

COUNCIL ASSESSMENT REPORT

SNPP No	PPSSNH-357
DA Number	LDA2022/0394
Local Government Area	City of Ryde
Proposed Development	<p>Amending Development Application to amend Concept Development Approval under LDA2019/0264 (Building envelopes and footprint) and Stage 1 Detailed Works comprising demolition, construction of 3 mixed use buildings with 265 apartments and commercial and retail space with associated basement parking with 395 spaces, partial construction of a road, landscaping and public domain improvements within Site A.</p> <p>The Stage 1 Detailed Works is Integrated Development requiring approval from WaterNSW.</p>
Street Address	122 Herring Road, Macquarie Park (Morling College)
Applicant/owner	<p>Applicant: TOGA Pty Ltd</p> <p>Owner: Baptist Union of NSW</p>
Date of Lodgement	14 December 2022
Number of Submissions	3 submissions objecting to the proposal
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	<p>General Development over \$30 million.</p> <p>Cost of works: \$267,080,000 (excluding GST)</p>
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979; • NSW Threatened Species Conservation Act 1995; • Commonwealth Environment Protection and Biodiversity Conservation Act 1999; • Environmental Planning and Assessment Regulation 2021; • State Environmental Planning Policy (Biodiversity and Conservation) 2021; • State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004; • State Environmental Planning Policy (Planning Systems) 2021; • State Environmental Planning Policy (Resilience and Hazards) 2021; • State Environmental Planning Policy (Transport and Infrastructure) 2021; • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; • Ryde Local Environmental Plan 2014;

	<ul style="list-style-type: none"> • Ryde Development Control Plan 2014; and • Section 7.11 Contribution Plan.
Clause 4.6 Request	Clause 4.3 – Height of Buildings (5.1% to 9.5% variation)
Summary of Key submissions	<ul style="list-style-type: none"> • Overdevelopment in the area and provision of supportive infrastructure. • Height and proximity of the development to existing neighbouring buildings. • Traffic generation/congestion. • Construction disturbance.
List all documents submitted with this report for the panel's consideration	Attachment 1: Draft Conditions of consent Attachment 2: Plans. Attachment 3: Clause 4.6.
Report prepared by	Tony Collier - Senior Town Planner
Report date	24 July 2023

Summary of s4.15 matters	
Have all recommendations in relation to relevant s4.15C 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 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)?	No
Conditions	
Have draft conditions been provided to the applicant for comment?	Yes

1. EXECUTIVE SUMMARY

The following report is an assessment of a development application for an amending development application to amend the Concept Development Approval under LDA2019/0264 (Building envelopes and footprint) and to include Stage 1 Detailed Works comprising demolition, construction of 3 mixed use buildings with 265 apartments and commercial and retail space with associated basement parking with 395 spaces, partial construction of a road, landscaping and public domain improvements within Site A.

The Proposal

This application seeks approval for:

- a) Amending the Concept Approval granted under LDA2019/0264 to form a new masterplan for the site; and
- b) Detailed design, construction and Stage 1 development works for Site A and part of Road 3.

Compliance

The development exhibits a high degree of compliance when assessed against the applicable planning instruments and controls with exception to the following:

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

Apartment Design Guide

- *Clause 3F - Visual Privacy.*
- *Clause 3J - Bicycle and Car Parking.*
- *Clause 4D – Apartment Size and Layout.*
- *Clause 4H - Acoustic Privacy.*

The above issues are supported and addressed in detail in **Section 7.10** of this report.

Ryde Local Environmental Plan 2014

Clause 4.3 – Height of Buildings

The proposal exceeds the permitted building height under Clause 4.3 by 5.1% to 9.9%. The non-compliances predominantly involve roof edges and roof top plant structures.

A variation under Clause 4.6 demonstrates sufficient environmental planning grounds and is supported.

This issue is supported and addressed in detail in **Section 7.11** of this report.

Ryde Development Control Plan 2014

Part 4.5 – Macquarie Park Corridor

Clause 7.4 – Setbacks and Build-to-Lines

The development includes the western side of the basement car park which extends to 0.3m from the boundary to Road 3, and the inclusion of a below-ground OSD tank within the northern side setback abutting Saunders Close.

The non-compliances are considered to be acceptable in this particular instance as the encroachments are not visible from Road 3 and Saunders Close, do not add to the bulk and scale of the development, and enable plantings through the provision of deep soil zones (in the case of Road 3) and/or planter boxes (in the case of Saunders Close).

Part 9.3 – Parking Controls

The proposal seeks approval for the provision of 51 parking spaces within Basement Levels 02 and 03 to services the remaining Morling Residential College (MRC) and the Ministry and Learning Centre (MALC) buildings.

This is not accepted by Council as this results in a significant surplus parking provision above that required by the maximum parking rates established for Macquarie Park by the DCP.

This issue is resolved by removing the proposed tandem parking arrangement in both basement levels and reallocating parking within the development to achieve compliance.

The above issues are supported and addressed in detail in **Section 9.1** of this report.

Referral Responses

The application was referred to external and internal departments. Each department has not raised any objection to the proposal subject to conditions.

As Integrated Development, WaterNSW have issued their General Terms of Approval for temporary construction dewatering (tanked basement) only.

Transport for NSW have issued their support for the development subject to condition.

Public Exhibition and Submissions

The application was publicly exhibited as Integrated Development between 18 January 2023 and 20 February 2023. An advertisement was placed on Council's website and notification letters were sent to 1,170 local properties in accordance with Council's Community Participation Plan.

Amended plans received during the assessment were not required to be re-exhibited as the amendments were minor and did not result in additional environmental impact.

As a result of the exhibition, a total of three (3) submissions were received which raise the following issues:

- Overdevelopment in the area.
- Provision of supportive infrastructure.
- Height and proximity of the development to existing neighbouring buildings.
- Traffic generation/congestion.
- Construction disturbance.

The issues raised in the submission are addressed in detail in **Section 12** of this report.

Deferred Commencement

Section 4.24(b) of the Environmental Planning and Assessment Act 1979 deals with the status of concept development applications and consents and states:

“While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site”.

The consent granted under LDA2019/0264 is the subject of this amending application and cannot remain in force at the same time as the consent for the current application is active. Although a request to surrender the consent for LDA2019/0264 has been made, to avoid inconsistency between the two concept approvals, a Deferred Commencement condition is included in the draft consent to address this matter.

The Deferred Commencement condition would simply require the applicant to formally surrender LDA2019/0264 in order for LDA2022/0394 to become active and therefore, avoid concurrent inconsistency.

Applicant Review of Conditions

The draft conditions have been referred to the applicant and agreement has been reached with exception to the following conditions under Part B of the draft consent:

- 1(a) – Deletion of Tandem Parking Spaces.
- 60(e) – Vehicle Access & Parking.
- 196 – Parking Allocation.

The above conditions refer to the deletion of 24 tandem parking spaces which were proposed to be allocated to Morling College, of which the applicant requests that a total of 51 spaces be allocated by the College. Council maintains its position that a maximum of 24 spaces may be allocated to the College in alignment with previous consents.

This matter is discussed in detail under Part 9.3 ‘Parking Controls’ in Section 9.1 (Ryde Development Control Plan 2014) of this report.

Recommendation

After consideration of the development against Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest.

Assessment of the application against the relevant planning framework and consideration of various design matters by Council’s technical departments has not identified any fundamental issues of concern.

Consequently, this report concludes that this development proposal is sound in terms of design, function and relationship with its neighbours.

This report recommends that consent be granted to this application in accordance with conditions provided in **Attachment 1**.

2. APPLICATION DETAILS

Name of applicant:	TOGA Pty Ltd
Owner of site:	Baptist Churches NSW & ACT
Estimated value of works:	\$267,080,000 (excluding GST)
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.

3. SITE DESCRIPTION

The site is located on the north-western side of Herring Road and is bounded by privately owned strata development to the north, privately owned strata development to the south, the Baptist Care Residential Aged Care facility to the west and Macquarie University to the north-east.

Figure 1 below shows the location of the site (shaded in orange).



Figure 1 – Location of the site outlined in orange (Source: Ryde Mapping)

The site is irregular in shape and has a frontage of 30.78m to Herring Road and a rear boundary length of 103.91m. The site has a depth of 221.92m and a total surveyed area of 27,307m².

For the purposes of this assessment, it should be noted that the total site area (27,307m²) comprises the following:

- **Site A (16,508m²):**
 - Stage 1: 8,876m².
 - Remainder of Site A (existing Morling College campus): 7,632m².
- **Site B (6,216m²).**
- **Road 3 (4,583m²):**

- Stage 1: 1,742m².
- Stage 2: 2,841m².

Figure 2 below shows the allocated areas of Site A (including Stage 1 and the remainder of the existing campus), Site B, and Road 3 (“new road”) while **Figure 3** provides a further breakdown of the areas comprising Stage 1 and Site A.

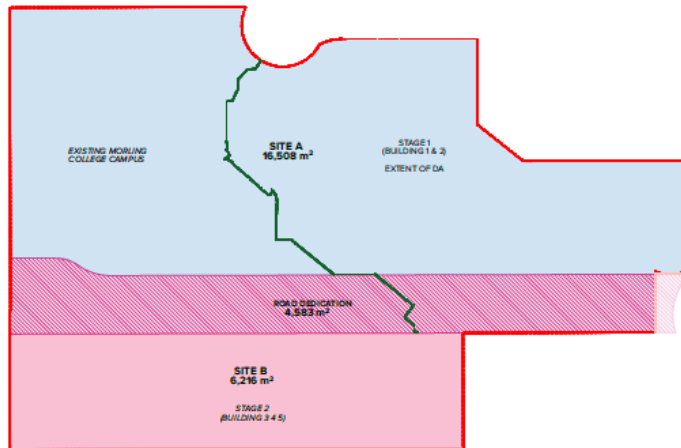


Figure 2 – Site staging layout.

Source: Plan SK-010-023 dated 29 May 2023 prepared by Turner Studio.

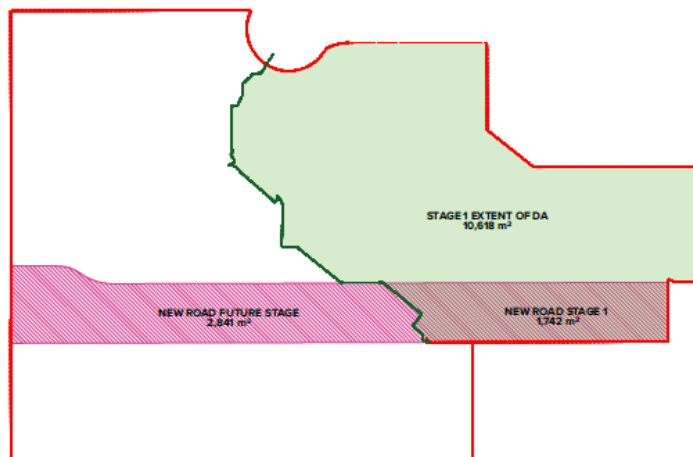


Figure 3 – Site staging layout.

Source: Plan SK-010-023 dated 29 May 2023 prepared by Turner Studio.

Of the areas designated in **Figure 2** above, Site A is broken up into Stage 1 which, together with part of Road 3, comprises the extent of this application (as seen in **Figure 3** above). The future development of Site B (which will form a separate development application) will comprise Stage 2 and the remainder of Road 3.

The property currently accommodates 15 main buildings, 4 outbuildings, at-grade and basement car parking, an internal roadway, and established landscaping.

Figure 4 below provides the location and layout of existing buildings and services on the site.

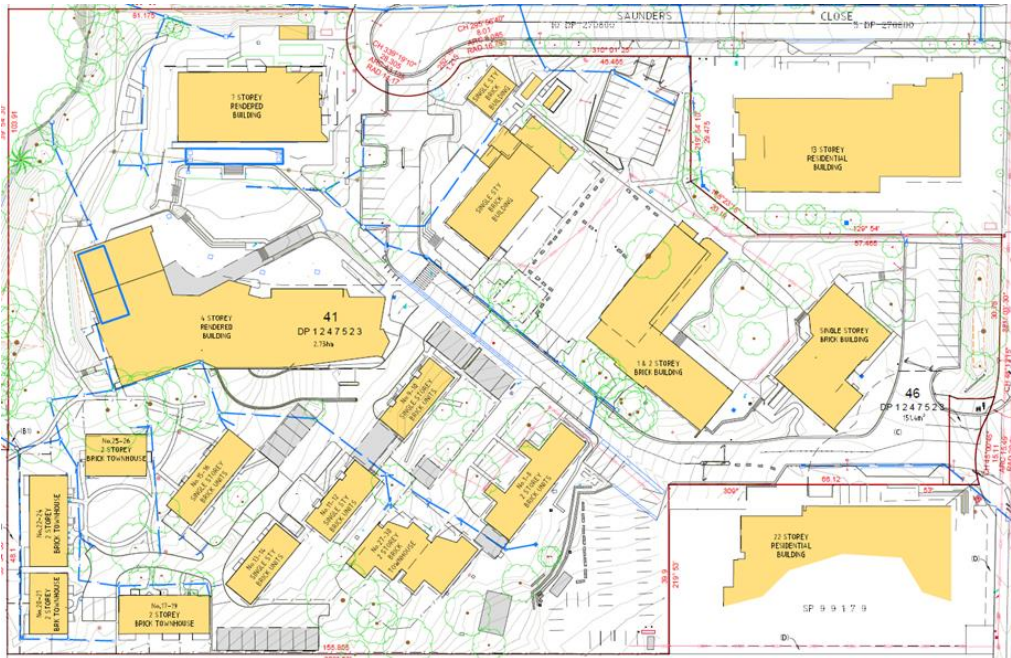


Figure 4 – Survey plan of the site.
Source: Beveridge Williams dated 8 November 2022.

The buildings on the site are reflective of an ongoing upgrade of the college grounds and include ageing single storey administration buildings which are generally concentrated within the centre of the site (these being the subject of this application and to be demolished), a mix of one and two storey walk-up accommodation buildings within the south-western corner, the contemporary four storey ‘Ministry and Learning Centre’ (MALC) building at the centre-rear of the site, and a contemporary seven storey residential college building at the north-western corner of the site.

The site is accessed from Herring Road via two parallel roadways being the internal roadway and Saunders Close.

The driveway is currently a private no-through roadway owned by Morling College to provide reciprocal access to the site and 120 Herring Road. Saunders Close is currently also a privately owned cul-de-sac which provides reciprocal access to 1 to 10 Saunders Close and to Morling College although this is subject to dedication to Council to form a public road.

A portion of the Herring Road interface to the internal road is owned by the NSW Roads and Maritime Service to form a dedicated intersection to address the future through-road connection to the Baptist Care property at the rear via future Road 3.

The property has a diagonal cross fall of approximately 10m from the north-eastern corner to the south-western corner of the site. The slope is graduated across the site due to the established building footprints and associated levelling of the college and its infrastructure. Site A includes an average diagonal crossfall of 3.8m from Herring Road to the rear of Stage 1 adjacent to the existing internal driveway.

The site has been heavily modified over time and accommodates a variety of remnant and planted indigenous, coniferous and ornamental trees although these are sparsely

distributed across the site. Notably, the rear of the site contains the vegetated Kikkiya Creek riparian corridor which extends along the rear boundary.

The rear north-western corner of the site is subject to flooding in the 100-year ARI and PMF flooding events due to overtopping of the Kikkiya Creek. However, the area of the development is outside of the extents of flooding.

Figures 5 to 20 below provide walk-around views of the site (sequential from the internal road to Saunders Close).



Figure 5 - Site frontage to Herring Road



Figure 6 - View south to 120 Herring Road



Figure 7 - View north to 1 Saunders Close



Figure 8 - View to the south-east (Ivanhoe Estate and Neue apartments)



Figure 9 - View across Herring Road from the site (Ivanhoe Estate and Neue apartments)

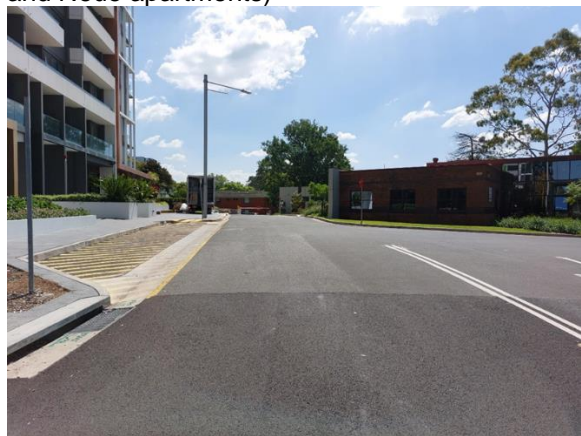


Figure 10 - View west along the internal road from Herring Road



Figure 11 - View east along the internal road towards Herring Road



Figure 12 - View east from the MALC building



Figure 13 - View east of the rear of the admin buildings



Figure 14 - View north of the rear of the admin building



Figure 15 - The MALC building at the rear



Figure 16 - Residential College north of the MALC building



Figure 17 - View of 4, 6 & 8 Saunders Close



Figure 18 - Interior view of the administration building (to be demolished)



Figure 19 - East view of the administration building (to be demolished)



Figure 20 - West view of administration building (to be demolished)

4. SITE CONTEXT

The site is located approximately 250m from the intersection of Epping and Herring Roads and is located in the general vicinity of Macquarie University and Macquarie Shopping Centre.

The Macquarie Centre Shopping Complex is situated to the north-east of the site located on the north-eastern corner of the intersection of Herring Road and Waterloo Road. The Macquarie University Train Station is also located to the north-east of the site.

Neighbouring the site on the northern border is Macquarie Central, (Toga Development at 120 to 128 Herring Road and now known as 2 to 8 Saunders Close), in accordance with a Part 3A approval (MP09_0195) which comprised of 5 residential buildings with 618 apartments.

To the east of the site and on the opposite side of Herring Road are residential areas generally characterised by 3 and 4 storey walk-up apartment buildings and townhouses generally constructed in the last 20 to 30 years.

Immediately south-east of the site is 120 Herring Road, a 23-storey mixed-use building which was originally part of the Morling College site (approved under LDA2016/0020) and recently subdivided into a separate lot.

Immediately south, at 116 to 118 Herring Road is a low scale 4 storey residential strata apartment building located at the front of the site with two 2 storey townhouses behind, at the rear of the site. 116-118 Herring Road is adjacent to the south-western boundary.

Adjoining part of the north-west boundary of the site, and on the other side of Kikkiya Creek is the Willandra Village Retirement Complex, which is operated by Baptist Care Services and includes several single and two storey buildings.

Further south of the site on the corner of Epping Road and Herring Road is the recently constructed Macquarie Park Village (previous Stamford Grand North Ryde Hotel). The Macquarie Park Village is a residential mixed-use development comprising of seven buildings and mixed-use retail/commercial space.

Further to the south-west of the site (on the corner of Epping Road and Herring Road) at 137 to 143 Herring Road, two residential towers up to 75m in height, comprising of 285 apartments have been constructed.

To the south is the Ivanhoe Estate which was recently approved by the Department of Planning, Industry and Environment (SSD 8707 & SSD 8903) for a mixed-use development comprising 3,300 dwellings including 950 social, 128 affordable, 273 senior housing, community and retail uses, a primary school, childcare centre, parks, and landscaping.

5. THE PROPOSAL

In summary, this amending application seeks a combined approval for:

- a) A new masterplan for the site (i.e., an amended concept); and
- b) Detailed design, construction and Stage 1 development works for Site A and part of Road 3.

The amended concept approval (which will form a new masterplan for the entire site) will also require the carrying over, amendment or deletion of certain conditions already imposed under LDA2019/0264. Furthermore, any consent issued for this combined proposal will require the consent to be structured into parts to separate the concept/masterplan approval from the construction of Stage 1 (Site A).

The detailed design, construction and Stage 2 development works for Site B and the remainder of Road 3 will be the subject of a separate development application.

Specifically, the application seeks consent for the following:

a) Amendment to the Concept Approval (constituting a new masterplan for the site)

- Building envelopes to accommodate a maximum gross floor area (GFA) of 60,633m² across the site, including:
 - Site A: Mixed-use podium which is 2 storeys with 3 x residential buildings envelopes above the podium ranging from 13 to 14 storeys in height.

- Site B: 3 x 14 storey residential building envelopes (no change).
- Provision of basement car parking across the site.
- A new 20m wide road corridor through the site as outlined in Council’s future road network plan for the area (referred to as Road 3). It is proposed that this road will be dedicated to Council in its entirety prior to the issue of an Occupation Certificate for the detailed development consent issued for Site B.
- Provision of an internal 5.5m wide vehicle/pedestrian shared zone connecting Saunders Close to the existing MALC building basement car park (see **Figure 32** in this report).
- Public domain layout / concept design including a public plaza in the centre of the site.
- Potential future expansion of underutilised GFA above the Morling College MALC building.

It is noted that the layout, setback, separations and heights of Buildings 3, 4 and 5 (Site B) are the same in the amending concept/masterplan than was approved under the concept for LDA2019/0264.

Figures 22 and 23 below shows a comparison between the Concept Approval and the proposed amendment.



Figure 22 – Approved Concept Layout

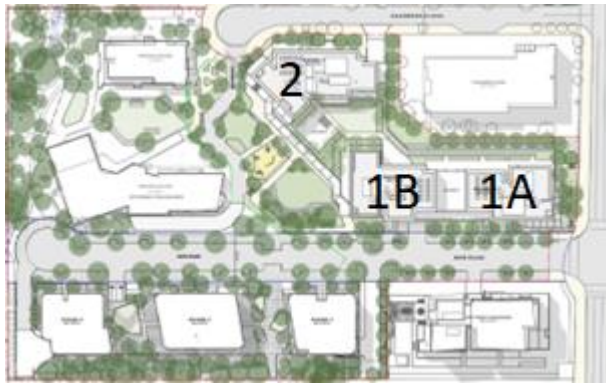


Figure 23 – Proposed Amended Concept

Figures 24 and 25 show the changes made to the envelopes of Buildings 1A, 1B and 2 on Site A only.

