 2 is minor (9.7%) and is satisfactory.

Fire water and gas within the landscape strip: These services were requested to be moved out of the landscape strip along the south-eastern boundary. This was not achieved. However, the area they occupy has been reduced which is satisfactory.

Retaining wall levels along the driveway and undercroft: The retaining walls are up to 2m high and are to be rendered and painted. This is satisfactory.

Location of new trees: Relocated to be at least 2m from the proposed stormwater pits and satisfactory.

Ground covers to be provided: Satisfactory.

The stormwater pit is to be moved towards Lachlan Avenue to be 2m clear of the proposed tree. Satisfactory.

Environmental Health: Council's Environmental Health Officer supports the proposal, subject to **Conditions 24-25, 79-81, 132-140, 192 and 203-205**. The following comments are provided:

1. Acoustic considerations specifically relating to the proximity of the arterial road:

Acoustic criteria: The procedures detailed in the Environmental Protection Authority NSW Industrial Policy for Industry (NPfI) have been considered to determine the limit of allowable noise emissions from the proposed site for residential receivers. The assessment has two main requirements that must be met:

- Intrusiveness criteria*
- Amenity criteria*

Project noise levels have been set using these criteria for day (56 dB), evening (48 dB) and night (43 dB).

Sleep disturbance levels are also provided for any works that are to be conducted from 10pm-7am during the construction period. Project trigger

levels for sleep disturbance have been set as 56 dB using the relevant NPfl guidelines.

Building Code of Australia (BCA) requirements: As part of the assessment, the applicant's acoustic consultant (VIPAC) has included the BCA requirements that relate to the acoustics of the building. These are:

- Requirements for floor materials and acoustic rating
- Wall separation and material requirements
- Service and risers

The proposal is required to comply with the BCA requirements that are outlined in the report.

Noise assessment: Noise predictions were conducted using the SoundPLAN computer noise modelling software. Predictions on the potential sleep disturbance show that the development will comply with the project trigger levels outlined in the noise criteria section of the report for all sensitive receivers.

A worst-case level of 94 dB has been applied for the night-time noise level and calculated for the nearest sensitive receivers. The night-time worst-case scenario was deemed to be compliant with the project trigger levels.

Mechanical plant: Final selections of the mechanical plant have not been made at this stage. Mechanical services must be designed such that the overall noise emission from the new development complies with the noise criteria established for noise levels at the nearest noise sensitive receiver in accordance with the NPfl. It is envisioned that some of the mechanical plant will need control measures such as screening or installation of appropriate attenuation measures to ensure compliance. A further acoustic assessment will be required once mechanical plant selection is finalised.

2. Contamination of the existing site describing the potential for contamination from historic and current land uses:

A Preliminary Site Investigation (Contamination) was conducted by Doulas Partners in May 2021 and advises that potential sources of contamination at the site include fill, hazardous building materials from the current apartment building on the site and the sites former agricultural use as an orchard. The report concludes that the likelihood of significant groundwater contamination is low and investigation of groundwater and soil vapour is not considered to be necessary at this stage. Consequently, the report recommends the preparation of a detailed site investigation and hazardous building materials survey.

The applicant subsequently submitted Site Audit Statement (SAS) No. 405 completed by NSW EPA Licensed Auditor Mr Rod Harwood, (Accreditation No: 0304) and dated 5 May 2022. The SAS has been submitted to the NSW Environmental Protection Authority, being a standard requirement of a

statutory site audit. The SAS reviewed the above Preliminary Site Investigation (Contamination), as well as a Detailed Site Investigation prepared by EI Australia (reference E25550.E02, Revision 1, dated 3 May 2022), a Hazardous Material Survey prepared by EI Australia (Reference E25550.E10, dated 4 May 2022) and Site Audit Report (SAR) No. 22008_SAR_v00, prepared by Harwood Environmental Consultants and dated 5 May 2022. The SAS concludes that the Auditor is satisfied that the site has been demonstrated through assessment and intrusive sampling to be suitable for the planned use as residential apartments with 2 levels of underground basement carparking with no remediation required. No Remedial Action Plan is required.

Council's Environmental Health Officer supports the proposal. Standard conditions are recommended to address potential discovery of contaminated materials during works. See **Conditions 25 and 132**.

Resource Recovery: Council's Senior Resource Recovery Advisor supports the proposal, subject to **Conditions 66-67 and 179-182**. The following comments are provided:

Residents will have access to a waste and recycle chute on each floor, which will be emptied into a 1,100L waste bin and a 660L recycle bin on the lower ground floor. Chutes need to have a bend in them to slowdown material falling from great height and damaging the bins. The bin storage room is located on the lower ground floor adjacent to the loading area.