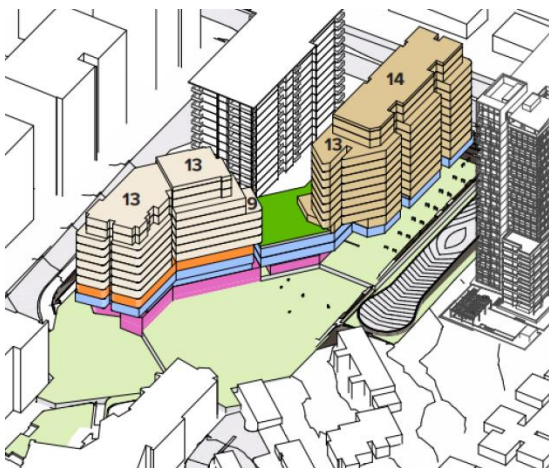


Figure 24 – Approved Concept Envelopes.



Figure 25 – Proposed Envelopes.

b) Detailed design, construction and Stage 1 development works at Site A.

Note: Amended plans have been received during the assessment. The amended plans respond to requests for further information made by Council and do not change the proposed building locations, heights, envelopes and provision of open space as originally submitted. No change was made to the Masterplan component of the application.

The preparation of the detailed design, construction and Stage 1 development works at Site A is pursuant to Condition 7 of the Concept Approval. Condition 7 is retained in Part A of the draft consent to address a future development application for the detailed design, construction and Stage 2 development works at Site B.

Fine ground level detail was provided in response to technical matters raised by Council and the exterior finishing/materiality of the development was refined in response to matters raised by Council's Urban Design Review Panel.

Given the minor nature of the amendments and additional information, the amended plans were not required to be re-exhibited in accordance with the Council Community Participation Plan.

The following therefore describes the development as amended to include the detailed design, construction and Stage 1 development works at Site A comprising:

- Demolition of the existing 'Eldridge' and 'Gilbert Wright' buildings and part of the existing internal driveway.
- A two-storey mixed-use podium comprising commercial office and retail uses and residential building lobby spaces.
- Three residential buildings above the podium form ranging from 13 to 14 storeys in height (plus rooftop plant / services and lift overruns) with a total of 265 apartments.
- Provision of a public plaza in the central area of the site situated to the west of the proposed buildings on Site A.
- Partial construction and delivery of the new Road 3 to service the proposed development.
- A two and half storey basement car parking area accessed off Road 3 and Saunders Close to service the proposed development, including relocation of at-grade parking for existing Morling College uses remaining on-site.
- Construction of an internal shared zone connecting Saunders Close to the MALC building basement providing vehicle access in perpetuity in lieu of the previous drive structure strategy and larger basement footprint (see **Figure 32** in this report).
- At-grade and above ground (podium and rooftop) landscaping works across Site A including deep soil mature tree planting, general landscaping and tree removal.

The balance of the site under the original masterplan as it relates to Site B remains unchanged from that approved under LDA2019/0264.

The following table provides a numerical comparison of the key features of the development between the approved LDA2019/0264 and the current proposal:

Key Feature	LDA2019/0264	LDA2022/0394	Difference
Site Areas			
<u>Site A</u>	16,508m²		
Stage 1	8,876m ² .		
Remainder of Site A	7,632m ² .		
<u>Site B</u>	6,216m² .		
<u>Road 3</u>	4,583m² .		
Total	27,307m²	No change	No change
Car Parking (Total)			
Basement 03	214	275	+61
Basement 02	263	245	-18
Basement 01/Lower Ground	152	93	-59
Mid Ground	16	0	-16
Total	645	633	-32
Building Height			
Building 1	45m		
• Building 1A	-	45.1m to 47.7m	+0.1m to +2.7
• Building 1B	-	42.5m to 45.8m	-2.5m to +0.8m
Building 2	42.5m to 42.9m	43m to 47.8m	+0.5m to +4.9m
Building 3	45m	45m	No change
Building 4	44.6m	44.6m	No change
Building 5	44.8m	44.8m	No change
Gross Floor Area			
Total Existing Buildings	7,717m²	7,717m²	No change
<u>Site A (Stage 1)</u>			
Building 1	12,805m ²		+7,543m ²
• Podium	-	4,824m ²	-
• Building 1A	-	7,598m ²	-
• Building 1B	-	7,926m ²	-
Building 2	12,850m ²	8,005m ²	-4.845m ²
Total Site A	25,655m²	28,353m²	+2,698m²
<u>Site B (Future DA)</u>			
Building 3	6,850m ²	6,850m ²	No change
Building 4	7,710m ²	7,710m ²	No change
Building 5	6,345m ²	6,345m ²	No change
Total Site B	20,905m²	20,905m²	No change
Future Expansion MALC	6,356m²	3,658m²	-2,698m²
Total GFA	60,633m²	60,633m²	No change

Figures 26, 27 and 28 below show the site layout and the development from Road 3, the rear and from Herring Road.



Figure 26 – The development depicted from Road 3 (Building 1A & 1B. Building 2 is in the background).
Source: Adapted from Plan DA-AR-210-401 as prepared by Turner Studio.



Figure 27 – The development depicted from the rear (Building 2 and the rear of 1B).
Source: Adapted from Plan DA-AR-210-101 as prepared by Turner Studio.



Figure 28 – The development depicted from Herring Road.
Source: Adapted from Plan DA-AR-210-301 as prepared by Turner Studio.

width by approximately 11.5m due to an increase in the building footprint of the podium between Buildings 1B and 2.

Although the width and area has been reduced, it is noted that the proposed deep soil area (lawn and permeable soft surface) has increased from 606m² to 840m² (i.e., +234m²) and that the layout of the park has been refined to include designated break-out areas for both active and passive recreation as well as a secure and enclosed children's play area.

Through-site links from Road 3 to Saunders Close are also more considered and include a variety of hard surface pathway options through the park as opposed to a more generalised hard surface area throughout.

Figures 30 and 31 below show (shaded in green) a comparison of the centralised park from that approved under LDA2019/0264 and the proposed amending masterplan and detailed design of Site A. Refer also to **Figures 24 and 25** for a 3D perspective of this area.



Figure 30 – Provision of open space under the approved concept for LDA2019/0264.
Source: Landscape Design Report dated November 2022 as prepared by Oculus.

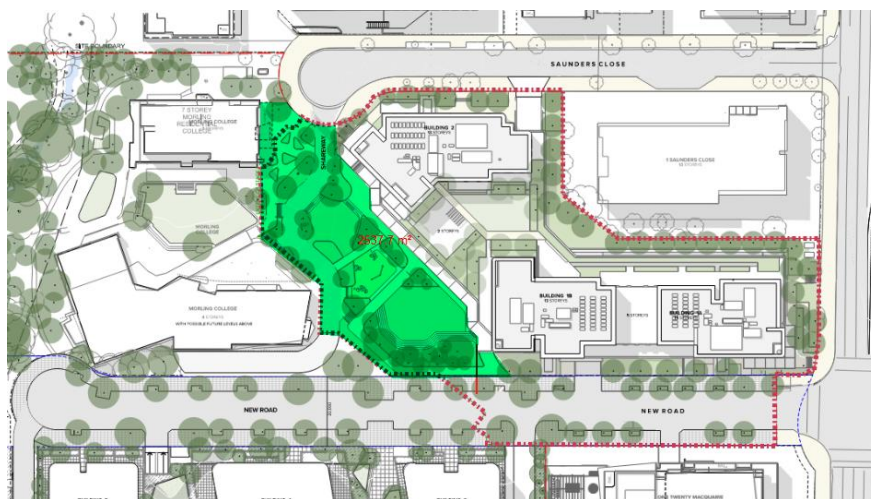


Figure 31 – Provision of open space under the amended masterplan and Site A detailed design.
Source: Landscape Design Report dated November 2022 as prepared by Oculus.

The open space area includes a 5.5m wide shared zone which provides vehicle access from the MALC building to Saunders Close as shown in pink in **Figure 32** below.

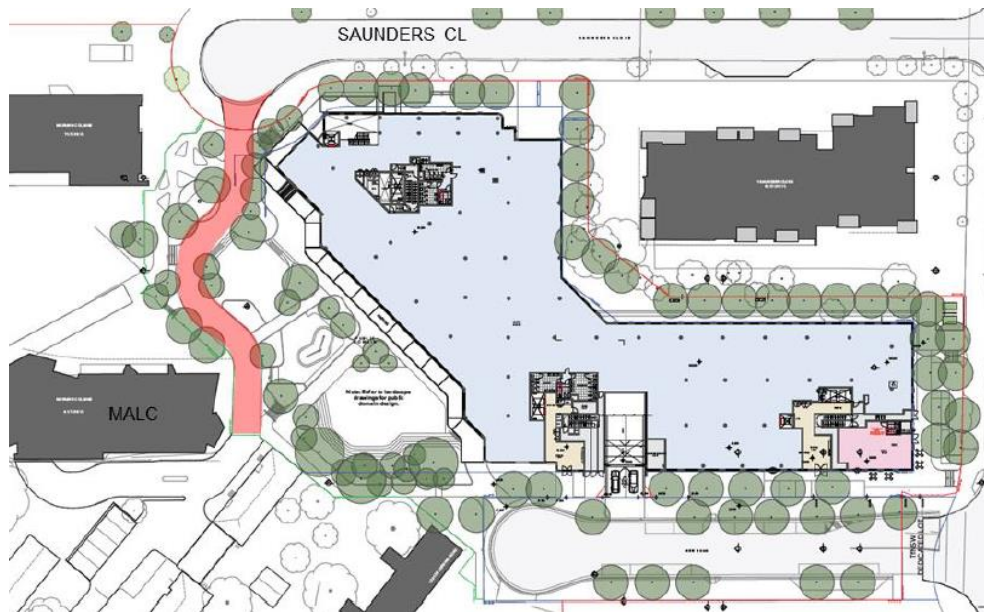


Figure 32 – Shared zone.
Source: Plan DA-110-009, dated 17 November 2022 as prepared by Turner Studio.

The Statement of Environmental Effects (page 18) submitted with the current application notes that this shared zone is to provide access to the MALC basement in perpetuity.

This shared zone departs from the approved access/egress arrangement granted under LDA2019/0264 which provided for a direct driveway onto Road 3 as shown in **Figure 33** below.

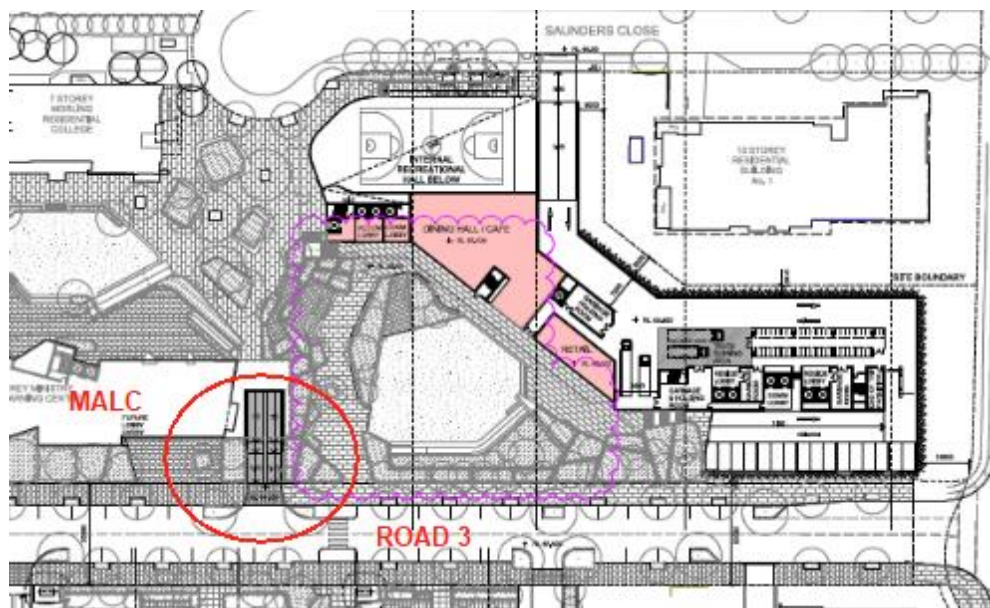


Figure 33 – Approved access/egress to the MALC building and completed Road 3 (LDA2019/0264).
Source: Adapted from Plan 4515-00, dated 14 August 2020 as prepared by DEM Architects.

It is further noted that the consent issued for the MALC Building under LDA2017/0216 included Condition 3 which states:

3. **Realignment of driveway to future “Road 3”.** *The driveway fronting the basement parking level must be designed to accommodate a potential vehicle access (gutter crossover) between the parking level and future road which is planned to traverse the development lot, marked as “Road 3” on the Macquarie Park access network map depicted in the 2014 DCP Part 4.5 (Macquarie Park Corridor).*

To achieve this, the approved plans (Basement DA04, Amendment 04 & Ground floor plan DA05, amendment 04) are to be modified by extending the driveway further west of the basement entry so as to provide straight kerb between the western side of the basement entry and the future road alignment which is perpendicular to the future road.

Note: For traffic safety reasons, the remaining section of ramp east of the parking entry (leading up to the internal road) will be made redundant, should this access point eventuate. This is to occur within one month of the road being constructed.

The driveway ramp which currently services the MALC building car park connects to an internal driveway which, in turn, connects to Saunders Close (as seen in **Figure 34** below). This is a similar arrangement to that envisaged by the proposed shared zone. However, the imposition of Condition 3 under LDA2017/0216 indicates that the internal driveway/Saunders Close link was historically intended to be temporary subject to the construction of, and connection to, Road 3.



Figure 34 – Ramp to the MALC building car park.

After a review of the open space/park provided in this amending application, it was considered that the inclusion of a permanent vehicle/pedestrian shared zone through the open space/park area further eroded the recreational intent of the park.

This results in Council concluding that the shared zone is necessary to provide legal access/egress of the MALC building to a roadway and for that reason, may be approved on a temporary basis only. However, once Road 3 is completed and prior to the issuing of an Occupation Certificate for Stage 2, it is considered appropriate that the shared zone

is to be decommissioned, the open space/park area reinstated, and the MALC building is to be connected to Road 3 directly.

A condition is included in the Part A of the draft consent to address this in the Masterplan. Refer to **Condition 39** under **Part A** of the draft consent.

Structure of the Amended Consent

To accommodate the Masterplan and the detailed development of Site A within the framework of the Concept Approval, the draft consent has been structured as follows:

- Part A – Masterplan Approval.
- Part B – Development Approval (Site A).

Part A of the draft consent retains most of the conditions included in the Concept Approval as these were considered to be necessary for the future detailed development of Site B.

Part B includes specific conditions related to the detailed construction of Stage 1 (Site A) and are subject to the normal certification stages of development.

It is envisaged that a future development application will be lodged for the detailed construction of Stage 2 (Site B) in which case, the consent may then be amended to include Part C – Development Approval (Site B).

6. BACKGROUND

Strategic Background

Morling College is located within an area identified as a mixed-use precinct in Macquarie Park, with Macquarie University, Macquarie Centre shopping centre, residential development and Macquarie Park business park precinct located within the immediate vicinity.

In 2012, Ryde Council nominated the Macquarie University Station area as a Priority Precinct and the NSW Government endorsed Macquarie University Station (Herring Road) as a Priority Precinct in November 2012.

The precinct plan informed the rezoning of the priority precinct and amendments to the planning controls were gazetted on 2 October 2015 and incorporated into *Ryde Local Environmental Plan 2014* (RLEP 2014). The amendments to RLEP 2014 resulted in increases to the height and density controls.

The subject site is within the Priority Precinct which also includes Macquarie University and Macquarie Shopping Centre and is near the employment opportunities offered by Macquarie Park. The precinct is well serviced by public transport including bus services, the Epping to Chatswood Rail Line, and the future North West Rail Link. Upgrades to the M2 have also been completed including new ramps at Christie Street, which improve access to the precinct.

Development Approvals Background

A summary of recent development applications approved on the subject site as part of the overall redevelopment of Morling College is as follows:

LDA2014/0170

Approved by Council on 17 November 2014 for the construction of a 7-storey building comprising 94 student accommodation rooms, multi-use lecture rooms, café and associated carparking for 22 cars, and loading bay.

MOD2015/0235

Approved by Council on 17 November 2014 to modify the consent issued for LDA2014/0170. A minor reconfiguration of at-grade car parking was included in this application but did not change to total quantum of approved parking spaces.

LDA2016/0020

Approved by the Sydney East Joint Regional Planning Panel on 12 September 2016 for the construction of a 23 storey mixed use development comprising of 192 residential apartments with 107m² of ground floor retail space, and the provision of 171 car parking spaces within 3 basement levels.

LDA2016/0386

Approved by Council on 19 September 2016 for the demolition of a single storey dwelling and garage and two storey brick building located on the south-eastern corner and two lot subdivision. Of relevance to LDA2019/0264 (the Concept Approval) and the subject application, Condition 15 of this consent required a positive covenant to be created in respect to floor space to transfer 8,017m² space from the Morling College site to the newly created lot.

LDA2017/0216

Approved by Council on 23 March 2018 for demolition works and the construction of a five storey multi-purpose facility comprising education, chapel, office and cafe, car park for 22 vehicles and improvement works to the existing dining hall.

LDA2019/0264 (the Concept Approval)

On 24 November 2020, the Sydney North Planning Panel approved LDA2019/0264 for a mixed-use commercial, retail and residential development across two development precincts recognised as 'Site A' and 'Site B'.

Site A includes the provision of two mixed-used envelopes inclusive of two 14 storey residential building forms above a varied 3 to 5 storey activated mixed-use podium to Herring Road extending to the rear of 1 Saunders close.

Site B includes the provision of three 14 storey residential building envelopes along the south-western boundary of the site.

Key components of the concept approval comprised the following:

- **Site A** (Buildings B1 and B2) includes the provision of two mixed-used envelopes inclusive of two 14 storey residential building forms above a varied 3 to 5 storey activated commercial mixed use podium to Herring Road extending to the rear of 1 Saunders close. This also includes the provision of a central public domain or plaza area to the north of the new road corridor.
- **Site B** (Buildings B3, B4 and B5) includes the provision of three 14 storey residential building envelopes along the south-western boundary of the site.
- Provision of a 20m wide road corridor (Road 3) through the site in an east-west direction (generally).

Figure 21 below shows the layout of LDA2019/0264.



Figure 21 – Site layout and building/road locations of Concept Approval LDA2019/0264

PRL2022/0028 (Pre-Lodgement)

A pre-lodgement meeting was held on 11 August 2022 with respect to a proposed modification Application to Concept Masterplan and Stage 1 Development Application for development of three-storey mixed-use commercial and residential towers as part of the Stage DA of the Morling College site.

The advice forwarded to the applicant instructed the submission of an amending development application and that the amending development application would also include an application seeking consent for the proposed Detailed Stage 1 Works.

7. PLANNING ASSESSMENT

The following planning instruments, policies and controls are relevant to the development and have been considered in this assessment:

- Environmental Planning and Assessment Act 1979;
- NSW Threatened Species Conservation Act 1995;
- Commonwealth Environment Protection and Biodiversity Conservation Act 1999;
- Environmental Planning and Assessment Regulation 2021;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;

- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development;
- Ryde Local Environmental Plan 2014;
- Ryde Development Control Plan 2014; and
- Section 7.11 Contribution Plan.

7.1 Environmental Planning and Assessment Act 1979

All relevant matters for consideration under Section 4.15 have been addressed in the assessment of this application.

Section 4.17 – Imposition of conditions

Section 4.17(5) includes provision to include a condition which requires the surrender of a consent. As this application supersedes the concept approval granted under LDA2019/0264, a condition is included as Deferred Commencement under Part A of the draft consent which requires that LDA2019/0264 is surrendered (see separate comments under Section 4.24 of the Act below).

Section 4.24 – Status of concept development applications and consents

Section 4.24(b) of the Environmental Planning and Assessment Act 1979 deals with the status of concept development applications and consents and states:

“While any consent granted on the determination of a concept development application for a site remains in force, the determination of any further development application in respect of the site cannot be inconsistent with the consent for the concept proposals for the development of the site”.

This is reflected in Condition 6 imposed under LDA2019/0264 which is over to LDA2022/0394 and states:

6. ***Consistency of future development applications.*** *While this consent remains in force, the determination of any future development application in respect of the site cannot be inconsistent with this consent.*

The consent granted under LDA2019/0264 is the subject of this amending application and cannot remain in force at the same time as the consent for the current application is active. Although a request to surrender the consent for LDA2019/0264 has been made, in order to avoid inconsistency between the two concept approvals, a Deferred Commencement condition is included in the draft consent to address this matter.

The Deferred Commencement condition would therefore simply require the applicant to formally surrender LDA2019/0264 for LDA2022/0394 to become active and therefore, avoid concurrent inconsistency.

Refer to **Part A** of the draft consent.

7.2 NSW Threatened Species Conservation Act 1995 (TSC Act)

The objectives of the TSC Act are to:

- a) *conserve biological diversity and promote ecologically sustainable development, and*
- b) *prevent the extinction and promote the recovery of threatened species, populations and ecological communities, and*
- c) *protect the critical habitat of those threatened species, populations and ecological communities that are endangered, and*
- d) *eliminate or manage certain processes that threaten the survival or evolutionary development of threatened species, populations and ecological communities, and*
- e) *ensure that the impact of any action affecting threatened species, populations and ecological communities is properly assessed, and*
- f) *encourage the conservation of threatened species, populations and ecological communities by the adoption of measures involving co-operative management.*

The approved concept (under LDA2019/0264) was accompanied by an *Ecology and Waterway Report* prepared by Ecological Consultants Australia Pty Ltd which concluded that the proposal would not have any significant impact on threatened species and is compliant with the relevant Acts.

The amending proposal is accompanied by an updated ecological review prepared by Ecological Consultants Australia Pty Ltd (dated November 2022) which concludes that the proposed mixed-use commercial and residential development will not result in any adverse impacts as the works:

- Are not within the Biodiversity Values mapped area.
- Are not in an area of impact and the vegetation removal is less than 2,500m².
- The application proposes the removal of trees (as per the Arborist Report) which have no particular habitat value for native fauna.

The updated ecological review goes on to note that:

“Detailed alterations of plans have occurred to retain the other native trees in this area including modifications to the basement location all under the direction of the Arborist. In summary, the ecological impacts of the proposed Fig and Chinese Elm removal are negligible. The previous work in the riparian zone of planting and maintaining STIF [Sydney-Turpentine-Ironbark Forest] are a high success and the biodiversity of this area in general has improved since pre-works. Additional planting of locally native ground and shrubs from this community will assist in the on-going site improvements”.

Condition 36 was imposed under LDA2019/0264 which requires:

36. **Updated Ecological Information.** *Prior to the lodgement of any Development Application related to this Concept Masterplan, updated Ecological documentation prepared by a suitably qualified Ecologist must be provided. Specifically, the following information must be submitted:*

1. *An assessment of whether the proposal is likely to significantly affect threatened species under section 7.2, 7.3 and 7.4 of the NSW Biodiversity Conservation Act and with reference to parts 7.1, 7.2 and 7.3 (five-part test) of the Biodiversity Conservation Regulation.*

If the proposal is likely to significantly affect threatened species; a Biodiversity Development Assessment Report (BDAR) must accompany the DA.

In the 'five-part test' there should be a calculation of how much Sydney Turpentine-Ironbark Forest (STIF) canopy would be lost by referencing the updated Arboricultural Impact Assessment or by calculating using aerial photo interpretation.

2. *An assessment of whether the native vegetation on the site qualifies as Turpentine-Ironbark Forest of the Sydney basin Bioregion under the Commonwealth Environment Protection and conditions thresholds in the listing advice for the CEEC.*

If so, an assessment of impacts as per the "Matters of National Environmental Significance: Significant impact guidelines" should be referred to determine whether the proposed action is a controlled action requiring referral to the Federal Environment Minister.

3. *If a BDAR is required, a tabulated assessment of the threatened species recorded within 5km of the site, their habitat requirements and the likelihood of occurrence at the subject site.*
4. *Clear representation of maps and figures and their relationship to the proposed development footprint. This must include mapping of extant STIF on site by canopy and threatened flora and fauna within 5km. Superfluous figures are to be omitted from the report.*
5. *Any report submitted to Council must align with the calculated impacts to existing trees as identified within the Arboricultural Impact Assessment (AIA) to accompany the Development Application.*

Figure 35 below shows the location of the critically endangered Sydney-Turpentine-Ironbark Forest (STIF) on the site noting that the works proposed under Stage 1 for Site A are within the south-eastern half of the site (refer to **Figure 3**) and removed from the STIF.

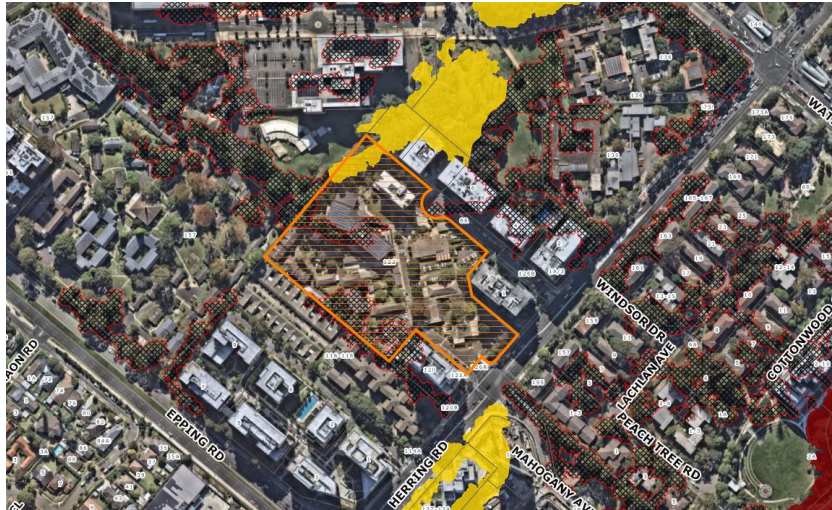


Figure 35 - Biodiversity Values Map extract. The subject site is outlined in orange. The Sydney-Turpentine-Ironbark Forest is coloured in yellow. The hashed areas outlined in red are urban exotic/native species.

Council’s Consultant Landscape Architect (CPS) has undertaken a review of the updated ecological report and notes:

“An Ecological Report prepared by Ecological Consultants Australia dated November 2022 has been provided to demonstrate the associated Ecological impacts of the proposal. This report focuses only on the impacts associated with the removal of two trees, being Trees 7 & 117, as part of the Stage 1 works and provides no further information to address the previous concerns outlined under Condition 36 of the previous Development Consent.

The conclusions of this report state that the Stage 1 works are unlikely to result in any significant Ecological impacts. As such, the proposal is generally supported from this perspective.

Whilst the report has not considered the additional tree removal supported by CPS (Trees 110, 111, 114, 115, 116 & 118), it is considered highly unlikely that the removal of these minor trees would have a substantial bearing on the overall ecological impacts of the Stage 1 works”.

Given the above considerations and noting that the updated ecological review only addresses the scope of development on Site A, Condition 36 is now numbered Condition 35 and is to remain imposed as part of the amended masterplan to ensure it is applied to the detailed design, construction and Stage 2 development works at Site B.

Refer to **Condition 35** in Part A of the draft consent.

The submitted updated ecological review is included as an approved document under **Condition 1** in the consent for the detailed design, construction and Stage 1 development works at Site A.

Refer to **Condition 1** in Part B of the draft consent.

7.3 Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)

As discussed above, the updated ecological review prepared by Ecological Consultants Australia Pty Ltd (dated November 2022) and submitted with this application found that the Stage 1 (Site A) component of the development (including the partial construction of Road 3) will not impact upon the STIF, or any other threatened native flora and fauna.

The STIF, although listed under the EPBC Act, is not impacted by this proposal due to distance, and referral of the matter to the Federal Minister for the Environment and Energy for further consideration and approval was not required.

Detailed commentary by Council's Consultant Landscape Architect is included in the Referrals section of this report.

7.4 Environmental Planning and Assessment Regulation 2021

This application satisfies Division 1 of the Regulation as it is accompanied by the necessary documentation for development seeking consent for a mixed-use development and associated car parking, including:

- A Design Statement from a qualified designer.
- An explanation of the design in terms of the Design Quality Principles set out in Part 2 of *State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development*.
- BASIX Certificate; and
- Required drawings and montages.

7.5 State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 2 – Vegetation in Non-Rural Areas

The aims of this Chapter are:

- a) to protect the biodiversity values of trees and other vegetation in non-rural areas of the State, and*
- b) to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.*

This chapter applies to the Ryde local government area on land within the MU1 Mixed use zone and 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 application is accompanied by an Arboricultural Assessment Report (dated 13 November 2022) which responds to the amending development application (specifically to those changes forming part of Site A of the Concept Approval, including the detailed design of this area and revisions to the staged delivery of Road 3) and Condition 35 which was imposed under LDA2019/0264.

Condition 35 states:

35. **Updated Arboricultural information.** Prior to the lodgement of any Development Application as related to this Concept Masterplan, a new or updated Arboricultural Impact Assessment (AIA) must be prepared by a suitably qualified AQF5 Consultant Arborist. The AIA is to provide a full assessment of the anticipated impacts to Trees 8, 9, 62, 63 and all trees on neighbouring allotments within 5m of the site boundaries. The AIA shall provide clear and concise recommendations for tree retention and removal and ensure no conflicting information. Recommendations for tree retention and removal are to be accompanied by sound discussion of the anticipated development impact. Trees already removed or not assessed are to be omitted from the report.

The Report must also include a tree protection plan (drawing) showing the TPZs for the trees as required by Australian Standard AS4970-2009. Protection of trees on development sites. It is best if this plan also shows the Structural Root Zones and is superimposed on the Site Plan showing the development and the assessed trees.

The submitted Arboricultural Assessment Report notes that Trees 8 and 9 (although the species was not identified) were assessed and referenced in the Tree Assessment Schedule (under Appendix 1 of the original Arboricultural Impact Assessment (dated 4 June 2019)) as being not located on the subject site and that no impact would occur as both trees are located clear of the proposed works.

Figure 36 below shows the location of Trees 8 and 9 on 1 Saunders Close.

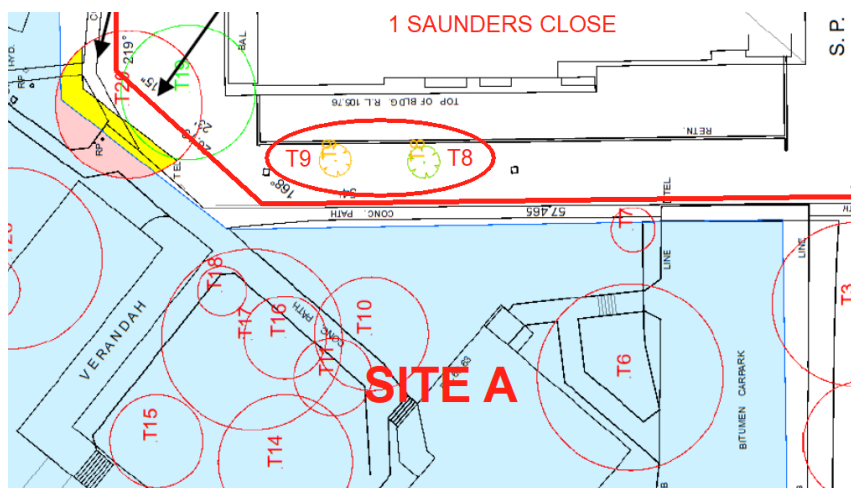


Figure 36 – Location of Trees 8 and 9.
Source: Arboricultural Impact Assessment (22 January 2020).

Trees 62 and 63 are located at the rear of the property, are well outside the 'Site A' proposed works area and are not required to be assessed as part of this application. However, they will be the subject of assessment for the detailed design, construction and Stage 2 development works at Site B.

Figure 37 below shows the location of Trees 62 and 63.

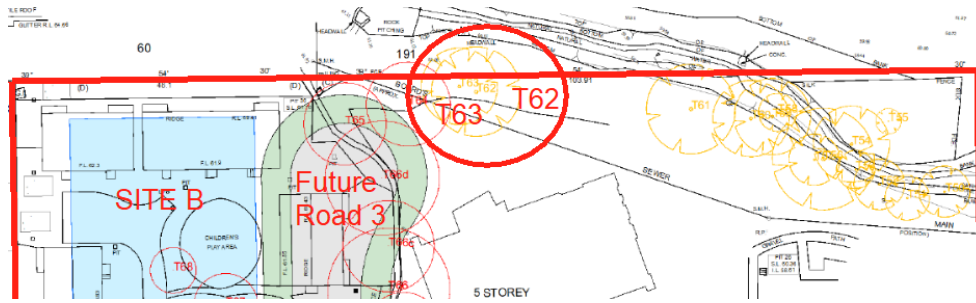


Figure 37 – Location of Trees 62 and 63.
Source: Arboricultural Impact Assessment (22 January 2020).

It should be noted that none of the trees to be removed are classified as an ‘endangered’, ‘critically endangered’ or ‘vulnerable’ species under the *Biodiversity Conservation Act 2016*.

The submitted Arboricultural Assessment Report identifies that eight (8) trees will be required to be removed as part of the development of Site A and Road 3 and that 10 trees will be retained. Council’s consulting Landscape Architect who has reviewed the Arboricultural Assessment Report agrees and notes the following:

“Following a review of the amended documentation received, the removal of eight (8) trees (Trees 7, 110, 111, 114, 115, 116, 117 & 118) located on the subject site has been supported. The removal of these trees is not expected to have a significant impact on the landscape character of the site or surrounding allotments with removals considered to be suitably offset by the proposed landscape scheme”.

Condition 35 is renumbered Condition 34 and is to remain as imposed (less the inclusion of the reference to Trees 8 and 9) as part of the amended masterplan to ensure that updated arboricultural information is submitted for the detailed design, construction and Stage 2 development works at Site B.

Refer to **Condition 34** in **Part A** of the draft consent.

The submitted Arboricultural Assessment Report is included as an approved document under Condition 1 in the consent for the detailed design, construction and Stage 1 development works at Site A.

Refer to **Condition 1** in **Part B** of the draft consent.

Chapter 6 – Water Catchments

Chapter 6 of the SEPP applies to land in the Sydney Harbour Catchment. The site is located within the designated hydrological catchment of Sydney Harbour and therefore is subject to the provisions of the SEPP.

However, the site is not located on the foreshore or adjacent to the waterway and therefore, with the exception of the objective of improved water quality, the objectives of the planning instrument are not applicable to the proposed development.

The objective of improved water quality is satisfied through compliance with the provisions of Part 8.2 of *Ryde Development Control Plan 2014*.

The development raises no other issues and otherwise satisfies the aims and objectives of the planning instrument.

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

The application is accompanied by a Multi-Dwelling BASIX Certificate (Certificate No. 1324429M dated 7 December 2022).

The Certificate identifies that the development will achieve the following:

Requirement	Target Score	Provided Score
Water	40	41
Thermal Comfort	Pass	Pass
Energy	25	32

The application is also accompanied by a NatHERS Certificate (Certificate No. 0008280120 dated 6 December 2022) which provides an average energy rating of 6.4 out of 10 (i.e., 64%).

The provision of the BASIX Certificate satisfies (in part) Condition 11 which was imposed in LDA2019/0264 and which stated:

11. **BASIX.** *A BASIX Certificate in accordance with the requirements of State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 must be submitted with any relevant subsequent Development Application.*

Condition 11 is to remain as imposed as part of the amended masterplan to ensure that a BASIX Certificate is submitted for the detailed design, construction and Stage 2 development works at Site B.

Refer to **Condition 11** in **Part A** of the draft consent.

The submitted BASIX Certificate is included as an approved document under Condition 1 in the consent for the detailed design, construction and Stage 1 development works at Site A.

Refer to **Conditions 1, 4, 88, and 140** in **Part B** of the draft consent.

7.7 State Environmental Planning Policy (Planning Systems) 2021

As the proposed development has a Capital Investment Value of \$267,080,000 (excluding GST) is classified as Regionally Significant Development and is required to be determined by the Sydney North Planning Panel (SNPP).

7.8 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

Clause 4.6(1) of the SEPP requires that a consent authority must not consent to the carrying out of any development on land unless:

- a) *It has considered whether the land is contaminated, and*
- b) *If the land is contaminated, it is satisfied that the land is suitable in its contaminated state for the purpose for which the development is proposed to be carried out, and*
- c) *If the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.*

In response to the above requirements, the applicant has submitted a Stage 2 *Detailed Site Investigation* prepared by Foundation Earth Sciences (FES) dated 24 November 2022.

The Investigation concludes that the site is suitable for the proposed development subject to conditions related to the removal of soil off-site, and an unexpected finds protocol being followed during the excavation phase.

The provision of the Detailed Site Investigation satisfies (in part) Condition 15 which was imposed in LDA2019/0264 and which stated:

15. **Contamination.** *A Detailed Environmental Site Assessment (DESA) must be submitted for Council's consideration with any future development application. The DESA must comply with the Guidelines for Consultants Reporting on Contaminated Sites (EPA, 1997) and demonstrate that the site is suitable for the proposed use, or that the site can be remediated to the extent necessary for the proposed use.*

Condition 15 is to remain as imposed as part of the amended masterplan to ensure that a Detailed Site Investigation Report is submitted for the detailed design, construction and Stage 2 development works at Site B.

Refer to **Condition 15** in **Part A** of the Consent.

The submitted Detailed Site Investigation Report is included as an approved document under **Condition 1** in the consent for the detailed design, construction and Stage 1 development works at Site A. Furthermore, additional conditions are included to address the identification, removal and transportation of hazardous materials (including asbestos), and protocols regarding discovery of additional information.

Refer to **Conditions 1, 32, 33, 37, 38, 39, 40, 41, 42, and 135** in **Part B** of the draft consent.

7.9 State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

Clause 2.122 – Traffic Generating Development

This clause applies to new premises of the relevant size or capacity which means “*in relation to development on a site that has direct vehicular or pedestrian access to any road-the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3*”.

Schedule 3 of the SEPP requires that the following residential flat developments are referred to Transport for NSW (TfNSW) as Traffic Generating Development:

Column 1	Column 2	Column 3
Purpose of Development	Size or Capacity Site with access to any road	Size or Capacity Site with access to classified road or to a road that connects to classified road if access is within 90m of connection, measured along alignment of connecting road
Residential Accommodation	300 or more dwellings	75 or more dwellings
Commercial Premises	10,000m ² GFA	2,500m ² GFA
Shops	2,000m ² GFA	500m ² GFA

Herring Road is, at this location, a “2000 classified regional road” (i.e., a secondary road) that is under the care and control of Council and is therefore subject to Column 2.

It is noted that the development includes:

- 265 dwellings.
- 3,611m² GFA Commercial.
- 1,091m² GFA Retail.

Accordingly, the application was referred to TfNSW for comment as traffic generating development. Transport for NSW has reviewed the submitted documentation and no objection was raised subject to appropriate conditions.

Condition 38 was imposed under LDA2019/0264 to address a particular condition imposed by Transport for NSW pertaining to the submission of the first development application for the site (i.e., being the subject application).

As this condition has been addressed, Condition 38 is deleted from Part A of the draft consent and a new condition is included in Part B of the consent to address Transport for NSW' conditions.

Refer to **Condition 21** in **Part B** of the draft consent.

Clause 2.120 - Impact of road noise or vibration on non-road development

This section applies to development for any of the following purposes that is on land in or adjacent to the road corridor or any other road with an annual average daily traffic volume of more than 20,000 vehicles.

Development adjacent to such road corridors are required to be designed to respond to the following internal noise maximum criteria:

Room	Time Period	Internal Noise Level
Bedroom	10.00pm to 7.00am	35dB(A)
Other Habitable Rooms	24 Hours	40dB(A)

Traffic Volume Map 12A (as published by Transport for NSW) does not classify Herring Road roadways carrying more than 20,000 Annual Average Daily Traffic (AADT) and therefore, it is not a mandatory requirement to be assessed against the noise provisions of Clause 2.120.

Notwithstanding, the application is accompanied by a Noise Impact Assessment (dated 21 November 2022) which does include a section (Part 5.1.4) on traffic noise assessment criteria. The report includes recommendations to respond to external noise intrusion.

The provision of the Noise Impact Assessment satisfies (in part) Condition 12 which was imposed in LDA2019/0264 and which stated:

12. **Acoustic Impact Assessment.** *Any future applications for residential development or a noise generating use is to be accompanied by an Acoustic Impact Assessment report. The report must be prepared by a suitably qualified Acoustic Consultant and is to demonstrate that the development complies with the applicable controls under SEPP (Infrastructure)*

Condition 12 in the amended masterplan is to be updated to reflect the correct SEPP and is to remain as imposed as part of the amended masterplan to ensure that an Acoustic Impact Assessment is submitted for the detailed design, construction and Stage 2 development works at Site B.

Refer to **Condition 12** in **Part A** of the draft consent.

The submitted Noise Impact Assessment and the recommendations contained within that report are included under Condition 1 in Part B of the draft consent.

Refer to **Condition 1, 50, 136, 146, 193, 199, 201, and 202** in **Part B** of the draft consent.

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

Clause 4 of the SEPP stipulates that:

- 1) *This Policy applies to development for the purpose of a residential flat building, shop top housing or mixed-use development with a residential accommodation component if:*
 - a) *the development consists of any of the following:*
 - (i) *the erection of a new building,*

- (ii) *the substantial redevelopment or the substantial refurbishment of an existing building,*
 - (iii) *the conversion of an existing building, and*
- b) *the building concerned is at least 3 or more storeys (not including levels below ground level (existing) or levels that are less than 1.2 metres above ground level (existing) that provide for car parking), and*
- c) *the building concerned contains at least 4 or more dwellings.*

As previously outlined the proposed mixed-use development is for the construction of three residential towers above a common commercial podium. The towers are 13 to 14 storeys in scale and accommodate a total of 265 apartments.

As per the provisions of Clause 4 outlining the application of the Policy, the provisions of the SEPP are applicable to the assessment of this application.

As previously outlined within this report Clause 29 of the *Environmental Planning and Assessment Regulation 2021* requires the submission of a Design Statement from the building designer at lodgement of the development application. This documentation has been submitted.

Clause 28 of the SEPP requires:

- 2) *In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration (in addition to any other matters that are required to be, or may be, taken into consideration):*
 - a) *the advice (if any) obtained from the design review panel, and*
 - b) *the design quality of the development when evaluated in accordance with the design quality principles, and*
 - c) *the Apartment Design Guide.*

Urban Design Review Panel (UDRP)

The application was referred to the UDRP on 2 March 2023 for consideration.

The comments received are supportive although the Panel requested the following information to address Principle 9: Aesthetics:

- 1:50 sections and detail elevations of each primary facade type to clearly indicate the design intent, materials selection, balustrading, fenestration and integration of services and drainage.
- 1:50 sections and details for key elements of the landscape design, tree and planting selections and materials palette.

The Panel requested an opportunity for a final desktop review of any updated material.

The comments provided by the UDRP were forwarded to the applicant on 23 March 2023. In response, the applicant provided the information pertaining to the above-listed

sections on 21 April 2023. Following a desktop review of the submitted information, the UDRP requested further clarification on 13 June 2023. The applicant submitted further information to address the UDRP on 19 June 2023.

The updated material was again referred back to the UDRP for a desktop review and the final comments made by the Panel are included in the following assessment of the Design Quality Principles as contained in Schedule 1 of the SEPP:

Principle 1: Context and Neighbourhood Character

"Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions.

Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change".

UDRP Comments

"The site is located within the Macquarie University Precinct on the western side of Herring Road and adjacent to Macquarie University. The site houses the Morling College educational campus. It is in an area undergoing significant change from lower scale buildings set predominantly in a landscape setting to a high-density transit-oriented precinct.

This stage is bounded by the Learning Centre, Village Green and Morling Residential College tower to the north-west; Sanders Close and the apartment buildings at 1 Saunders Close to the north-east; Herring Road to the south-east; and the existing Morling College low scale residential buildings and the residential tower at 121 Herring Road to the south-west.