Bin configuration consists of:

- *5 x 1,100L waste bins serviced 3 times per week with one additional 1,100L bin to be kept under the chute while bins are serviced.*
- *10 x 660L recycle bins serviced 2 times per week with one additional 660L bin to be kept under the chute while bins are serviced.*

The bulky waste storage room is adjacent to the Garbage Truck pick up area (loading bay). This location meets Council's requirements.

Public Domain: Council's Senior Civil Engineer supports the proposal, subject to **Conditions 51-56, 88-93 and 151-175**. The following comments are provided:

- a) *The development is subject to the standards and requirements of the City of Ryde Development Control Plan DCP Part: 4.5 Macquarie Park Corridor and the Public Domain Technical Manual (PDTM) Chapter 6: Macquarie Park Corridor.*
- b) *According to the PDTM the road classifications applicable to the site are Lachlan Avenue / Peach Tree Road (20m road reserve) – Residential Character Street classification.*
- c) *Figure 3.2.1 Macquarie Park Corridor Paving Plan, requires 2.4m wide granite paving with nature strip on the Peach Tree Road and Lachlan Avenue site frontage.*
- d) *The existing street lighting pole in Lachlan Avenue is to be upgraded to a Multi-Function Pole in accordance with Section 3.5 of the PDTM.*

- e) *Typical layouts of the Public Domain upgrade works are presented in Table 6.6.3.1 and Figure 6.6.3.1 of the PDTM for Lachlan Avenue / Peach Tree Road.*
- f) *New small native street trees will be required in the public domain in accordance with Figure 3.4.1 Macquarie Park Corridor Street Trees Plan of the PDTM.*
- g) *The proposed development results in increased numbers of heavy vehicles utilising the site and therefore a half road reconstruction (in accordance with Clause 1.1.4 of Part 8.5 - Public Civil Works in the DCP) is warranted for the Lachlan Avenue / Peach Tree Road frontage of the proposed development.*
- h) *Replacement of kerb and gutter for the road frontage is warranted due to new footpath and road reconstruction works likely to damage the existing kerb and gutter.*
- i) *The kerb return at the corner of Peach Tree Road and Lachlan Avenue is to be improved for pedestrian amenity. Turning paths are required to be undertaken to ascertain the amount of space that the kerb can be re-aligned into the road to increase the verge width and hence the footpath width around this bend.*
- j) *The Quantity Surveyor's report prepared by WT Partnership has valued the Public Domain works at \$80,000. A Multi-Function Pole is required to be installed which is valued at approximately \$70,000 per pole. The total valued of Public Domain works is estimated at \$150,000. A defects security bond deposit of 5% will be applied on this figure or minimum \$20,000. Therefore \$20,000 will be applied for this bond.*
- k) *The public domain works will be subject to Roads Act Approval prior to the issue of a Construction Certificate. The applicant will be required to provide suitably prepared engineering plans demonstrating the inclusion of the described works and providing details that demonstrate the smooth connection of the proposed works with the remaining street scape. This will include relevant existing and design surface levels, drainage pit configurations, kerbs, etc.*

Traffic: Council's Senior Coordinator Transport Development raised no objection, subject to **Conditions 19, 35, 64, 94, 178 and 195**. The following comments are also provided:

The proposed development is estimated to generate between 15-20 vehicle trips per hour during weekday peak hour periods, based on the traffic generation rates established within the Guide to Traffic Generating Developments and its updated traffic surveys (TDT 2013/04a). Such a level of traffic, which does not include deductions from the existing peak hour traffic generated by the current land use, is equivalent to approximately 1 vehicle movement every 3-4 minutes. This level of traffic activity is not expected to alter the current operational performance of the surrounding local road network

12.2 External Agency Referral

WaterNSW: WaterNSW have provided their support for the proposal, subject to General Terms of Approval dated 1 August 2022 requiring approval for water supply

work in relation to the 80mm submersible pump proposed to be used to enable dewatering of the site. See **Condition 12**.

Transport for NSW: Transport for NSW have provided their support for the proposal and advised that they have no requirements as the proposed development will have a negligible impact on the classified road network.

13. CONSIDERATION OF CONDITIONS

The applicant has been offered the opportunity to review the recommended Conditions of Consent provided at **Attachment 5**. The applicant agrees with the proposed conditions, with the exception of Conditions 1(f) and (g) which are proposed as follows:

1. **Approved Plans/Documents.** Except where otherwise provided in this consent, the development is to be carried out strictly in accordance with the following plans (stamped approved by Council) and support documents:

...

Prior to the issue of a **Construction Certificate**, the following amendments shall be made (as marked in red on the approved plans):

...

- (f) 10 of the internal 'residential' car parking spaces in the vicinity of the vehicular access point at the Lower Ground Level are to be converted to 'visitor spaces.'
- (g) The 2 'visitor' parking spaces in the vicinity of the loading area are to be assigned for use as 2 car share scheme vehicles. This area is to include CCTV and sensor lighting for safety and security purposes.