The Master Plan included a number of key elements which are critical for the proposed development stage:

Central Plaza

The aspiration of the College to create a welcoming space, which encourages the community into the site is supported.

The Panel notes the redesign of the Central Plaza responding to earlier feedback of the Panel. The design response for a more consolidated and soft green space is positive and is supported.

New Road 3 and Street Definition

New Road 3 is delivered in part with this stage of development.

Reconfiguration of the tower and podium forms result in a clearer, direct line of sight between the new road and Saunders Close turning circle. Podium alignments hold

the street and define it with active retail frontage adjacent to the reconfigured open space. These moves are supported.

As discussed during the meeting, the Panel is aware of preliminary planning underway on the adjacent Baptist Care site. Every opportunity to resolve detailed interface and physical connections between the two sites is critical.

Share Way between New Street and Saunders Close

The Panel notes the redesign of the Shared way (in concert with the central Plaza) responding to earlier feedback of the Panel. The design response for a more directly connected and accessible public space is positive and is supported. Council should satisfy itself that equitable public access is achievable between the turning circles of the new road and Saunders Close”.

Assessing Officer Comments

The above comments are supportive of the development with respect to the aims of Principle 1.

The developer has been in discussion with the neighbouring site (Baptist Care) with respect to resolving the detailed interface and physical connections (namely the continuation of Road 3) and appropriate design outcomes will be detailed in the forthcoming Stage 2 detailed development of Site B.

With respect to equitable public access between Road 3 and Saunders Close, the plans indicate that the through-site connections via the publicly accessible park at the rear of the Stage 2 (Site A) development will provide equitable public access.

The development satisfies Principle 1.

Principle 2: Built Form and Scale

"Good design achieves a scale, bulk and height appropriate to the existing or desired future character of the street and surrounding buildings.

Good design also achieves an appropriate built form for a site and the building's purpose in terms of building alignments, proportions, building type, articulation and the manipulation of building elements.

Appropriate built form defines the public domain, contributes to the character of streetscapes and parks, including their views and vistas, and provides internal amenity and outlook”.

UDRP Comments

“The separation of the residential towers into three distinct forms (as documented in the architectural drawings) remains a better built form outcome than the two towers shown in the plan comparison, subject to the following comments.

The earlier Panel feedback has influenced the reconfiguration of Buildings 1B and 2. These buildings have increased separation and no longer occlude views from the central plaza towards Herring Road and are supported.

Building uses at ground level have changed from earlier versions of the Master Plan's recreational and childcare facilities - to more generic retail uses. The Panel notes this extent of retail and commercial uses may be difficult to sustain in this part of the site.

Building heights appear to be generally compliant with the permissible height plane. The Panel continues to offer in principle support to this proposed building height strategy”.

Assessing Officer Comments

The above comments are supportive of the development with respect to the aims of Principle 2.

With respect to the provision of more generic retail uses, this is a market driven strategy which, while available as a retail space, may be used (subject to consent if not permitted without consent) for other permissible uses in the future pending market forces.

The building heights include minor elements which do not comply with the requirements of Clause 4.3 (Height of Buildings) under the *Ryde Local Environmental Plan 2014*. However, these elements are the subject of the request to vary the development standard and are acceptable.

The development satisfies Principle 2.

Principle 3: Density

"Good design achieves a high level of amenity for residents and each apartment, resulting in a density appropriate to the site and its context.

Appropriate densities are consistent with the area's existing or projected population. Appropriate densities can be sustained by existing or proposed infrastructure, public transport, access to jobs, community facilities and the environment”.

UDRP Comments

“The Panel understands that the proposed maximum density remains consistent with the current Concept approval”.

Assessing Officer Comments

The above comments are supportive of the development with respect to the aims of Principle 3.

Although the design in the Concept Approval did not detail apartment numbers and typologies, it did define the GFA for the development. As detailed earlier in this report

(see table extract below), the overall GFA for this development remains the same as that approved under the Concept Approval (LDA2019/264).

There is a difference of an additional 2,698m² for Site A (the subject site) which has been extracted from the area allocated to the future expansion of the MALC building. However, this does not affect the approved overall density of the site.

Key Feature	LDA2019/264	LDA2022/394	Difference
Gross Floor Area			
Total Existing Buildings	7,717m²	7,717m²	No change
<u>Site A (Stage 1)</u>			
Building 1	12,805m ²		+7,543m ²
• Podium	-	4,824m ²	-
• Building 1A	-	7,598m ²	-
• Building 1B	-	7,926m ²	-
Building 2	12,850m ²	8,005m ²	-4.845m ²
Total Site A	25,655m²	28,353m²	+2,698m²
<u>Site B (Future DA)</u>			
Building 3	6,850m ²	6,850m ²	No change
Building 4	7,710m ²	7,710m ²	No change
Building 5	6,345m ²	6,345m ²	No change
Total Site B	20,905m²	20,905m²	No change
Future Expansion MALC	6,356m²	3,658m²	-2,698m²
Total GFA	60,633m²	60,633m²	No change

The development satisfies Principle 3.

Principle 4: Sustainability

"Good design combines positive environmental, social and economic outcomes. Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and liveability of residents and passive thermal design for ventilation, heating and cooling reducing reliance on technology and operation costs.

Other elements include recycling and reuse of materials and waste, use of sustainable materials, and deep soil zones for groundwater recharge and vegetation".

UDRP Comments

"Sustainability was not discussed in detail; however the Panel encourages all proposals to adopt best practice sustainability targets and encourages environmental performance in excess of the minimum statutory requirements.

Performance should be better than BASIX compliance.

The Panel understands that ADG targets for solar access and natural cross ventilation have been met".

Assessing Officer Comments

The above comments are supportive of the development with respect to the aims of Principle 4.

The application is accompanied by a BASIX Certificate which indicates that the development will achieve scores higher than the target requirements (particularly with respect to energy efficiency).

Furthermore, the application is also accompanied by a NatHERS Certificate which indicates that the development will achieve an average energy rating of 6.4 out of 10 (i.e., 64%).

The development satisfies Principle 4.

Principle 5: Landscape

"Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.

Good landscape design enhances the development's environmental performance by retaining positive natural features which contribute to the local context, coordinating water and soil management, solar access, micro-climate, tree canopy, habitat values, and preserving green networks. Good landscape design optimises usability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity, provides for practical establishment and long-term management".

UDRP Comments

"The Panel notes the positive design development of the landscape design and refers to the comments above in Context, Neighbourhood Character, and Built Form and Scale.

This refined landscape design proposal is supported in principle".

Assessing Officer Comments

The above comments are supportive of the development with respect to the aims of Principle 5.

The revised landscape scheme has been reviewed by Council's consultant Landscape Architect who supports the proposed shape and layout noting that:

"The amended landscape design is considered to be satisfactory with regard to overall layout, design, plantings and areas dedicated to open space. The proposed arrangements have been considered to represent a high-quality design which is capable of providing a high level of amenity to future users".

The development satisfies Principle 5.

Principle 6: Amenity

"Good design positively influences internal and external amenity for residents and neighbours.

Achieving good amenity contributes to positive living environments and resident well-being.

Good amenity combines appropriate room dimensions and shapes, access to sunlight, natural ventilation, outlook, visual and acoustic privacy, storage, indoor and outdoor space, efficient layouts and service areas, and ease of access for all age groups and degrees of mobility".

UDRP Comments

"The Panel understands that apartment layouts have been amended to meet or exceed targets set out in the ADG, including balcony configurations.

Amendments to the arrangement of the three towers will improve the amenity of the central plaza and reduce the apparent sense of density experienced from vantage points within the public realm and communal open space".

Assessing Officer Comments

The above comments are supportive of the development with respect to the aims of Principle 6.

The development satisfies Principle 6.

Principle 7: Safety

"Good design optimises safety and security, within the development and the public domain. It provides for quality public and private spaces that are clearly defined and fit for the intended purpose.

Opportunities to maximise passive surveillance of public and communal areas promote safety.

A positive relationship between public and private spaces is achieved through clearly defined secure access points and well-lit and visible areas that are easily maintained and appropriate to the location and purpose".

UDRP Comments

"Reconfiguration of the Central Plaza and shared way are positive and work to improve lines of sight and passive surveillance within the public domain".

Assessing Officer Comments

The above comments are supportive of the development with respect to the aims of Principle 7.

The application was referred to the NSW Police who did not raise any objection subject to conditions which respond to the requirements of CPTED.

Refer to **Conditions 148 to 155** in **Part B** of the draft consent.

The development satisfies Principle 7 subject to conditions.

Principle 8: Housing Diversity and Social Interaction

"Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.

Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix. Good design involves practical and flexible features, including different types of communal spaces for a broad range of people, providing opportunities for social interaction amongst residents".

UDRP Comments

The UDRP did not provide any comments to Principle 8.

Notwithstanding, the application is considered to provide a satisfactory mix of apartment sizes which provide housing choice for different demographics, living needs and household budgets.

The development provides a satisfactory level of communal amenity which enables social interaction amongst residents and the public.

The development satisfies Principle 8.

Principle 9: Aesthetics

"Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.

The visual appearance of well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape".

UDRP Comments

"The Panel continues to support the proposed architectural strategy for articulating building forms across the proposal by expressing different volumes with different façade concepts.

The Panel remains keen to ensure the proposed 'markers' are sufficiently differentiated within a large, united building form.

The design material presented might benefit from some further refinement in material, colour saturation and relief to allow these important 'markers' to read more distinctly.

In order to convey the anticipated diversity of architectural expression, the following design studies are sought.

- *1:50 sections and detail elevations of each primary facade type to clearly indicate the design intent, materials selection, balustrading, fenestration and integration of services and drainage.*
- *1:50 sections and details for key elements of the landscape design, tree and planting selections and materials palette”.*

Assessing Officer Comments

The above comments are supportive of the development with respect to the aims of Principle 9.

In requesting the additional detail, the UDRP refined their request to the following points:

- *The design material deals with a single residential building component and doesn't go to the question of how the 'markers' are intended to be differentiated from the typical building condition (other than by colour).*
- *The design material does not deal with the detailing of the brick podium, commercial/retail components or awnings within the scheme, which will be the areas experienced most from the public domain.*
- *The design material provided does not specifically indicate that balcony drainage will not be exposed on the soffit below and is silent on condenser unit locations (which often end up on balconies).*
- *The design material does not clearly describe the balcony balustrade fixings, and particularly doesn't indicate if fixings are intended to be concealed.*
- *The design material does not fully describe the vertical profile proposed for the pre-cast panels (width, spacing and depth of vertical ribs) and whether this profiling will be adequate to achieve the anticipated effect of shadow-play and relief across the project.*
- *The design material doesn't yet fully resolve the relationship of in-situ concrete balcony slab edges as they relate to the coloured pre-cast panels where they coincide on balconies - although I see a strategy that differentiates every third floor.*

The 1:50 sections were submitted by the applicant on 19 June 2023 and referred to the Panel for desktop review. The following comments have been provided in response:

- ***The design material deals with a single residential building component and doesn't go to the question of how the 'markers' are intended to be differentiated from the typical building condition (other than by colour).***

“The increased colour saturation and contrast is supported and helps to emphasise those horizontal elements which are intended to read more strongly than the recessive elements. To the extent that these 'markers' differ from the typical residential facade type, it would be desirable for the 'markers' to be drawn at 1:50 in an equivalent design intent drawing as currently provided for the primary residential facade type”.

A request was subsequently made to the applicant to provide the 'markers' drawing in a plan format to include in the master set.

The 1:50 plan was submitted to Council on 30 June 2023 and are included in the plan set contained under **Condition 1** under Part B of the draft consent.

- ***The design material does not deal with the detailing of the brick podium, commercial/retail components or awnings within the scheme, which will be the areas experienced most from the public domain.***

“Although the 3D renders provided by the proponent are quite persuasive in addressing the underlying comments regarding design intent, they will not typically form part of any development consent. Consequently, it would be desirable for the brick podium, typical awning and retail shopfronts to be drawn at 1:50 in an equivalent design intent drawing as currently provided for the primary residential facade type”.

A request was subsequently made to the applicant to provide a plan at 1:50 showing the brick podium, typical awning and retail shopfronts to be included in the master set.

The 1:50 plan was submitted to Council on 30 June 2023 and are included in the plan set contained under **Condition 1** under **Part B** of the draft consent.

- ***The design material provided does not specifically indicate that balcony drainage will not be exposed on the soffit below and is silent on condenser unit locations (which often end up on balconies).***
- ***The design material does not clearly describe the balcony balustrade fixings, and particularly doesn't indicate if fixings are intended to be concealed***

“The supplementary material provided by the proponent satisfactorily addresses these Panel comments”.

Assessing Officer Comments

Noted.

- ***The design material does not fully describe the vertical profile proposed for the pre-cast panels (width, spacing and depth of vertical ribs) and whether this profiling will be adequate to achieve the anticipated effect of shadow-play and relief across the project.***

“The supplementary material provided by the proponent satisfactorily addresses the Panel's comments. I note that the final pre-cast panel details will be determined by the architect during design development.

The scale of the building is significant and the shadow play described during earlier design review sessions is seen to be important in order to convey a sense of relief and solidity in a large volume of building mass.

I note that the 20 to 35mm depth of the sample form-liner and the close-spaced ribs may be inadequate to bring an adequate sense of depth and relief. To have a convincing effect from a distance, the pre-cast panel profile may need to be coarser”.

A condition is imposed which requires detail of the pre-cast panel profile to indicate a courser finish.

Refer to **Condition 1(c)** in **Part B** of the draft consent.

- ***The design material doesn’t yet fully resolve the relationship of in-situ concrete balcony slab edges as they relate to the coloured pre-cast panels where they coincide on balconies - although I see a strategy that differentiates every third floor.***

“The supplementary material provided by the proponent satisfactorily addresses the Panel’s comment”.

Assessing Officer Comments

Noted.

The development satisfies Principle 9.

Apartment Design Guide (ADG)

Clause 28(2)(c) of the SEPP requires consideration of the development against the relevant controls of the ADG. The following table provides an assessment of consistency against the criteria contained within Parts 3 and 4 the ADG.

Criteria/Guideline	Comments
Part 3 Siting the Development	
3A Site Analysis	Consistent
Does the development relate well to its context and is it sited appropriately?	<p>A Site Analysis plan, Urban Design Report and supporting Statement of Environmental Effects is provided to accompany the application. All documents adequately describe the context of the site and the considered relationship of the development to its surrounds.</p> <p>The built form responds to the street conditions and neighbouring site configurations.</p> <p>The building form and character reflects the changing context anticipated by the RLEP 2014 for the Macquarie Park Corridor.</p>
3B Orientation	Consistent
Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	The development is considered to respond appropriately to the street frontages of Herring Road and future Road 3

Criteria/Guideline	Comments												
	Due to the corner location to the south of the block (adjacent to future Road 3) and the stepped configuration of the development, solar access is optimised both internally and externally.												
<p>3C Public Domain Interface</p> <p>Does the development transition well between the private and public domain without compromising safety and security?</p> <p>Is the amenity of the public domain retained and enhanced?</p>	<p>Consistent</p> <p>The proposed development is considered to be satisfactory in terms of the creation and structuring of the significant new public spaces and facilities for both residents and visitors.</p> <p>The amenity of the public domain (being the three street frontages of Herring Road, Saunders Close, and future Road 3 through proposed public domain works) is retained.</p>												
<p>3D Communal and Public Open Space</p> <p>Appropriate communal open space is to be provided as follows:</p> <ol style="list-style-type: none"> Communal open space has a minimum area equal to 25% of the site; Developments achieve a minimum of 50% direct sunlight to the principal usable parts of the communal open space for a minimum of 2 hours between 9 am and 3pm on 21 June (mid-winter). 	<p>Consistent</p> <p>Stage 1 in Site A (being the subject of this detailed design) has an area of 8,876m² (excluding Road 3) which requires the provision of 25% (2,219m²) communal open space (COS).</p> <p>The development provides a total of 39.5% (i.e., 3,511m²) of the site area of COS located at the ground and podium level as follows:</p> <ul style="list-style-type: none"> Ground: 39% (2,646m²) Podium: (865m²) Total COS: 39.5% (3,511m²) <p>The COS areas receive a minimum of 50% direct sunlight for a minimum of 2 hours between 9 am and 3pm on 21 June (mid-winter).</p>												
<p>3E Deep Soil Zones</p> <p>Deep soil zones are to meet the following minimum requirements:</p> <table border="1" data-bbox="156 1559 721 2016"> <thead> <tr> <th>Site area</th> <th>Minimum dimension</th> <th>Deep soil zone (% of site area)</th> </tr> </thead> <tbody> <tr> <td>Less than 650m²</td> <td>-</td> <td rowspan="4">7%</td> </tr> <tr> <td>650m² – 1,500m²</td> <td>3.0m</td> </tr> <tr> <td>Greater than 1,500m²</td> <td>6.0m</td> </tr> <tr> <td>Greater than 1,500m² with significant</td> <td>6.0m</td> </tr> </tbody> </table>	Site area	Minimum dimension	Deep soil zone (% of site area)	Less than 650m ²	-	7%	650m ² – 1,500m ²	3.0m	Greater than 1,500m ²	6.0m	Greater than 1,500m ² with significant	6.0m	<p>Consistent</p> <p>Stage 1 in Site A (being the subject of this detailed design) has an area of 8,876m² (excluding Road 3) which requires the provision of 7% (621.32m²) deep soil zone with a minimum dimension of 6.0m.</p> <p>Based upon the above requirements, the development provides for 8.9% (795.2m²) deep soil zone with a minimum dimension of 6.0m.</p>
Site area	Minimum dimension	Deep soil zone (% of site area)											
Less than 650m ²	-	7%											
650m ² – 1,500m ²	3.0m												
Greater than 1,500m ²	6.0m												
Greater than 1,500m ² with significant	6.0m												

Criteria/Guideline			Comments												
existing tree cover															
<p>3F Visual Privacy</p> <p>Minimum required separation distances from buildings to the side and rear boundaries are as follows:</p> <table border="1"> <thead> <tr> <th>Building height</th> <th>Habitable rooms and balconies</th> <th>Non-habitable rooms</th> </tr> </thead> <tbody> <tr> <td>Up to 12m (4 storeys)</td> <td>6.0m</td> <td>3.0m</td> </tr> <tr> <td>Up to 25m (5-8 storeys)</td> <td>9.0m</td> <td>4.5m</td> </tr> <tr> <td>Over 25m (9+ storeys)</td> <td>12.0m</td> <td>6.0m</td> </tr> </tbody> </table> <p>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</p> <p>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</p>			Building height	Habitable rooms and balconies	Non-habitable rooms	Up to 12m (4 storeys)	6.0m	3.0m	Up to 25m (5-8 storeys)	9.0m	4.5m	Over 25m (9+ storeys)	12.0m	6.0m	<p>Satisfactory</p> <p>Subject to condition as discussed in the separate assessment commentary after this table.</p> <ul style="list-style-type: none"> • Building 1A – 1B: 12m (see Note below). • Building 1A– 120: 30m to 35m. • Building 1A – 1 Saunders: 24m to 25m. • Building1B – 120: 30m to 35m. • Building 1B – 1 Saunders: 22m to 24m. • Building 1B to 2: 21.6m to 24m. <p>Note: Buildings 1A and 1B are separated by a distance of 12m. Although the opposing elevations of both buildings include windows and balconies, these features include fixed privacy screens to mitigate overlooking and the perception of being overlooked.</p> <p>The remainder of the development includes features to the following apartments which are situated 9 storeys and above and do not comply with the required 24m separation:</p> <p><u>Internal</u></p> <ul style="list-style-type: none"> • B9.02 to Building 2: 21.7m – 22.8m • B10.02 to Building 2: 21.7m – 22.8m • B11.02 to Building 2: 21.7m – 22.8m • B12.01 to Building 2: 21.7m – 22.8m <p><u>External</u></p> <ul style="list-style-type: none"> • B9.04 to 1 Saunders Close: 22.7m – 23m • B10.04 to 1 Saunders Close: 22.7m – 23m • B11.04 to 1 Saunders Close: 22.7m – 23m • C9.05 to 1 Saunders Close: 19.7m • C10.05 to 1 Saunders Close: 19.7m • C11.05 to 1 Saunders Close: 19.7m
Building height	Habitable rooms and balconies	Non-habitable rooms													
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Over 25m (9+ storeys)	12.0m	6.0m													
<p>3G Pedestrian Access and entries</p> <p>Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify?</p> <p>Large sites are to provide pedestrian links for access to streets and connection to destinations.</p>			<p>Consistent</p> <p>The development provides level pedestrian access to all floor levels from future Road 3, the communal open space area, and the basement car parking area via lift access.</p>												
<p>3H Vehicle Access</p> <p>Are the vehicle access points designed and located to achieve safety, minimise conflicts</p>			<p>Consistent</p>												

Criteria/Guideline	Comments
<p>between pedestrians and vehicles and create high quality streetscapes?</p>	<p>The development includes two driveways into Stage A accessing from Road 3 and from Saunders Close.</p> <p>The driveway accessing from Road 3 services the basement car park which the driveway accessing from Saunders Close services a loading area beneath Building 2.</p> <p>The two driveway access points are sufficiently separated and treated to avoid conflict between pedestrians and vehicles and create high quality streetscapes.</p>
<p>3J Bicycle and Car Parking</p> <p>For development in the following locations:</p> <ul style="list-style-type: none"> On sites that are within 80m of a railway station or light rail stop in the Sydney Metropolitan Area; or On land zoned, and sites within 400m of land zoned, B3 Commercial Core, B4 Mixed Use or equivalent in a nominated regional centre. <p>The <i>minimum</i> car parking requirement for residents and visitors is set out in the Guide to Traffic Generating Developments, or the car parking requirement prescribed by the relevant council, whichever is less.</p> <p>The car parking needs for a development must be provided off street.</p> <p>Parking and facilities are provided for other modes of transport.</p> <p>Visual and environmental impacts are minimised.</p>	<p>Satisfactory</p> <p>The site is located with the MU1 Mixed Use zone (formerly the B4 Mixed Use zone).</p> <p>Clause 9.3 of the DCP requires the development to provide a <i>maximum</i> of 346 off-street parking spaces (Note: a minimum is not prescribed).</p> <p>It is noted that the development proposes 396 parking spaces (including 51 offset parking spaces which, according to the Traffic Impact Assessment submitted with the application, are Morling College spaces which will be required to be relocated as a result of the proposed development).</p> <p>As discussed under Part 9.3 of the DCP, the proposed provision of 396 parking spaces is excessive and is not supported. A condition has been imposed (refer to Conditions 1(a), 60, and 197 in Part B of the draft consent) which requires parking to be reduced to a total of 372 spaces (this requires reducing the proposed 51 Morling College spaces to 24 spaces).</p> <p>The ADG does not prescribe a required number of motorbike and bicycle parking rates. Instead, parking rates for bicycles are provided for under Part 9.3 of the RDCP 2014. The DCP is also silent on parking rates for motorbikes.</p> <p>The development provides 5 x motorbike parking spaces within the lower ground floor parking area.</p> <p>Clause 2.7 of Part 9.3 requires “<i>In every new building, where the floor space exceeds 600m² GFA (except for dwelling houses and multi-unit housing) provide bicycle parking equivalent to 10% of the required car spaces or part thereof</i>”.</p> <p>Therefore, based upon the revised total (less the 24 spaces assigned to Morling College) of 348 spaces,</p>

Criteria/Guideline	Comments
	<p>the development would be required to provide for 34.8 (35) bicycle parking spaces. The development provides for 4 bicycle parking spaces (adjacent to 'end-of-trip' facilities) which are allocated to the commercial uses on the site.</p> <p>The Transport Impact Assessment submitted with the application notes that <i>"a minimum of 23 storage cages suitable for accommodating a bicycle in accordance with AS2890.3:2015 requirements will be provided for residents, while a minimum of eight (8) bicycle spaces will be provided within the public domain for use by visitors. Four (4) secure bicycle spaces will also be provided within Basement 1 for use by commercial staff"</i>.</p> <p>This outcome is considered to be satisfactory.</p> <p>All parking is securely located within the basement levels.</p>
Part 4 Designing the Building	
Amenity	
<p>4A Solar and Daylight Access</p> <p>To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space:</p> <ul style="list-style-type: none"> Living rooms and private open spaces of at least 70% of apartments in a building are to receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter; A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter. 	<p>Consistent</p> <p>The development provides for 78.5% (208) of living rooms and private open space which receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter as follows:</p> <ul style="list-style-type: none"> Building 1A: 63 Building 1B: 70 Building 2: 75 Total: 78.5% (208/265) <p>The development allows for 11.3% (30) of apartments receiving no direct sunlight between 9am and 3pm at mid-winter as follows:</p> <ul style="list-style-type: none"> Building 1A: 15 Building 1B: 4 Building 2: 11 Total: 11.3% (30/265)
<p>4B Natural Ventilation</p> <p>The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents by:</p> <ul style="list-style-type: none"> At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartments at 10 storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels 	<p>Consistent</p> <p>The development provides for 72.8% (193) of apartments having access to natural cross ventilation for dwellings up to 9 storeys as follows:</p> <ul style="list-style-type: none"> Building 1A: 69 Building 1B: 59 Building 2: 65 Total: 72.8% (193/265)

Criteria/Guideline	Comments												
<p>allows adequate natural ventilation and cannot be fully enclosed;</p> <ul style="list-style-type: none"> Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. 	<p>No apartments exceed the 18m depth limit.</p>												
<p>4C Ceiling Heights</p> <p>Measured from finished floor level to finished ceiling level, minimum ceiling heights are:</p> <table border="1" data-bbox="150 607 724 1395"> <thead> <tr> <th colspan="2">Minimum Ceiling Heights</th> </tr> </thead> <tbody> <tr> <td>Habitable rooms</td> <td>2.7m</td> </tr> <tr> <td>Non-habitable</td> <td>2.4m</td> </tr> <tr> <td>For two storey apartments</td> <td> <ul style="list-style-type: none"> 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. </td> </tr> <tr> <td>Attic spaces</td> <td> <ul style="list-style-type: none"> 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. </td> </tr> <tr> <td>If located in mixed used areas</td> <td> <ul style="list-style-type: none"> 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. </td> </tr> </tbody> </table>	Minimum Ceiling Heights		Habitable rooms	2.7m	Non-habitable	2.4m	For two storey apartments	<ul style="list-style-type: none"> 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. 	Attic spaces	<ul style="list-style-type: none"> 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. 	If located in mixed used areas	<ul style="list-style-type: none"> 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. 	<p>Consistent</p> <p>The floor to ceiling heights of the apartments within the development meet the minimum 2.7m for habitable rooms as required by the ADG.</p>
Minimum Ceiling Heights													
Habitable rooms	2.7m												
Non-habitable	2.4m												
For two storey apartments	<ul style="list-style-type: none"> 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. 												
Attic spaces	<ul style="list-style-type: none"> 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. 												
If located in mixed used areas	<ul style="list-style-type: none"> 2.7m for main living area floor, 2.4m for second floor, where its area does not exceed 50% of the apartment area. 												
<p>4D Apartment Size and Layout</p> <p>Apartments are required to have the following minimum internal areas:</p> <table border="1" data-bbox="150 1570 724 1798"> <thead> <tr> <th>Apartment type</th> <th>Minimum internal area</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>35m²</td> </tr> <tr> <td>1 bedroom</td> <td>50m²</td> </tr> <tr> <td>2 bedroom</td> <td>70m²</td> </tr> <tr> <td>3 bedroom</td> <td>90m²</td> </tr> </tbody> </table> <p>The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.</p> <p>A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.</p>	Apartment type	Minimum internal area	Studio	35m ²	1 bedroom	50m ²	2 bedroom	70m ²	3 bedroom	90m ²	<p>Satisfactory</p> <p>The development provides the following apartment sizes:</p> <ul style="list-style-type: none"> Studio: None proposed. 1 Bedroom: 50m² to 59m². 2 Bedroom: 75m² to 91m². 3 Bedroom: 92m² to 199m². 4 Bedroom: Nil. <p>The development achieves compliance with the minimum width of living rooms or combined living/dining rooms.</p> <p>All habitable rooms include windows which have a total glass area of not less than 10% the floor area of the room.</p>		
Apartment type	Minimum internal area												
Studio	35m ²												
1 bedroom	50m ²												
2 bedroom	70m ²												
3 bedroom	90m ²												

Criteria/Guideline	Comments																																				
<p>Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.</p> <p>Habitable room depths are limited to a maximum of 2.5 x the ceiling height.</p> <p>In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.</p> <p>Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe space). Bedrooms have a minimum dimension of 3m (excluding wardrobe space).</p> <p>Living rooms or combined living/dining rooms have a minimum width of:</p> <ul style="list-style-type: none"> • 3.6m for studio and 1 bedroom apartments; • 4.0m for 2 and 3 bedroom apartments <p>The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.</p>	<p>With exception to open plan living/dining and kitchen layouts (see below), all habitable room (i.e., bedrooms, have depths which are within 6.75m (being 2.5 x 2.7m).</p> <p>Open plan apartments have depths of 8.0m or less with exception to the following:</p> <table border="1" data-bbox="751 524 1361 909"> <thead> <tr> <th>Apartment</th> <th>Depth</th> <th>Orientation</th> </tr> </thead> <tbody> <tr> <td colspan="3">Podium (Level 01 to 04)</td> </tr> <tr> <td>A1.04 to A4.04</td> <td>8.1m</td> <td>South</td> </tr> <tr> <td>A1.06 to A4.06</td> <td>8.5m</td> <td>North</td> </tr> <tr> <td>B1.01 to B4.01</td> <td>9.0m</td> <td>West</td> </tr> <tr> <td>B1.05 to B4.05</td> <td>8.2m</td> <td>South</td> </tr> <tr> <td colspan="3">Building 1A (Level 05 to 13)</td> </tr> <tr> <td>A5.04 to A12.04</td> <td>8.1m</td> <td>South</td> </tr> <tr> <td colspan="3">Building 1B (Level 05 to 12)</td> </tr> <tr> <td>B5.01 to B12.01</td> <td>9.0m</td> <td>West</td> </tr> <tr> <td>B12.05</td> <td>8.2m</td> <td>South</td> </tr> <tr> <td>B12.06</td> <td>9.0m</td> <td>West</td> </tr> </tbody> </table> <p>As can be seen in the above table, the variations to the 8.0m depth represent 12% of the residential component of the development, are numerically minor (between 1.25% to 12.5%) and, given their orientations and elevated aspects, do not have any adverse impact upon the internal amenity of each apartment, particularly given the variable location of windows which serve the open plan living area and which afford enhanced sources of light and ventilation.</p> <p>Master bedrooms have been assessed as having areas (excluding wardrobe space) of between 10.1m² and 12.5m² - all with a minimum dimension of 3.0m.</p> <p>Secondary bedrooms have been assessed as having areas (excluding wardrobe space) of between 9.5m² and 9.9m² - all with a minimum dimension of 3.0m.</p> <p>Living and dining rooms (all units are open plan) have minimum widths of:</p> <ul style="list-style-type: none"> • 1 Bedroom: 3.6m. • 2+ Bedrooms:4.0m. <p>The development includes cross-through apartments which have minimum widths of 4.0m.</p>	Apartment	Depth	Orientation	Podium (Level 01 to 04)			A1.04 to A4.04	8.1m	South	A1.06 to A4.06	8.5m	North	B1.01 to B4.01	9.0m	West	B1.05 to B4.05	8.2m	South	Building 1A (Level 05 to 13)			A5.04 to A12.04	8.1m	South	Building 1B (Level 05 to 12)			B5.01 to B12.01	9.0m	West	B12.05	8.2m	South	B12.06	9.0m	West
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<p>4E Private Open Space and Balconies</p> <p>All apartments are required to have primary balconies as follows:</p>	<p>Consistent</p> <p>The development achieves compliance with minimum balcony depths and areas.</p>																																				

Criteria/Guideline			Comments															
<table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Min Area</th> <th>Min Depth</th> </tr> </thead> <tbody> <tr> <td>Studio</td> <td>4m²</td> <td>-</td> </tr> <tr> <td>1 bedroom</td> <td>8m²</td> <td>2m</td> </tr> <tr> <td>2 bedroom</td> <td>10m²</td> <td>2m</td> </tr> <tr> <td>3+ bedroom</td> <td>12m²</td> <td>2.4m</td> </tr> </tbody> </table> <p>The minimum balcony depth to be counted as contributing to the balcony area in 1.0m.</p> <p>For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m² and a minimum depth of 3m.</p>			Dwelling Type	Min Area	Min Depth	Studio	4m ²	-	1 bedroom	8m ²	2m	2 bedroom	10m ²	2m	3+ bedroom	12m ²	2.4m	
Dwelling Type	Min Area	Min Depth																
Studio	4m ²	-																
1 bedroom	8m ²	2m																
2 bedroom	10m ²	2m																
3+ bedroom	12m ²	2.4m																
<p>4F Common Circulation and Spaces</p> <p>The maximum number of apartments off a circulation core on a single level is eight.</p> <p>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</p>			<p>Consistent</p> <p>The development provides the following number of apartments per circulation core:</p> <ul style="list-style-type: none"> • Building 1A: 6 to 8. • Building 1B: 6 to 8. • Building 2: 6 to 8. 															
<p>4G Storage</p> <p>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</p> <table border="1"> <thead> <tr> <th>Dwelling Type</th> <th>Storage size volume</th> </tr> </thead> <tbody> <tr> <td>Studio apartments</td> <td>4m³</td> </tr> <tr> <td>1 bedroom apartments</td> <td>6m³</td> </tr> <tr> <td>2 bedroom apartments</td> <td>8m³</td> </tr> <tr> <td>3+ bedroom apartments</td> <td>10m³</td> </tr> </tbody> </table> <p>At least 50% of the required storage is to be located within the apartment.</p>			Dwelling Type	Storage size volume	Studio apartments	4m ³	1 bedroom apartments	6m ³	2 bedroom apartments	8m ³	3+ bedroom apartments	10m ³	<p>Consistent</p> <p>The development is required to provide the following storage:</p> <ul style="list-style-type: none"> • 1 Bedroom: 6m³ (450m³) • 2 Bedroom: 8m³ (1,272m³) • 3 Bedroom: 10m³ (310m³) • Total: 2,032m³ <p>The development provides 3,229.4m³ storage.</p> <p>Of the above, 50% (1,016m³) is located within apartments.</p>					
Dwelling Type	Storage size volume																	
Studio apartments	4m ³																	
1 bedroom apartments	6m ³																	
2 bedroom apartments	8m ³																	
3+ bedroom apartments	10m ³																	
<p>4H Acoustic Privacy</p> <p>Noise sources such as garage doors, driveways, service areas, plant rooms, building services, mechanical equipment, active communal open spaces and circulation areas should be located at least 3.0m away from bedrooms.</p>			<p>Satisfactory</p> <p>Subject to conditions.</p> <p>The bedrooms of all apartments are located from the first floor upward and do not directly abut active communal open spaces and circulation areas.</p> <p>A triangular Communal Terrace is located at Level 01 of Building 1B which is adjacent to Unit B.1.02 and below Unit B.2.03. The Communal Terrace is open and adjacent to an indoor gym (which is also located below Unit B.2.03).</p>															

Criteria/Guideline	Comments
	<p>The bedroom of Unit B.1.02 is sited 5.0m from the Communal Terrace and is shielded by a screen wall. However, the two bedrooms of Unit B.2.03 are directly above the gym and immediately adjacent to the Terrace.</p> <p>The Acoustic Report has included these features in its assessment and recommends Rw32 glazing for the gym and adjacent Communal Business Lounge and Rw 31 glazing to the bedrooms of Unit B.2.03 although it doesn't make any recommendation as to the noise impact and how amenity may be maintained in the unit from noise generated in the gym and on the terrace.</p> <p>In this respect, it is considered appropriate to include a condition in the draft consent to address this issue through the inclusion of appropriate acoustic treatments to the floor of Unit B.2.03 and to the operating hours of the gym and terrace.</p> <p>Additionally, certain apartments are noted to position bedrooms within proximity to neighbouring balconies and/or living rooms, namely the following (plus identical units above):</p> <ul style="list-style-type: none"> • Unit B.1.03. • Unit C.1.04. • Unit C.1.05. • Unit C.1.06. • Unit C.1.08. <p>Refer to Conditions 1, 50, 136, 146, 193, 199, 201, and 202 in Part B of the draft consent.</p>
<p>4J Noise and Pollution</p> <p>Siting, layout and design of the building is to minimise the impacts of external noise and pollution and mitigate noise transmission.</p>	<p>Consistent</p> <p><u>Noise</u></p> <p>The development has been designed in a manner to minimise impacts of external noise and to mitigate noise transmission, as discussed elsewhere in this report.</p> <p>Refer to Condition 1, 50, 136, 146, 193, 199, 201, and 202 in Part B of the draft consent.</p> <p><u>Pollution</u></p> <p>The completed development is unlikely to impact adversely on air quality or alter the microclimate of the area.</p> <p>No details regarding dust control relating to the construction have been provided. These details will be required to be submitted as a condition of consent.</p>

Criteria/Guideline	Comments
	Refer to Conditions 1, 29, 51, 93, 114, and 134 in Part B of the draft consent.
Configuration	
<p>4K Apartment Mix</p> <p>Ensure the development provides a range of apartment types and sizes that is appropriate in supporting the needs of the community now and into the future and in the suitable locations within the building.</p>	<p>Consistent</p> <p>The development proposes a mix of one, two and three bedroom apartments. Given the range of land uses in the local area, it is considered that the development has the capacity to accommodate numerous residents who have opportunities to live and work within the same district.</p> <p>Further to this, the apartments proposed will offer a different housing type and affordability to that of detached housing which is generally seen throughout Ryde.</p>
<p>4M Facades</p> <p>Ensure that building facades provide visual interest along the street and neighbouring buildings while respecting the character of the local area.</p>	<p>Consistent</p> <p>The development responds to the existing topography of the site and the overall scale of the development is considered to be appropriate given the context of the site.</p> <p>The visual massing and bulk of the development is considered satisfactory by virtue of the significant levels of articulation, stepping and terracing.</p> <p>The design consists of well composed horizontal and vertical elements that contribute to aiding the proportion of the building through visual manipulation.</p> <p>The development compliments the changing architectural character of the local area through the massing and as such, it is considered that the facade treatment is an appropriate response to the streetscape and evolving character of the area.</p>
<p>4N Roof Design</p> <p>Ensure the roof design responds to the street and adjacent buildings and also incorporates sustainability features.</p> <p>Test whether the roof space can be maximised for residential accommodation and open space.</p>	<p>Consistent</p> <p>The proposed roof forms are graduated and sufficiently separated to provide visual relief and architectural interest.</p>
<p>4O Landscape Design</p> <p>Was a landscape plan submitted and does it respond well to the existing site conditions and context.</p>	<p>Consistent</p> <p>The application was referred to Council's Consultant Landscape Architect who did not raise any objection to the proposal subject to conditions.</p>

Criteria/Guideline	Comments																																			
	Refer to Conditions 1, 17, 18, 19, 20, 35, 36, 83, 89, 99, 100, 101, 127, 128, 129, and 141 in Part B of the draft consent.																																			
<p>4P Planting on Structure</p> <p>When planting on structures, the following are recommended as minimum standards for a range of plant sizes:</p> <table border="1" data-bbox="132 571 746 1417"> <thead> <tr> <th>Type</th> <th>Definition</th> <th>Volume</th> <th>Depth</th> <th>Area</th> </tr> </thead> <tbody> <tr> <td>Large Trees</td> <td>12-18m high, up to 16m crown spread at maturity</td> <td>150m³</td> <td>1,200mm</td> <td>10m x 10m or equivalent</td> </tr> <tr> <td>Medium Trees</td> <td>8-12m high, up to 8m crown spread at maturity</td> <td>35m³</td> <td>1,000mm</td> <td>6m x 6m or equivalent</td> </tr> <tr> <td>Small trees</td> <td>6-8m high, up to 4m crown spread at maturity</td> <td>9m³</td> <td>800mm</td> <td>3.5m x 3.5m or equivalent</td> </tr> <tr> <td>Shrubs</td> <td></td> <td></td> <td>500-600mm</td> <td></td> </tr> <tr> <td>Ground Cover</td> <td></td> <td></td> <td>300-450mm</td> <td></td> </tr> <tr> <td>Turf</td> <td></td> <td></td> <td>200mm</td> <td></td> </tr> </tbody> </table>	Type	Definition	Volume	Depth	Area	Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent	Medium Trees	8-12m high, up to 8m crown spread at maturity	35m ³	1,000mm	6m x 6m or equivalent	Small trees	6-8m high, up to 4m crown spread at maturity	9m ³	800mm	3.5m x 3.5m or equivalent	Shrubs			500-600mm		Ground Cover			300-450mm		Turf			200mm		<p>Consistent</p> <p>The development includes adequate soil depths which are suitable for a range of plant sizes.</p>
Type	Definition	Volume	Depth	Area																																
Large Trees	12-18m high, up to 16m crown spread at maturity	150m ³	1,200mm	10m x 10m or equivalent																																
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Turf			200mm																																	
<p>4S Mixed Use</p> <p>Can the development be accessed through public transport and does it positively contribute to the public domain?</p> <p>Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.</p>	<p>Consistent</p> <p>Although this clause is applicable to mixed use development, it is noted that the site is close to public transport and has ready access to services and amenities.</p> <p>The proposed development appropriately utilises existing infrastructure whilst providing new higher density residential accommodation on a well located and serviced site.</p>																																			
<p>4T Awning and Signage</p> <p>Locate awnings along streets with high pedestrian activity, active frontages and over building entries. Awnings are to complement the building design and contribute to the identity of the development.</p>	<p>Consistent</p> <p>The development includes awnings to the podium beneath Towers 1A and 1B which are in close proximity to Herring Road and Road 3.</p>																																			

Criteria/Guideline	Comments
<p>Signage must respond to the existing streetscape character and context.</p>	<p>The design of the awnings is stepped to respond to the staggered floorplate design and to provide a defined address to the street.</p> <p>Signage is not a subject of this proposal and will be addressed in a separate development application if required.</p>
<p>Performance</p>	
<p>4U Energy Efficiency</p> <p>Have the requirements in the BASIX certificate been shown in the submitted plans?</p>	<p>Consistent</p> <p>The BASIX Certificate submitted with the application (see Certificate No. 1324429M dated 7 December 2022) indicates that the development will achieve the target scores for water (41) and energy (32) usage while Thermal Comfort will achieve a target pass.</p> <p>The application is also accompanied by a NatHERS Certificate (Certificate No. 0008280120 dated 6 December 2022) which provides an average energy rating of 6.4 out of 10 (i.e. 64%).</p>
<p>4V Water Management and Conservation</p> <p>Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?</p>	<p>Consistent</p> <p>Water management and conservation through the means of retention of stormwater for reuse has been assessed as compliant by Council's Development Engineers and further, compliance with the supplied BASIX Certificate has been conditioned.</p> <p>Areas of landscaping are located throughout the site, and these areas will allow for natural water infiltration into the ground.</p>
<p>4W Waste Management</p> <p>Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and recycling.</p>	<p>Consistent</p> <p>Subject to condition</p> <p>The application includes a Waste Management Plan which details the location of garbage rooms, the method of disposing of waste and recycling.</p> <p>The application was referred to the Waste team of Council's City Works and Infrastructure department who raised no objection to the proposal subject to conditions.</p> <p>Refer to Conditions 1, 74, 81, 82, 189 to 192, and 206 to 209 in Part B of the draft consent.</p>
<p>4X Building Maintenance</p> <p>Incorporates a design and material selection that ensures the longevity and sustainability of the building.</p>	<p>Consistent</p> <p>The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the building.</p>

Clause 3F - Visual Privacy

The Design Criteria (measurable requirements) states the separation between windows and balconies is provided to ensure visual privacy is achieved. The minimum required separation distances from buildings to the side and rear boundaries are as follows:

Design Criteria	Habitable rooms and balconies	Non-habitable rooms
Up to 12m (4 storeys)	6.0m	3.0m
Up to 25m (5 - 8 storeys)	9.0m	4.5m
Over 25m (9+ storeys)	12.0m	6.0m

In order to represent direct lines of sight, sightline distances (separation distances for the purposes of assessing overlooking opportunities) are taken at 90° from the nearest point of the respective window and/or balcony as opposed to the actual corner of the building to the boundary in accordance with Figure 3F.6 of the ADG.