...

The applicant submitted correspondence on 30 November 2022 requesting the deletion of Conditions (f) and (g). The applicant's justification is as follows:

Applicant's justification to Delete Condition 1(f) Visitor car parking:

The proposed development provides 2 visitor spaces at the lower ground floor and is adequate for the development. Drawing DA2100, Rev 3, shows the location of the visitor spaces.

Ryde DCP provides MAXIMUM rates of 1 visitor space/10 dwellings. There is no minimum visitor car space provision. The proposal therefore complies with the DCP for visitor car parking.

The site is also approximately 400m walking distance from public transport (Sydney Metro, bus interchange at Macquarie centre, a bus stop 200m) and accordingly is well serviced. The development acknowledges this walkable neighbourhood through providing less than the maximum in residential car spaces as well. The development also encourages walkability through a proposed pedestrian connection to the Ivanhoe development to the south. The site has a lower visitor parking rate acknowledging the proximity to public transport.

To allow additional visitors car spaces in our basement would require an intercom system in the middle on an island in front of the garage door. Given the constrained nature of the site, there is no room to accommodate this system as all the available room has been taken up by the garbage truck swept path. Our current proposal requires no intercom as the 2 visitors parking spaces are outside of the garage door. After parking, visitors can access the building via the front lobby.

The development provides two basements, whereby the applicant has purposely decided to not construct a third basement, given an entire level would not be required, thus minimising the extent of excavation and cut on site. The provision of car parking for the residential apartments is less than 1 space per unit, recognising the proximity to public transport but also on balance recognising that many unit owners may wish to have a car space. Accommodating an additional 8 visitor spaces would further erode the project's feasibility and saleability of the residential apartments.

A review of surrounding developments in the area, reveal that there have been developments approved in the immediate area or close to public transport linkages that provide less than the maximum in visitor parking (two examples are 2-10 Cottonwood, Lachlan's line residential buildings).

The original scheme, submitted at DA lodgement, had two car share space at the front of the development. We have deleted them and provided visitor parking instead to address Council's Request for Further Information (RFI). There has been no further feedback from Council on car parking since the submission of the RFI response.

Applicant's justification to Delete Condition 1(g) Car share parking:

It is not always practical or appropriate to enable publicly accessible car share spaces in a secure basement of a residential building as this brings security and management concerns. The site is constrained in nature, having minimal frontage to the street and requiring driveway, substation, vehicle access and waste movements within the front 'open area' area of the site. As such the provision of car share spaces outside of the secure basement is substantially restricted and in reality unachievable.

Access to car share spaces are required to be available 24 hours a day and located in convenient locations. Providing the two car share in the basement, as per the draft condition, raises security concerns that members of the public can readily access the basement.

An agreement with a provider would also have to be secured and given there are a number of approved developments with car share proximate to the site (including 4 car share spaces at 2-10 Cottonwood and 3 spaces at 14-16 Cottonwood, 3 spaces at 9 Peach Tree), on less constrained sites, the demand is questionable.

As per the commentary above, the site is well accessed by public transport and exhibits good walkability to amenities and services.

The applicant's contentions suggest that the demand for parking can be absorbed by other nearby developments and that the parking rates in the Ryde DCP 2014 are reduced to cater for this. As detailed in **Sections 5.9 and 12.1** above, the intent of the DCP objectives and controls is to foster complementary modes of transport to ensure that each development can respond to the demand it creates for parking/transport. It is reasonable to require the site to accommodate suitable parking and transport modes on site, including parking for resident vehicles, car share vehicles, visitor vehicles and bicycles. In the absence of this, the development relies on limited metered street parking, which is not supported in this Precinct.

Council's position is that visitor and car share spaces must be provided in this type of development and this site in the Herring Road Activation Precinct. The following table demonstrates that parking requirements have been consistently applied for

other approved developments in Macquarie Park, and that the subject DA is lacking in the provision of car share and visitor parking:

Site	2-10 Cottonwood LDA2020/0243	9 Peach Tree LDA2018/0185	Lachlan's Line 25-27 Epping Rd LDA2016/0395	1-3 Lachlan Avenue Subject site
Proposal	200 apartments 69 place Child care centre	116 apartments 70m ² commercial / retail tenancy	879 apartments 5,966m ² commercial / retail space 2,500m ² community facility	123 apartments
Residential spaces	Maximum 170	117	625	105
Visitor spaces	Maximum 21 (with a minimum 7) ^{Note 1}	12	49	2
Non-residential spaces	Minimum 17 child care spaces	2 commercial spaces	25 community spaces 180 commercial spaces	-
Car share spaces	Minimum 4	3	12	-

Note 1: The mixed use development at 2-10 Cottonwood is allowed to use the 17 child care spaces for visitor parking outside the operating hours of the child care centre.