Given the height of the development, Clause 3F (together with Clause 2F – Building Separation) requires the development to achieve a separation of 24m from an adjacent residential building.

It is noted that the following internal elements comply with this requirement due to their offset to opposing windows and/or balconies (i.e., at an acute angle rather than at a 90° direct line of sight). They are included here to demonstrate that consideration has been given.

The external components (in bold) are considered to not comply with the separation requirements of Clause 3F. This is discussed separately following the table below.

Apartment	Feature	Affected Building	Required	Proposed
Internal				
B9.02	Balcony	Building 2	24m	21.7m to 22.8m
B10.02	Balcony	Building 2	24m	21.7m to 22.8m
B11.02	Balcony	Building 2	24m	21.7m to 22.8m
B12.01	Balcony	Building 2	24m	21.7m to 22.8m
External				
B9.04	Balcony and windows	1 Saunders Close	24m	22.7m to 23m
B10.04	Balcony and windows	1 Saunders Close	24m	22.7m to 23m
B11.04	Balcony and windows	1 Saunders Close	24m	22.7m to 23m
C9.05	Balcony and windows	1 Saunders Close	24m	20.5m to 21.3m
C10.05	Balcony and windows	1 Saunders Close	24m	20.5m to 21.3m
C11.05	Balcony and windows	1 Saunders Close	24m	20.5m to 21.3m

Note: Buildings 1A and 1B are separated by a distance of 12m. Although the opposing elevations of both buildings include windows and balconies, these features include fixed privacy screens to mitigate overlooking and the perception of being overlooked. These apartments are therefore not included in the above table.

Internal

The feature listed in the table above comprises balcony corner elements in Building 1B which diagonally face habitable room windows of Building 2.

Figure 38 below shows the balcony feature and diagonally opposing habitable rooms. It is noted that the balconies are offset to the opposing windows from the 90° line of sight and therefore comply with the separation requirements of Clause 3F.

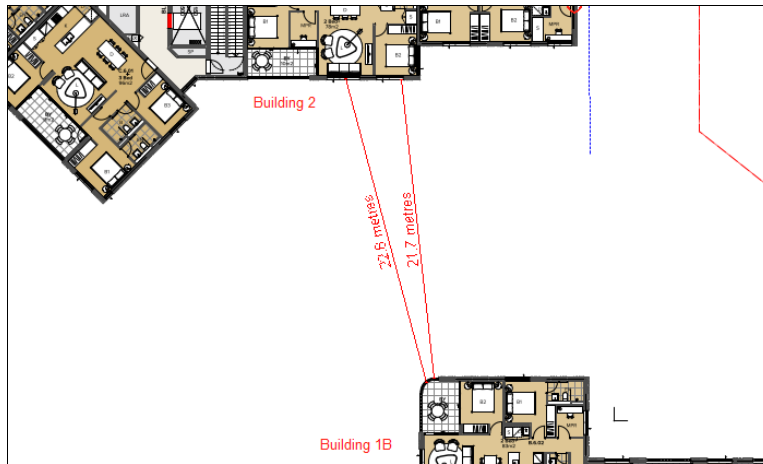


Figure 38 – Visual privacy from Building 1B to Building 2.

Source: Adapted from Plan DA-AR-110-060 as prepared by Turner Studio.

External

The features listed in the table above consist of balcony elements and windows are noted as comprising which Bedroom 1 in Building 1B and service the living and dining room in Building 2.

Figures 39 below shows the location of the features of Buildings 1B which diagonally oppose the balconies at 1 Saunders Close.

It is noted that the windows to the opposing balconies are offset from the 90° line of sight and therefore comply with the separation requirements of Clause 3F.

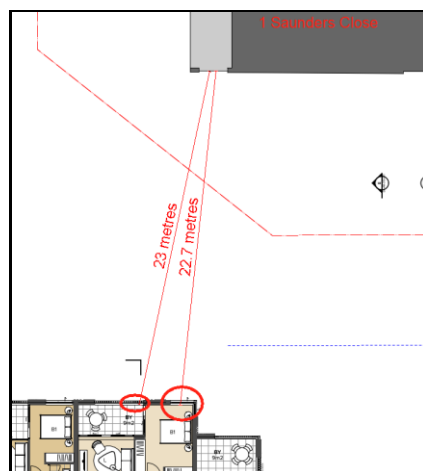


Figure 39 – Visual privacy from Building 1B to 1 Saunders Close.

Source: Adapted from Plan DA-AR-110-060 as prepared by Turner Studio.

Figure 40 below shows the proximity of proposed windows and balconies to the neighbouring building at 1 Saunders Close.

As can be seen, the area highlighted in red indicates the width and extent of the window feature which has a 90° direct line of sight to an opposing window.

The area highlighted in blue indicates the width and extent of the proposed balcony feature which has a 90° direct line of sight to an opposing wall only (the plan depicting the neighbouring building shows a wrap-around balcony which is situated up to Level 3 only as seen in **Figure 41**).

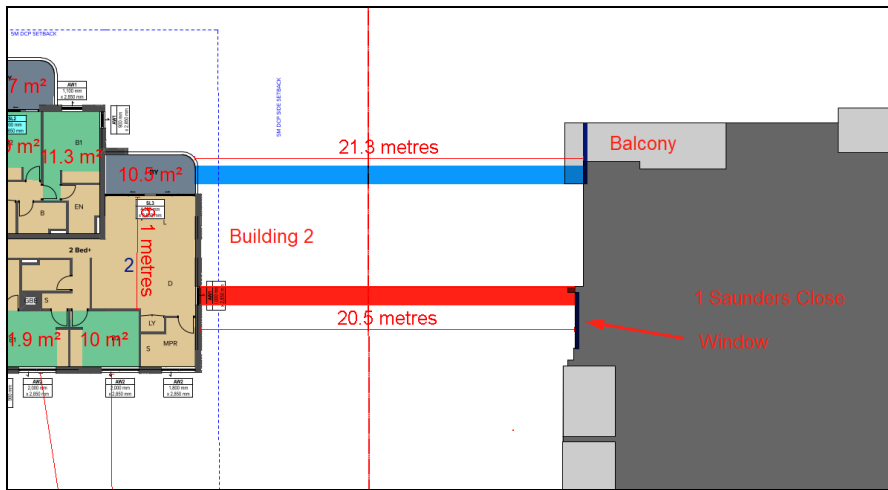


Figure 40 – Visual privacy from Building 2 to 1 Saunders Close.
Source: Adapted from Plan DA-AR-110-060 as prepared by Turner Studio.



Figure 41 - Western elevation of 1 Saunders Close (elevation facing Building 2).
Note: The solid blue line corresponds to blue line in **Figure 36**.

Although the extent of non-compliance is minor it is considered that there will be a perception of being overlooked by residents in 1 Saunders Close and the proximity may impact upon the amenity of the affected rooms.

Therefore, it is considered appropriate in this circumstance to impose a condition which requires the window element to be treated to mitigate impact through the application of a translucent film.

Refer to **Condition 1(b)** in **Part B** of the draft consent.

7.11 Ryde Local Environmental Plan 2014 (RLEP 2014)

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

Clause 2.2 - Zoning

On 26 April 2023, the RLEP 2014 was subject to *Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2022*.

The Order had the effect of changing zone naming conventions, permissibility, and the objectives.

At the time of lodgement, the site was located within the M4 Mixed Use zone. As a result of the Order, and as of 26 April 2023, that zone is now the MU1 Mixed Use zone.

The proposed use of a mixed-use development comprising commercial premises, retail premises, and residential flat buildings remains permitted with consent in the zone.

Clause 2.3 – Zone Objectives

The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone. The objectives for the MU1 Mixed Use are as follows:

- *To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.*
- *To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.*
- *To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.*
- *To promote strong links between Macquarie University and research institutions and businesses in the Macquarie Park corridor.*

The development complies with the above objectives. It will be consistent with the desired future character for the precinct by introducing mixed use buildings consisting of residential and retail uses. The subject site is located within walking distance of bus and train services, retail and commercial services, Macquarie University and Macquarie

Shopping Centre and is therefore considered to be a suitable location for this development.

The development proposes a mixed-use development which include retail premises, commercial premises, residential flat buildings. All proposed uses are permitted in the zone and will contribute to the development being a genuine mixed-use development.

The massing and scale of the development has been assessed by the UDRP as appropriate in terms of the future built environment. The built form contributes to the character and public domain of the area.

Part 4 – Principal Development Standards

The site is subject to the provisions of Clause 4.3 (Height of Buildings) and Clause 4.4 (Floor Space Ratio) Development Standards.

The following table details the levels of compliance achieved by the development.

Standard	Permitted	Proposed	Variation	Compliance
Height of Buildings	45m	Building 1A: 46.6m to 49.3m Building 1B: 43.8m to 47.3m Building 2: 43.5m to 47.5m	9.5% (4.3m) 5.1% (2.3m) 5.5% (2.5m)	No No No
Floor Space Ratio Site Area 27,307m ²	<u>RLEP 2014</u> 2.5:1 68,267.5m ² <u>LDA2019/0264*</u> 2.21:1 (60,633m ²)*	Existing: 7,717m ² Stage 1: 28,353m ² Stage 2: 20,905m ² MALC Expansion: 3,658m ² Total 2.21:1 (60,633m²)	N/A	Yes

***Note:** The maximum GFA approved under LDA2019/0264 was 60,633m² which equates to a permitted FSR of 2.21:1.

As can be seen in the above table, the proposal does not comply with the maximum building height prescribed by Clause 4.3.

In response, the application is accompanied by a request to vary the development standard pursuant to Clause 4.6 of the RLEP 2014.

Clause 4.3 – Height of Buildings

Clause 4.3 permits a maximum building height of 45m. The development proposes building heights of between 43.5m to 49.3m as noted in the table above. The non-compliances vary between 5.1% and 9.5%.

The non-compliant elements are illustrated in **Figures 42 to 44** below where it is noted that the development breaches the permitted building height at the uppermost section of the roof and rooftop plant for Building 1A, the rooftop plant and north-western corner of the roof edge at Building 1B and the rooftop plant and north-western corner of the roof edge at Building 2.



Figure 42 – Permitted 45m height plane (in blue) across Buildings 1A, 1B and 2.
Source: Adapted from Plan DA-AR-910-021 as prepared by Turner Studio.

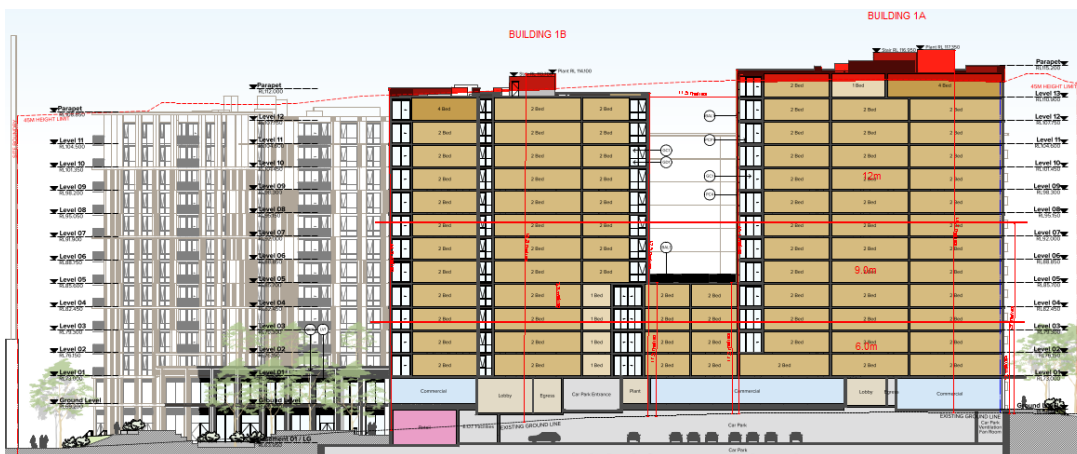


Figure 43 – Section showing height non-compliances at Buildings 1A and 1B (shaded in red).
Source: Adapted from Plan DA-AR-310-101 as prepared by Turner Studio.

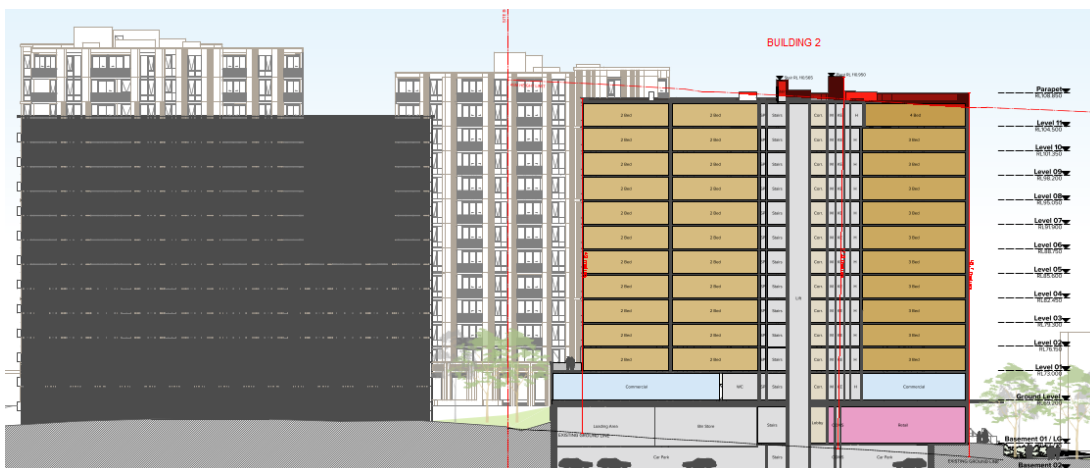


Figure 44 – Section showing height non-compliance at Building 2 (shaded in red).
Source: Adapted from Plan DA-AR-310-401 as prepared by Turner Studio.

A request to vary the Height of Buildings Development Standard has been submitted under Clause 4.6 of the RLEP 2014, as discussed below under Clause 4.6.

Clause 4.6 – Exceptions to Development Standards

The following assessment of the variation to Clause 4.3 - Height of Buildings development standard, has taken into consideration the judgements contained within *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, *Baron Corporation Pty Limited v Council of the City of Sydney [2019] NSWLEC 61*, and *RebelMH Neutral Bay Pty Limited v North Sydney Council [2019] NSWCA 130*.

Clause 4.6 - Objectives

- 1) *The objectives of this clause are as follows:*
 - (a) *to provide an appropriate degree of flexibility in applying certain development standards to particular development.*
 - (b) *to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*
- 2) *Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*

Comment

Clause 4.3 - Height of Buildings development standard is not expressly excluded from the operation of this clause.

- 3) *Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
 - (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.*
- 4) *Development consent must not be granted for development that contravenes a development standard unless:*
 - (a) *the consent authority is satisfied that:*
 - (i) *the applicant's written request has adequately addressed the matters required to be demonstrated by sub-clause (3), and*
 - (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives*

for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6 (4)(a)(i) (Justification) assessment

Clause 4.6 (4)(a)(i) requires the consent authority to be satisfied that the applicant's written request, seeking to justify the contravention of the development standard, has adequately addressed the matters required to be demonstrated by cl 4.6(3). There are two separate matters for consideration contained within cl 4.6(3) and these are addressed as follows:

a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

Comment

The Applicant's written request has demonstrated that the objectives of the development standard are achieved, notwithstanding the non-compliance with the development standard.

In doing so, the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

In this regard, the applicant's written request has adequately demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of this case as required by cl 4.6(3)(a).

b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Comment

In the matter of *Initial Action Pty Ltd v Woollahra Municipal Council [2018] NSWLEC 118*, Preston CJ provides the following guidance (para 23) to inform the consent authority's finding that the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard:

*'As to the second matter required by cl 4.6(3)(b), the grounds relied on by the applicant in the written request under cl 4.6 must be "environmental planning grounds" by their nature: see *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90* at [26]. The adjectival phrase "environmental planning" is not defined, but would refer to grounds that relate to the subject matter, scope and purpose of the EP&A Act, including the objects in s 1.3 of the EP&A Act.'*

Section 1.3 Objects of the EP&A Act reads as follows:

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

The applicant's written request argues, in part, that the variations:

- *Do not hinder the proposals consistency with the zoning objectives and the Height of Buildings objectives, including the intent of the Height of Buildings development standard.*
- *Do not result in any significant overshadowing or view impacts.*
- *Do not result in additional wind impacts for the pedestrian environment at ground level which has been confirmed by the wind report submitted alongside the development application.*
- *Are minor, for the portion of the roof parapet and the rooftop plant (hot water plant). There are various examples within the surrounding locality of Macquarie Park where Council has accepted height variations comparable to that proposed in this application.*
- *Achieve a built form consistent in scale with the surrounding locality of the Macquarie Park (Herring Road) Precinct, as well as that contemplated, assessed and approved under the concept approval LDA2019/0264.*
- *Facilitate the provision of benefits to future occupants through improved internal amenity outcomes.*

In this regard, the applicant's written request has demonstrated that the proposed development is an orderly and economic use and development of the land, and that the structure is of a good design that will reasonably protect and improve the amenity of the surrounding built environment, therefore satisfying the relevant Objectives of the EP&A Act under cl 1.3(c) and (g).

Therefore, the applicant's written request has adequately demonstrated that there are sufficient environmental planning grounds to justify contravening the development standard as required by cl 4.6(3)(b).

Therefore, Council is satisfied that the applicant's written request has adequately addressed the matters required to be demonstrated by cl 4.6(3).

Clause 4.6 (4)(a)(ii) (Public Interest) assessment

Clause 4.6 (4)(a)(ii) requires the consent authority to be satisfied that:

- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

Comment

In considering whether the proposed development will be in the public interest, consideration must be given to the underlying objectives of the Height of Buildings development standard and the objectives of the MU1 Mixed Use zone. An assessment against these objectives is provided below.

Objectives of the development standard

The objectives of the standard, pursuant to Clause 4.3 – Height of Buildings of the RLEP 2014 are:

- a) to ensure that street frontages of development are in proportion with and in keeping with the character of nearby development.***

In the request the applicant states:

“The proposed built form is consistent with surrounding developments, as well as the building form approved under the original concept approval LDA2019/0264.

The proposed rooftop plant, lift and stair overruns are proposed to be located near the centre of the rooftop floor and setback from the roof parapet so as to minimise visibility from the street frontages. A number of developments across Macquarie Park have also been approved with minor variations to the HOB control at 9 Peach Tree Road, 14 to 16 Cottonwood Crescent and 2 Cottonwood Crescent. These developments were approved to deliver a similar built form as the proposed development with 2.7% - 9.7% exceedances to their respective maximum building height control as a result of the lift overrun and rooftop plant installations. As such, the minor building height variation at the site is consistent with the built form character of the area and the minor exceedance of the rooftop plant and lift overrun is similar in scale and character as other developments in the area”.

Comment

The street frontage of the development, as it faces Herring Road, is consistent with that approved under LDA2019/0264 in that the scale and building proportion are similar. The detailed design of Building 1A gives articulation to the approved envelopes such that the development relates more closely to its neighbours and other development which is currently under construction and/or being considered in separate development applications.

The non-compliant elements to building height do not alter this outcome and it is therefore agreed that the development is consistent with this objective.

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

In the request the applicant states:

“The proposed building height variations are minor compared to the approved concept DA and subsequently result in minimal increases to the overshadowing compared to the approved development. As demonstrated in the Overshadowing Diagrams prepared by Turner Studio, the proposed increase to building height will not result in any perceivable overshadowing impacts to the following areas:

- *Solar access to neighbouring properties (including 1 Saunders Close, 120 Herring Road and the Ivanhoe Estate Building) will see negligible changes to their solar access as a result of the proposed building height. The development will maintain the required 2 hours of solar access to neighbouring buildings.*
- *Proposed communal public open space will receive sunlight from 12 noon to 3pm and the proposed building height will not affect the solar access to this space. More than 50% of the proposed communal areas on the site and the neighbouring 116-118 Herring Road will achieve a minimum of 2 hours sunlight between 9am and 3pm in mid-winter.*
- *The proposed building height will see a minimal increase in overshadowing to the affected pedestrian streets and roads. However, the exceedances to the HOB provision is generally located on the plant, lift and stair overrun structures, these smaller structures will result in minimal additional overshadowing as they have been designed to be setback from the roof parapet. The proposed height of the roof parapet at Building 1A will be approximately 5% over the maximum building height. This minor exceedance in height will not result in any perceivable change to the overshadowing impacts to the surrounding streets/roads.*
- *A minimum of 70% of dwellings will receive solar access to their living rooms and private open spaces in mid-winter”.*

Comment

A review of the shadow diagrams submitted with the application confirms (when compared to those of the Concept Approval) that the development would, on balance, not unreasonably impact upon surrounding development or the public domain. There are areas of notable variance where overshadowing has increased but these areas are offset by the reduction to shadows cast by the Concept Approval.

Figures 45 to 47 illustrate the shadows cast (in blue) compared to the shadows cast by the Concept Approval (outlined in orange).

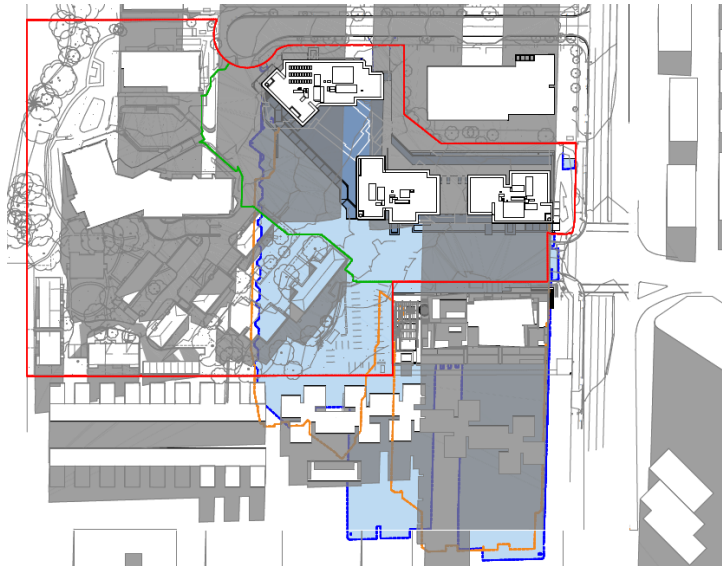


Figure 45 – Shadows cast (in blue) at 9.00am on 21 June.
Source: Plan DA-AR-790-001 as prepared by Turner Studio.



Figure 46 – Shadows cast (in blue) at Noon on 21 June.
Source: Plan DA-AR-790-002 as prepared by Turner Studio.



Figure 47 – Shadows cast (in blue) at 3.00pm on 21 June.
Source: Plan DA-AR-790-004 as prepared by Turner Studio.

The non-compliant elements to building height do not unreasonably exacerbate the degree of overshadowing.

It is therefore agreed that the development is consistent with this objective in that it maintains a commensurate level of overshadowing to the already approved under the Concept Approval, and that the development is compatible with the appearance of the area given the scope and scale of development occurring in vicinity of the site.

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

In the request the applicant states:

“The proposal facilitates mixed use development within walking distance from the Macquarie University Metro Station and bus interchange”.

Comment

The development maintains the overarching range of uses and activities which were approved under the Concept Approval, all of which are located within walking distance from the Macquarie University, Metro Station and bus interchange.

The non-compliant elements to building height do not alter this outcome and it is therefore agreed that the development is consistent with this objective.

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

In the request the applicant states:

“Specifically, it is noted that the proposed variation to the building height control are minor and located in a manner that will not result in any unacceptable overshadowing or view impacts, nor will it compromise the development’s consistency with pedestrian wind comfort requirements”.

Comment

As noted under Objective (b) above, the non-compliant elements to building height do not unreasonably exacerbate the degree of overshadowing beyond what was already approved under the Concept Approval and, due to the separation of Building 1 into a two-tower format (now Building 1A and 1B), creates an improved sunlight access outcome to the neighbouring building at 120 Herring Road.

Although the development does not obstruct any notable views, the design of the aforementioned two-tower format of Buildings 1A and 1B, as well as the separation between Buildings 1B and 2, provide for an improved outlook from within the site and from neighbouring properties. The massing of the building arrangements approved under LDA2019/0264 resulted in a street-wall appearance when viewed from neighbouring properties and Road 3. The redesign gives relief to this and provides a more acceptable level of visual permeability through the provision of through-site viewing.

The application is accompanied by a Pedestrian Wind Environment Statement (as prepared by Windtech dated 25 November 2022) which concludes that the development has incorporated several design features and wind mitigating strategies and is expected to be suitable for the intended use for most of the outdoor trafficable areas. The report acknowledges that there are some areas that are likely to be exposed to stronger winds. However, it is expected that those wind effects can be ameliorated with the consideration of the treatment strategies into the design of the development such as the installation of the proposed landscaping and the retention of the impermeable awning along the western façade and the south-eastern corner of the subject development.

The non-compliant elements to building height do not exacerbate this outcome and it is therefore agreed that the development is consistent with this objective.

e) to emphasise road frontages along road corridors.

In the request the applicant states:

“The proposed 2-storey podium and towers will deliver the appropriate scale and emphasis to the road frontages at Herring Road, Saunders Close and the New Road. The proposed tower heights will slope away from Herring Road which will serve to create a visual scaling down of development height forms when viewed from the street. The rooftop elements that exceed the 45m height plane will not be discernible and will not impact the visual distinction of the road corridors”.

Comment

The design outcome will not alter the presentation of the development to Herring Road such that it would not emphasise the road frontage.

The non-compliant elements to building height do not exacerbate this outcome and it is therefore agreed that the development is consistent with this objective.

Zone objectives

The objectives of the MU1 Mixed Use zone are:

- **To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.**

In the request the applicant states:

“The proposed development supports mixed use development within Macquarie Park including commercial office and retail employment generating uses. The minor height variation facilitates the provision of appropriate floor to floor levels and building services supporting the mixture of uses and optimising internal amenity for future occupants”.

Comment

It is agreed that the development, comprising a mixed-use typology, will encourage a diversity of business, retail, office, and light industrial land uses that generate employment opportunities. Of note, the development includes 4,702m² commercial and

retail area which will complement the evolving mixed-use character of the area and generate employment opportunity.

- ***To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.***

In the request the applicant states:

“The proposal delivers the intended development density at the site for mixed use development in a highly accessible location that is embellished with activation to respective street frontages, new road/pedestrian infrastructure (new Road 3) and new public space (central green space). The minor building height variation does not compromise the provision of the before-mentioned public benefits which are integral to delivering a seamless interface of public and private space”.

Comment

It is agreed that the development provides a diverse and active street frontage to attract pedestrian traffic and to contribute to vibrant, diverse, and functional streets and public spaces.

- ***To minimise conflict between land uses within this zone and land uses within adjoining zones.***

In the request the applicant states:

“The proposal, including the minor height variation, does not result in any conflicts between land uses within the surrounding area which largely comprise the MU1 Mixed Use zone. Specifically, the height variation does not result in any unacceptable overshadowing or view impacts to neighbouring residential and non-residential development in the MU1 zone, nor does it adversely impact the R2 Low Density Residential Zone situated approximately 250m south-west of the site”.

Comment

It is agreed that the development will not have unreasonable impact between land uses within the MU1 Mixed Use zone and neighbouring residential buildings given the expected level of development in the area. The impact on other zones is negligible given the significant distance of approximately 250m from the nearest residential zone to the south-west.

- ***To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.***

In the request the applicant states:

“The design provides non-residential land uses at the ground and second floor of the development. In part, the height variation results from providing larger floor to ceiling distances for these non-residential uses at the lower levels, and also greater floor to floor levels for residential uses above to ensure improved amenity and use of internal spaces”.

Comment

The development provides for a range of commercial and retail uses, together with communal outdoor open space areas on the ground floor.

- ***To ensure employment and educational activities within the Macquarie University campus are integrated with other businesses and activities.***

In the request the applicant states:

“The proposed development is consistent with the approved concept envelope and is designed to integrate with the employment and education activities in the surrounding campus”.

Comment

This objective is not relevant to the proposal as it refers only to employment and educational activities within Macquarie University. The subject site is not located within (or a part of) Macquarie University.

- ***To promote strong links between Macquarie University and research institutions and businesses in the Macquarie Park corridor.***

In the request the applicant states that this objective is not applicable.

Comment

It is agreed that this objective is not applicable as the mixed-use development does not propose activities which are aligned to research and business which may be linked with Macquarie University. Activities within the allocated commercial areas of the development may, over time, occur within the development however, in terms of first use, the application only broadly seeks consent for commercial and retail activity.

For the reasons detailed above, the proposal is consistent with the objectives of the MU1 Mixed Use zone.

Clause 4.6 (4)(b) (Concurrence of the Secretary) assessment

Clause 4.6(4)(b) requires the concurrence of the Secretary to be obtained in order for development consent to be granted.

Planning Circular PS20-002 dated 5 May 2020, as issued by the NSW Department of Planning, advises that the concurrence of the Secretary may be assumed for exceptions to development standards under environmental planning instruments that adopt Clause 4.6 of the Standard Instrument.

In this regard, given the consistency of the variation to the objectives of the zone, the concurrence of the Secretary for the variation to the Height of Buildings Development Standard is assumed.

Conclusion to Clause 4.6 Consideration

The written submission from the applicant has adequately demonstrated that the contravention of the Height of Buildings development standard prescribed by Part 4.3 of the RLEP 2014 is justified pursuant to the relevant matters for consideration prescribed by Clause 4.6.

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 satisfies the objectives of the zone and the development standard, is consistent with the scale anticipated on this site and will read favourably in the context of the redevelopment of neighbouring sites in the future. Compliance with this development standard is unreasonable or unnecessary in the circumstances of this specific proposal; and there are sufficient environmental planning grounds to justify contravening this development standard.

Council is satisfied that the applicant's written requests has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and that sufficient environmental planning grounds have been demonstrated to justify the contravention of the standard.

Council is satisfied that the proposal is in the public interest and that it is consistent with the objective of the development standard and those applicable to development within the zone.

Accordingly, the proposal is in the public interest and is consistent with the objectives of the Clause 4.3 development standard. Departure from the standard is supported in this instance.

Clause 5.10 - Heritage Conservation

Under this Clause, the Consent Authority must consider the effect of the proposed development on the heritage significance of the item or area concerned.

The site is not identified as a heritage item under the RLEP 2014 nor is it located within close proximity of a heritage item.

Clause 6.1 - Acid Sulfate Soils

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage.

Under the RLEP 2014, the Acid Sulfate Soils Map establishes five classes of acid sulfate land (classes 1 to 5), Class 1 being most severe, and Class 5 being least severely affected.

Development consent is required (and thus a soil management plan is required) if a site is in *class 5 acid sulfate soil and works are within 500m of adjacent Class 1 to 4 and land which are likely to lower the water table below 1 metre AHD on adjacent Class 1, 2, 3 or 4 land.*

Council's Acid Sulfate Soils Map (Sheet ASS-006) identifies the site as not being located within a classified acid sulfate soils area.

Clause 6.2 - Earthworks

Clause 6.2(1) requires the consent authority to ensure that “*any earthworks will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land*”.

The extent and siting of excavation is to have regard to the following:

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

The proposal involves the total bulk excavation of approximately 15,000m³ of soil to be removed from the site to accommodate the basement car parking and lower ground floor level. The excavated soil is to be taken to a soil recycling facility for processing and re-use.

The proposal is acceptable with regards to Clause 6.2 of the RLEP 2014 for the following reasons:

- It is considered that excavation would result in short-term disruption to local amenity during the construction phase. This disruption is off-set by the long term benefits to the wider community given the proposed excavation is to ensure the sufficient provision of off-site car parking without compromising local amenity.
- The proposed excavation works are supported by technical engineering reports which include specific recommendations to mitigate impact. The reports are referenced as approved documents under **Condition 1 of Part B** in the draft consent.
- The excavation works will intersect the water table and thus require dewatering. WaterNSW and the Department of Planning & Environment (DPE) have assessed this aspect of the application and have issued their General Terms of Approval which are included in Part B of the draft consent (refer to **Conditions 1 and 24 in Part B** of the draft consent).
- Council's City Works Department and Development Engineer are satisfied that the proposed excavation would be acceptable subject to imposition of conditions requiring mitigating measures to ensure the maintenance of amenity on the surrounding neighbourhood and structural integrity of any existing and supporting structures during the excavation and construction phase of the development. These measures may include, but are not limited to, requirement for compilation of

dilapidation reports, vibration monitoring, Geotechnical Certification & Monitoring, and dust mitigation controls.

Clause 6.6 - Environmental Sustainability

The objective of this clause is to ensure that development on land in an employment or mixed-use zone embraces principles of quality urban design and is consistent with principles of best practice environmentally sensitive design.

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

The application is accompanied by a BASIX Certificate (Certificate No. 1324429M dated 7 December 2022) which confirms that the development will meet the NSW government's requirements for sustainability.

An Ecologically Sustainable Development Design Statement, prepared by EMF Griffiths and dated 7 December 2022, was also submitted with the application. The Statement confirms that the development will satisfy the commitments established in the BASIX Certificate.

A NatHERS Certificate (Certificate No. 0008280120 dated 6 December 2022) was submitted with the application which demonstrates that the development will achieve a 6.4 Star NABERS Energy base building rating

The above documentation submitted with the application satisfies the requirements of Clause 6.6.

8. DRAFT ENVIRONMENTAL PLANNING INSTRUMENTS

The following draft SEPPs have been considered in the Assessment:

- Draft Remediation of Land SEPP.
- Draft Environment SEPP.

The proposal satisfies the requirements of these draft policies.

9. DEVELOPMENT CONTROL PLANS

9.1 Ryde Development Control Plan 2014 (RDCP 2014)

The following sections of RDCP 2014 are relevant to the proposed development:

- Part 4.5 – Macquarie Park Corridor.
- Part 7.1 – Energy Smart, Water Wise.
- Part 7.2 – Waste Minimisation and Management.
- Part 8.1 – Construction Activities.
- Part 8.2 – Stormwater Management.

- Part 9.2 – Access for People with Disabilities.
- Part 9.3 – Parking Controls.


Part 4.5 - Macquarie Park Corridor


The site is located within the Mixed-Use area as identified by the Urban Structure Plan under the DCP which states:

“Planned residential communities centred on the North Ryde and Macquarie University Rail Stations provide for more than 10,000 new dwellings close to transport, employment and education facilities. Together the Herring Road and North Ryde Station UAPs and this DCP provide for new residential and working communities supported by new infrastructure including new parks, road connections and community facilities.”


In conjunction with the approved Concept, the development of Stage 1 (Site A) is considered to compliment this vision through the provision of additional housing within proximity of the transport, employment and education facilities.

Control	Comments	Compliance
4.0 Access Network		
4.1 Streets Provide new public streets and pedestrian connections in accordance with Access Structure Plan New Streets are to be dedicated to the Council.	The Access Network Map identifies a new 20m wide road (Road 3) to be provided on the southern portion of the site. The road is to run from east to west from Herring Road to rear of the site and eventually connect to Balaclava Road. The site is not required to provide pedestrian connection, however as discussed earlier in the report the proposal facilitates pedestrian access throughout the site including: <ul style="list-style-type: none"> • An east west connection between Herring Road and the Kikkiya Creek riparian corridor, • North to south from Saunders Close to Road 3. • A new connection between Morling College and the western property (Baptist Care) along the new Road 3. 	Yes
New streets are to be maintained by the landowner until dedicated to Council.	The hand over and dedication to Council of Road 3 will not occur until prior to the occupation of Stage 2 (Site B) which includes the extension of Road 3 to the rear boundary. This is to avoid the handing over of a partially completed roadway which will be subject to heavy construction traffic (and therefore potential damage).	Yes
4.4 Sustainable Transport. A Framework Travel Plan. (FTP) is required to be submitted to Council for approval for all development that exceeds 10,000sqm new floor space.	A condition of consent is included in Part B of the draft consent (see Condition 170) which requires a finalised Framework Travel Plan to be submitted prior to the issue of an Occupation Certificate. This is consistent with the already imposed Condition 37 which is being retained in Part A of the draft consent to address the future detailed development of Site B.	Yes Subject to condition

Control	Comments	Compliance
<u>Parking Rates</u> Bicycle parking and end of trip facilities and parking to be provided in accordance with Part 9.3 Parking.	Car parking is discussed in detail later in this report under Part 9.3 of the RDCP. See Conditions 1(a), 60, and 196 in Part B of the draft consent	Yes Subject to condition
5.0 Public Domain		
<u>5.1 Open Space Network</u> Provide public open space as shown in Figure 5.1.1 Open Space Network.	<p>Whilst the DCP does not indicate the provision of public open space, the Herring Road, Macquarie Park Finalisation Report and the Local Strategic Planning Statement (LSPS) both identified the need to provide additional open space within the immediate area. Accordingly, a revised scheme has been submitted with this application providing a central open space area that will be publicly accessible.</p> <p>Figure 48 below shows the proposed open space network in Figure 5.1.1 (the whole of the subject site including Site A, Site B and Road 3) is shaded in blue).</p>  <p>Figure 48 – Proposed open space network.</p> <p>Figure 49 below shows the proposed provision of a publicly accessible park and pedestrian through-site link (indicated by the blue lines) as part of the detailed development application for Site A (being the subject application). This park is in addition to the DCP requirement.</p>	Yes

Control	Comments	Compliance
	 <p>Figure 49 – Proposed open space within Site A.</p> <p>A condition is included in the draft consent which requires the creation and registration of a Right of Access through the park to ensure ongoing and unrestricted public accessibility (see Condition 174 under Part B of the draft consent).</p> <p>As previously discussed, the open space area includes a 5.5m wide shared zone which provides vehicle access from the MALC building to Saunders Close as shown in pink in Figure 32.</p> <p>Subsequent to a review of the open space/park provided in this amending application, it was considered that the inclusion of a permanent vehicle/pedestrian shared zone through the open space/park area further eroded the recreational intent of the park.</p> <p>Council acknowledges the necessity of the shared zone to provide legal access/egress of the MALC building to a roadway and for that reason, the shared zone may be approved on a temporary basis only. However, once Road 3 is completed in its entirety, and prior to the issuing of an Occupation Certificate for Stage 2, it is considered appropriate that the shared zone is to be decommissioned, the open space/park area reinstated, and the MALC building is to be connected to Road 3 directly.</p>	
<p><u>5.9 Community Facilities.</u> Community facilities are to be provided in accordance with the relevant documentation prepared by Council, particularly the City of Ryde: Social and Cultural Infrastructure Framework. Based on population growth statistics (available 2011) within Macquarie Park Corridor the City of Ryde.</p>	<p>Section 7.11 contributions will be required to be provided with this application and a future detailed development application for Site B. A condition is included in the draft consent to address this (see Condition 44 under Part B of the draft consent).</p>	<p>Yes Subject to condition</p>
<p><u>5.10 Art in Publicly Accessible Place.</u></p>		<p>Yes</p>

Control	Comments	Compliance
<p>Art must be included in all new development with more than 10,000m² new floor space in the amount of 0.1% of the construction cost of the works capped at \$1,500,000.</p> <p>Art must be located within the site so as to be publicly accessible i.e. viewed or experienced from publicly accessible places.</p>	<p>The applicant has provided a Public Art Strategy which includes a detailed provision of public art within the centrally located public open space area.</p> <p>A condition of consent has been included in the draft consent under to reflect this and to include provision of public art within the new central open space area (refer to Conditions 1, 52, and 145 under Part B of the draft consent).</p> <p>The overarching condition which was originally included in the Concept Approval has been retained under Part A of the draft consent to ensure that a Public Art Strategy is delivered for Stage 2 on Site B (refer to Condition 18 under Part A of the draft consent).</p>	<p>Subject to condition</p>
6.0 Infrastructure, facilities and public domain improvement.		
<p>Floor space ratios and height are to comply with Ryde LEP 2014.</p>	<p>Refer to Clauses 4.3 and 4.4 of the RLEP 2014 discussed previously in this report.</p>	<p>Yes</p>
<p>Access Network and open space network being park are to be dedicated to Council, be design and constructed in accordance with the Macquarie Park Corridor Public Domain Technical Manual.</p>	<p>A condition has been imposed requiring the provision/construction of the new east-west road and upon satisfactory completion for it to be dedicated to Council. Condition 31 under Part A of the draft consent has been amended to require dedication in its entirety before the issue of the Final Occupation Certificate for Site B so as to avoid the early handover in part and risk ongoing maintenance of damage caused by construction vehicles attending to the construction of Site B (refer to Condition 31 under Part A of the draft consent).</p>	<p>Yes Subject to condition</p>
7.0 Built Form		
<p><u>7.1 Site Planning and Staging.</u> Sites are to be planned to allow for the future provision of new street and open spaces in accordance with Figure 4.1.1 Access Network.</p>	<p>The building has been sited to allow for the future provision of the 20m wide road.</p> <p>The development, including the buildings on Site B located on the Concept Plan/Masterplan have designed and been prepared to respond to the Access Network Structure Plan.</p>	<p>Yes</p>
<p><u>7.2 Activity Centres</u> Macquarie Park Station Macquarie University Station North Ryde Station</p>	<p>The site is not located within any Activity Centre (outside of Macquarie University Station Activity Centre).</p>	<p>N/A</p>
<p><u>7.3 Active Frontage</u> Continuous ground level active uses must be provided where primary active frontages are shown in Figure 7.3.2. Buildings must address the street or public domain.</p>	<p>The site is not located within an Activity Centre of in an area defined by Primary Active Frontages.</p> <p>Figure 50 below is extracted from Figure 7.3.2 in the DCP and shows the site (shaded in blue) in proximity to Activity Centres (shaded in red) and Primary Active Frontages (purple and yellow dotted lines).</p>	<p>N/A</p>

Control	Comments	Compliance
	 <p data-bbox="550 689 1195 757">Figure 50 – Activity Centres (in red) and Primary Active Frontages (purple and yellow dots).</p>	
<p data-bbox="137 763 518 853"><u>7.4 Setbacks and Build to Lines</u> 5m to all new and existing streets.</p>	<p data-bbox="550 792 1195 882">The development on Site A proposes a setback of 10m to Herring Road which is in excess of the 5m required setback.</p> <p data-bbox="550 920 1195 1010">With respect to setbacks to Road 3, the development on Site A provides the following (non-compliance in bold):</p> <ul data-bbox="550 1055 997 1176" style="list-style-type: none"> • Basement: 0.3m. • Ground; 5.0m. • Podium: 5.0m to 8.5m. • Buildings 1A & 1B: 5.0m to 8.5m. 	<p data-bbox="1217 792 1374 1010">No Variation is acceptable (see separate commentary below)</p>
<p data-bbox="137 1189 528 1400">Underground parking is not permitted to encroach into the front setback areas unless it can be demonstrated that the basement is designed to support significant mature trees and deep root planting.</p>	<p data-bbox="550 1189 1195 1310">Although encroaching within the 5.0m setback area to future Road 3, the upper basement level includes a soil depth of 1.9m to facilitate proposed plantings required along the footpath adjacent to Road 3.</p> <p data-bbox="550 1346 1195 1467">This, and that the encroachment will not have any visible or physical constraint on the setback area, is considered to be an acceptable outcome which satisfies the objectives of Clause 7.4 which aim to:</p> <ul data-bbox="550 1503 1195 1749" style="list-style-type: none"> • <i>Enhance the existing character of streets within the Corridor.</i> • <i>Create new streets which contribute to the character and identity of the Corridor.</i> • <i>Increase pedestrian amenity and provide pedestrian sight lines to train stations.</i> • <i>Retain and reinforce the existing character of green setbacks with mature planting.</i> 	<p data-bbox="1217 1189 1270 1211">Yes</p>
<p data-bbox="137 1765 523 2004"><u>7.5 Awning and Canopies</u> Awnings must be provided where Primary Active Frontages are shown in Figure 7.3.2 Activity Centres Structure Plan and Active Frontage Control Drawing. Entry canopies and discontinuous awnings are</p>	<p data-bbox="550 1794 1195 1944">The site is not identified under Figure 7.3.2 of the DCP (see Figure 50 in this report). The development provides entry canopies and discontinuous awnings along the length of the front setback area to future Road 3.</p>	<p data-bbox="1217 1794 1270 1816">N/A</p>