The applicant also suggests that the car share spaces were deleted in response to a Council request. Prior to lodgement of the DA, Council advised the applicant that full reliance on street parking is not supported as this development will generate additional visitor parking demand. Council reiterated this in request for additional information letter to the applicant on 29 June 2021. This letter also requested that the applicant liaise with a car share provider demonstrating agreement for the operation of a car share scheme.

The applicant submitted amended plans on 26 May 2022. To expedite the assessment of this DA, Council's preferred pathway is to resolve outstanding issues via conditions of consent. This includes establishing the allocation of parking spaces in accordance with the objectives and controls in Ryde DCP 2014, which are consistently applied in Macquarie Park, as shown in the table above. Condition 1 requires the provision of 2 car share spaces, and only 10 visitor spaces (up to 13 can be provided under RDCP 2014, however a concession of only 10 is recommended).

Proposed **Condition 1(f)** requires only 10 of the internal 'residential' car parking spaces in the vicinity of the vehicular access point at the Lower Ground Level to be converted to 'visitor spaces.' The two-way driveway entry has considerable manoeuvring space and width which allows for the waste vehicle to service the site. It is agreed that it is not suitable for a central intercom system to be installed in this instance as it will obstruct the swept paths of the waste vehicle. However, when not in use the circulation area between the lobby and support structure next to the loading area is over 9m in width. 9m allows sufficient area, which is clear of other resident vehicles entering and exiting, for a visitor to wait for secure access to be provided by the resident.

The applicant has raised concern that providing 10 visitor spaces at the Lower Ground Level raises security concerns. Providing the visitor spaces in this area limits the movement of visitors to this area only, and protects the resident parking areas, 16 of which are within lockable garages. Further security measures are provided in the basement, including lighting and CCTV. The applicant can also introduce a security gate to secure the Mezzanine and Basement Levels if additional security is sought.

The applicant is concerned that providing an additional 8 visitor spaces will erode the project's feasibility and saleability. This is contrary to Council's concern that failure to provide on-site parking to respond to the demand generated by this development will likely result in a development which is incompatible with the future desired character of the locality. Insufficient on-site parking will fail to support a good level of amenity for residents and is not in the public interest.

Proposed **Condition 1(g)** requires the 2 car share spaces in the vicinity of the loading area. This location is considered suitable as it is exterior to the resident parking area, and the condition ensures that additional security measures are implemented, include CCTV and sensor lighting.

As such, it is Council's position that **Conditions 1(f) and (g)** are imposed.

14. CONCLUSION

The proposed development has been assessed against all relevant matters and is considered satisfactory. It is considered that the likely impacts of the development have been satisfactorily addressed and that the proposal is not contrary to the public interest. The site is considered suitable for the proposed development subject to conditions. Therefore, it is recommended that the application be approved subject to conditions of consent for the following reasons:

- The proposed subdivision is consistent with the objectives of the relevant provisions of the RLEP 2014 and RDCP 2014, with minimal environmental impacts.
- The applicant's Clause 4.6 written request to vary the height of buildings development standard in Clause 4.3 of Ryde Local Environmental Plan 2014 is acceptable as the proposal still meets the objectives of the zone, provides a usable rooftop area and is consistent with the scale anticipated on this site and will read favourable in the context of the redevelopment of neighbouring sites in the future. Compliance with these development standards is unreasonable or unnecessary in the circumstances of this specific proposal. There are sufficient environmental planning grounds to justify contravening the development standard.
- The issues raised in the submission do not warrant the refusal of the DA and have been adequately addressed in the Assessment report.
- The proposed development does not create unreasonable environmental impact to existing adjoining development the redevelopment anticipated on these sites in the future.
- The site is not contrary to the public interest.
- The site is considered suitable for the proposed development.

15. RECOMMENDATION

- 1) That the Sydney North Planning Panel accepts that the Clause 4.6 written request to vary the height standard (Clause 4.3) in Ryde Local Environmental Plan 2014 has adequately addressed the matters in subclause (4) and would not be contrary to the public interest as it is consistent with the objectives of the development standard in Clause 4.3 and the objectives of the B4 Mixed Use Zone of Ryde Local Environmental Plan 2014.
- 2) That the Sydney North Planning Panel, as the consent authority, grant consent to development application LDA2021/0187 for demolition of the existing structures, removal of trees and construction of a residential flat building comprising 123 residential apartments, basement car parking and associated landscaping at 1-3 Lachlan Avenue, Macquarie Park, subject to the recommended conditions listed at **Attachment 5**.
- 3) WaterNSW and Transport for NSW be advised of the decision.
- 4) The submitters be advised of the decision.

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