Control	Comments	Compliance
encouraged elsewhere in the Corridor.		
<p><u>7.6 Rear and Side Setbacks</u> Buildings are to be set back 10m from the rear boundary and 5m from a side boundary unless a proposed new road is shown on the site.</p> <p>Buildings are not to be constructed on the locations for proposed new roads. An allowance for a 5m setback from a proposed road should also be made.</p> <p>Basement car park structures should not encroach into the minimum required rear or side setback zone unless the structure can be designed to support mature trees and deep root planting.</p>	<p>The development on Site A is setback between 50m to 60m from the rear property boundary.</p> <p>See comments under Clause 7.4 above regarding setbacks to future Road 3.</p>	Yes
<p><u>Building Separation</u> Provide building separation as recommended by the ADG.</p>	<p>This matter is discussed under Clause 3F 'Visual Privacy' of the ADG in this report.</p> <p>The non-compliances were minor and do not adversely impact upon the bulk and scale of the development.</p>	No Variations are acceptable.
8.Site Planning & Staging		
<p><u>Site Planning & staging</u> Sites are to be planned to allow for the future provision of new streets, pedestrian connections and open spaces in accordance with Figure 4.1.1 Access Network and Figure 5.1.1 Proposed Open Space Network.</p>	<p>The Concept Approval included the future provision of new streets (Road 3), through-site pedestrian connections and open spaces in accordance with Figure 4.1.1 Access Network and Figure 5.1.1 Proposed Open Space Network. These are retained in the amended Masterplan.</p>	Yes
<p><u>Site coverage, DS areas & POS</u> A minimum 20% of a site must be provided as deep soil area. Deep soil areas must be at least 2 m deep.</p> <p>For the purpose of calculating deep soil areas, only areas with a minimum dimension of 20 m x 10 m may be included.</p>	<p>The site (including Site A, Site B and Road 3) has a total area of 27,307m² which requires the provision of 20% (i.e., 5,461.4m²) deep soil area. The total site includes the provision of approximately 4,899m² deep soil area (according to the DCP depth and dimension requirements) which equates to 17.9% of the total site area.</p> <p>This area will increase by a further 500m² due to the reorientation and narrowing of Road 3 in the detailed development application for Site B which is to diverge to the south to intersect with the neighbouring Baptist Care property to the west, thereby increasing the provision of deep soil area to 5,399m² (i.e., 19.8%).</p>	No Variation is acceptable

Control	Comments	Compliance
	The shortfall of 62.4m ² (which equates to a variation of 1.1%) is minor and is not considered to have any detrimental impact upon the appearance or useability of the site.	
A minimum 20% of the site area is to be provided as Landscaped Area.	<p>The development provides a total of 39.5% (i.e., 3,511m²) of the site area of COS located at the ground and podium level as follows:</p> <ul style="list-style-type: none"> • Ground: 39% (2,646m²) • Podium: (865m²) • Total COS: 39.5% (3,511m²) 	Yes
Solar access to communal open spaces is to be maximised. Communal courtyards must receive a minimum of 3 hours direct sunlight between 9 am and 3 pm on the 21st of June.	The COS areas receive a minimum of 50% direct sunlight for a minimum of 3 hours between 9am and 3pm on 21 June (mid-winter).	Yes
Appropriate shading is to be provided so that communal spaces are useable during summer.	The communal open space area includes shade trees within and around open space areas and shade structures within the children's playground area.	Yes
<p><u>Topography and Building Interface</u> Level changes across sites are to be resolved within the building footprint.</p> <p>Where buildings are set back from the street boundary, entries are to be provided at street level wherever possible.</p> <p>An accessible path of travel is to be provided from the street through the main entry door of all buildings.</p>	<p>Site A includes an average fall of 3.8m from Herring Road to the rear of Stage 1 adjacent to the internal driveway.</p> <p>The development responds to the topography through the concentration of the built form within the eastern part of Site A and the open space area within the western part of Site A (between the development and the MALC/Residential College).</p> <p>All entries are provided at street level (namely Road 3 in this instance).</p> <p>Accessible paths of travel are provided from Herring Road and Saunders Close via future Road 3 and the open space area.</p>	Yes
<p><u>Site Facilities</u> <u>Commercial</u> Vehicular access to loading facilities is to be provided from secondary and tertiary streets where possible.</p> <p>Rubbish and recycling areas must be provided in accordance with Section 6.3 Waste Management. These areas must be integrated with the development;</p>	<p>The loading bay for Site A is located to the northern side of the development and is accessed from Saunders Close.</p> <p>Waste management has been provided in accordance with Section 6.3 Waste Management (subject to conditions imposed by Council's Resources Recovery section). Waste facilities are integrated with the development.</p>	<p>Yes</p> <p>Yes</p>

Control	Comments	Compliance
<p><u>Vehicular Access</u> Vehicular access is not permitted along streets identified as 'Active Frontages' (refer to Section 7.2 Active Frontages). Where practicable, vehicle access is to be from secondary streets.</p> <p>Potential pedestrian/vehicle conflict is to be minimised by limiting the width and number of vehicle access points ensuring clear site lines at pedestrian and vehicle crossings utilising traffic calming devices separating and clearly distinguishing between pedestrian and vehicular access-ways.</p>	<p>As noted earlier under Clause 7.3 – 'Active Frontage', the site is not located within an Activity Centre of in an area defined by Primary Active Frontages.</p> <p>The driveway into the basement car parking area of Site A is via Road 3. The entry/exit is 7.8m in width and provides a ramp transition of 2.9m which enables vehicles exiting the driveway to level and approach the pedestrian footpath adjacent to Road 3 with a 4.9m long clear line of sight.</p>	<p>N/A</p> <p>Yes</p>
<p><u>On-site Parking</u> Safe and secure 24-hour access to car parking areas is to be provided for building users.</p> <p>At-grade parking: Parking areas must not be located within the front, side, or rear setbacks. Provide safe and direct access from parking areas to building entry points.</p>	<p>Parking is located within the basement car park. The basement car park is secure and allows 24 hour access/egress.</p> <p>The development does not provide at-grade parking within the front, side, or rear setbacks. At-grade car parking is provided within the area designated as Site B until Site B is developed under a separate application.</p>	<p>Yes</p>
<p><u>Basement Parking</u> Basement parking areas should be located directly under building footprints to maximize opportunities for deep soil areas unless the structure can be designed to support mature plants and deep root plants.</p> <p>Basement parking areas must not extend forward of the building line along a street. Basement parking should be contained wholly beneath ground level along public streets.</p> <p>Ventilation grills or screening devices of car park openings are to be integrated into the overall façade and landscape design of the development</p>	<p>The development includes basement parking which is located beneath the building footprint.</p> <p>As discussed under Clause 7.4 – 'Setbacks and Build to Lines' (see separate commentary after this table), the basement carpark extends into the side setback areas facing Road 3. However, as seen in Figures 51 and 52, the encroachment is designed to enable the provision of a 2.0m deep soil zone along the western edge to enable planting.</p> <p>The encroachment is not visible from Road 3 and does not add to the bulk and scale of the development such that the non-compliance, through the provision of deep soil and plantings, is considered to be acceptable in this particular instance.</p>	<p>No Variation is acceptable</p>
<p>Environmental Performance</p>		

Control	Comments	Compliance
<p><u>Wind Impact</u> Buildings shall not create uncomfortable or unsafe wind conditions in the public domain which exceeds the Acceptable Criteria for Environmental Wind Conditions. Carefully locate or design outdoor areas to ensure places with high wind level are avoided.</p> <p>All applications for buildings over 5 storeys in height shall be accompanied with a wind environment statement. For buildings over 9 storeys and for any other building which may be considered an exposed building shall be accompanied by a wind tunnel study report.</p>	<p>The application is accompanied by a Pedestrian Wind Environment Statement (dated 25/11/2022) as prepared by Windtech Consultants.</p> <p>The report indicates that the development has incorporated several design features and wind mitigation strategies and is expected to be suitable for the intended use for the majority of the outdoor trafficable areas. However, there are some areas that are likely to be exposed to stronger winds. It is expected that the wind effects identified in the report can be ameliorated with the consideration of the following treatment strategies into the design of the development:</p> <p><u>Ground level trafficable areas and pedestrian footpaths</u></p> <ul style="list-style-type: none"> • Retention of the proposed tree planting, as displayed in architectural drawings. • Retention of the impermeable awning along the western façade and the south-eastern corner of the subject development. <p><u>Level 1 Communal Space</u></p> <ul style="list-style-type: none"> • Retention of the proposed tree planting, as displayed in architectural drawings. • Retention of impermeable awning along the south-western perimeter of Building 2. • Retention of 2m high planting on either side of communal walkway along north-eastern aspects of Buildings 1A and 1B. <p>The report concludes that, “<i>with the inclusion of the abovementioned recommendations in the final design, it is expected that wind conditions for the various trafficable outdoor areas within and around the development will be suitable for their intended uses, and that the wind speeds will satisfy the applicable criteria for pedestrian comfort and safety</i>”.</p> <p>The Report (including its recommendations) are included in the draft consent as a condition (see Condition 1 under Part B of the draft consent).</p>	<p>Yes Subject to condition</p>
<p><u>Noise & Vibration</u> An Acoustic Impact Assessment report prepared by a suitably qualified acoustic consultant is required to be submitted with all development applications for commercial, industrial, retail and community buildings, with the exception of applications minor building alterations.</p>	<p>The application is accompanied by a Noise Impact Assessment (dated 21/11/2022) as prepared by Renzo Tonin & Associates.</p> <p>The report considered environmental noise impacts (road traffic noise from Herring Road) to the proposed occupied areas of the development and external noise emissions from the operations of the development (activity noise and noise from building services plant/equipment) and found that the</p>	<p>Yes Subject to condition.</p>

Control	Comments	Compliance
Development is to comply with all relevant statutory regulations	<p>proposed development is suitable at the site from an acoustic viewpoint subject to recommendations.</p> <p>The Report (including its recommendations) are included in the draft consent as a condition (see Condition 1 under Part B of the draft consent).</p>	

Detailed Assessment of DCP Non-Compliances

Clause 7.4 - Setbacks and Build to Lines

Clause 7.4 requires buildings to be setback in the following manner:

- 5m setback to all existing and new streets unless otherwise specified; and
- 10m setback to Epping Road.

Additionally, Clause 7.4 does not permit underground parking 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.

Noting that the site is situated over 200m from Epping Road, the development provides the following setbacks to Herring Road and Road 3 (non-compliance in bold italic):

Control	Required	Proposed	Compliance
7.4 - Setbacks	5.0m to streets	<u>Herring Road</u>	
		Basement: 9.1m to 10m	Yes
		Above Ground: 9.1m to 10m	Yes
		<u>Road 3</u>	
		Basement: <i>0.3m</i>	No
		Above Ground: 5.0m to 8.4m	Yes
		<u>Saunders Close</u>	
		OSD Tank: <i>0.4m</i>	No

Road 3

As noted above, the development includes the western side of the basement car park which extends to 0.3m from the boundary to Road 3.

However, as seen in **Figures 51** and **52** below, the encroachment is designed to enable the provision of a 2.0m deep soil zone along the western edge to enable planting.

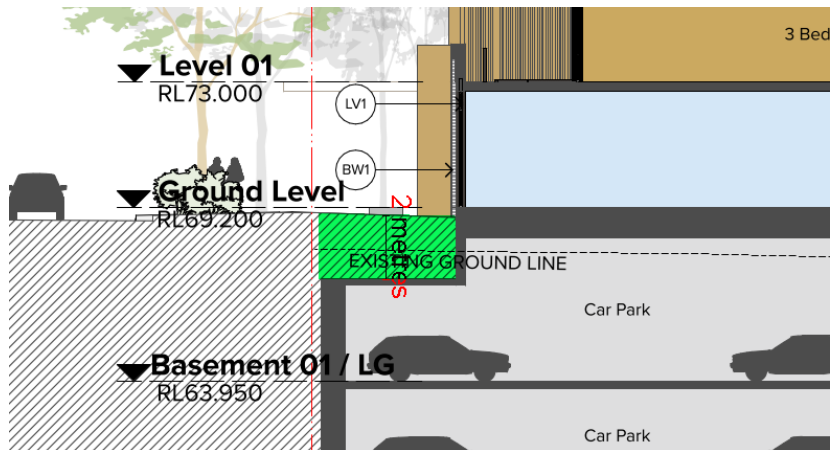


Figure 51 – Cross-section showing the provision of deep soil within the setback area to Road 3.
Source: Adapted from Plan DA-AR-310-301 as prepared by Turner Studio.

Figure 52 below shows the setback area in question (outlined in red) at ground level and indicates the areas nominated for plantings within the 2.0m soil depth (shaded in green).

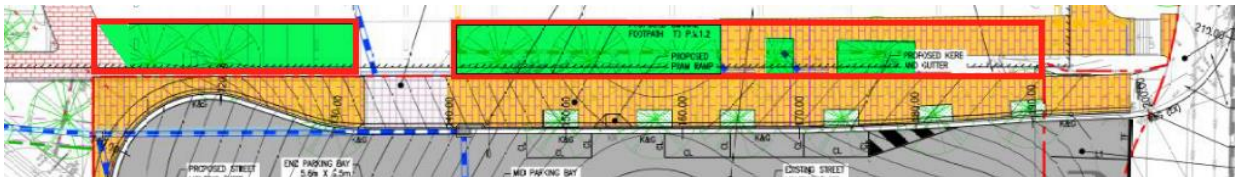


Figure 52 – Setback area to Road 3 at ground level indicating planting areas within the 2.0m soil depth.
Source: Adapted from the General Arrangement Plan as prepared by Robert Bird Group.

The encroachment is not visible from Road 3 and does not add to the bulk and scale of the development such that the non-compliance, through the provision of deep soil and plantings, is considered to be acceptable in this particular instance.

OSD Tank

The development includes two On-Site Detention (OSD) tanks, one of which (OSD Tank 2) is located within the northern side setback abutting Saunders Close.

The 89m³ tank extends for a length of 24.9m and a width of 5.0m. The top of the tank is 0.2m below pavement level.

The eastern half of the tank will be located beneath the new driveway to the proposed loading dock while the western half of the tank will be located beneath a footpath.

Figure 53 below shows the location of the tank in proximity to the property boundary.

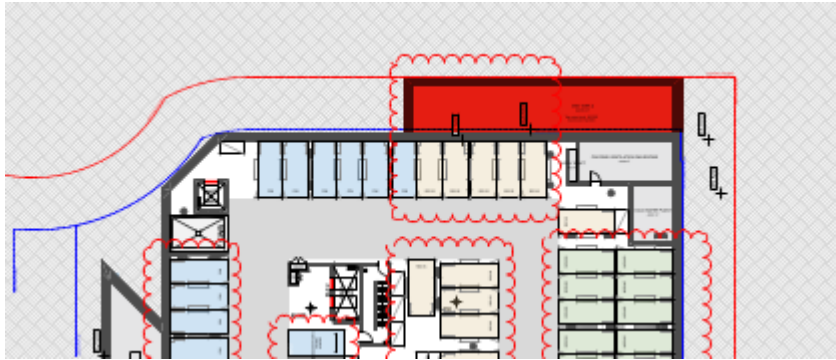


Figure 53 – OSD Tank 2 (shaded red).

Source: Adapted from Plan DA-AR-110-006 dated 17 May 2023 as prepared by Turner Studio.

The plans indicate that the tank will be concealed from view from the public (and private) domain and will be finished at surface level by a combination of paving and planter boxes to enable plantings at the western half of the tank.

The Landscape Plans indicate that 2 x Brush Box trees are proposed as seen in **Figure 54** below.



Figure 54 – Location of OSD tank 2.

Source: Adapted from the Landscape Design Report prepared by Oculus.

Given the proximity of the hard surface of Saunders Close, the locating of the tank is considered to be appropriate in order to efficiently manage stormwater flow from the high point of the site.

Part 9.3 – Parking Controls

The development proposes to provide the following on-site car parking:

Use (Site A)	Rate	Required	Proposed	Compliance
Residential				
1 Bedroom (75)	0.6/dwelling (max)	45		
2 Bedroom (159)	0.9/dwelling (max)	143.1		
3 Bedroom (24)	1.4/dwelling (max)	33.6		
4 Bedroom (7)	1.4/dwelling (max)	9.8		
Total		231.5 (232)	233	No
Visitors (265 dwellings)	1/10 dwellings (max)	26.5 (27)	27	Yes
Car Share	1/50 spaces	5.2 (6)	5	No
Retail (1,091m ²)	1/25m ² GFA	43.6 (44)	45	Yes
Commercial (3,611m ²)	1/100m ² GFA (max)	36.1 (37)	35	Yes
Morling College MRC		22 at-grade		

Use (Site A)	Rate	Required	Proposed	Compliance
(see Note 1)			51	No
Morling College MALC (see Note 2)		2 spaces		
Total		370	396	No

Notes:

Note 1 MRC = Morling Residential College. The plans indicate 51 spaces to Morling College however, as per the discussion below, this is to be reduced to 24 spaces.

Note 2 Refer the break-down table under ‘Council Consideration’ in this section.

The above table reveals that the development does not comply with the parking provisions of Part 9.3 of the DCP. In particular, the non-compliance is predominantly generated by the provision of the 51 parking spaces allocated to Morling College and an overstating of the maximum permitted residential parking.

The applicant seeks to include the 51 parking spaces within Basement Levels 02 and 03 as shown in red in **Figure 55** below.

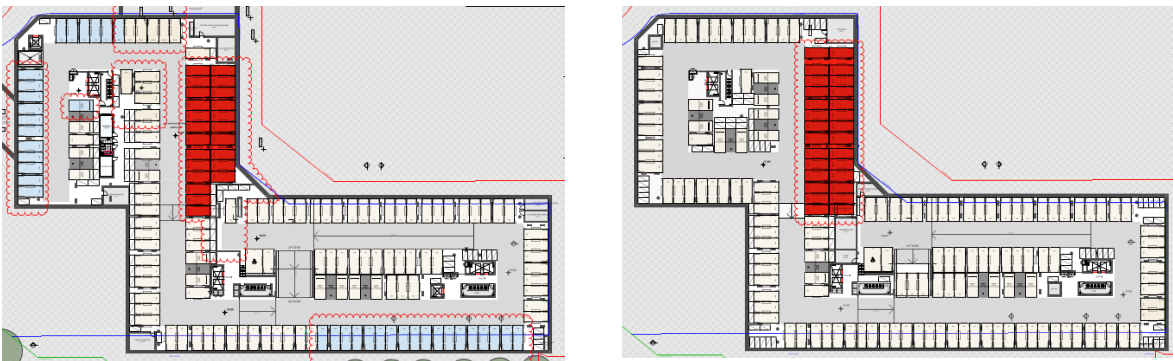


Figure 55 – Proposed Morling College tandem parking arrangement (shaded in red).

Source: Adapted from Plans DA-AR-110-006 and DA-AR-110-005 as prepared by Turner Studio.

Applicant Justification

The applicant refers to 29 spaces allocated to the MALC building based upon the individual uses within that building if assessed against the separate provisions of the RDCP 2014. This results in 22 spaces being assigned to the MRC building (being 51 spaces in total).

In justifying the provision of the surplus 29 spaces, the applicant states:

“The 29 spaces are required to accommodate some of the parking demand for use of the MALC building operations in order to offset the parking spaces being demolished.

As acknowledged by Council, only 20 basement spaces were approved as part of the MALC approval (LDA2017/0216 & MOD2019/55). These spaces only accommodated parking demand for the level 3 office space, given the other uses were able to utilise existing at-grade parking spaces across the site. Accordingly, the 29 spaces proposed provide parking for the other uses in the MALC (excluding the level 3 office)”.

Historical Approvals Background

MALC Building

At the time of considering LDA2017/0216, the approved parking took into account the various uses within the MALC building at each level and based the overall provision on the commercial rate of 1 space/100m² GFA and not on individual rates as proposed by the applicant in this application.

On review of LDA2017/0216 and MOD2019/0055, it is noted that the MALC building was approved under LDA2017/0216 with the provision of 20 spaces located within the basement of that building (as indicated on the approved plans). MOD2019/0055 did not change this number.

In this respect, the approval of the parking rate and parking provision for the MALC building under LDA2017/0216 cannot be varied under this application to justify a further increase in the provision of parking.

MRC Building

A review of prior consents shows that the MRC building was approved (under LDA2014/0170) with the provision of 23 at-grade parking spaces (the consent states 22 spaces however, the approved plans show 23 spaces).

Figure 56 below shows the location and number of the approved at-grade parking spaces for the MRC building.



Figure 56 – Approved parking under LDA2014/0170).

Source: Adapted from Plan A01 dated 17 April 2014 as prepared by Stanton Dahl Architects.

Effectively, the above 23 at-grade spaces will be removed as a result of the Stage 1 application and it is therefore accepted that these space could be located within the basement parking area of the Stage 1 development.

Council Consideration

Morling College Allocation

Given the above, the following may be applied with respect to the provision of parking to Morling College within Stage 1 (noting that the following breakdown table reconciles the approved numerical provision of parking within each of the DA consents issued for the MRC and MALC buildings, as opposed to what was shown on the approved plans)

Development	DA Consent	Approved Plans	Difference	Stage 1 Allocation
MRC (LDA2014/0170)	22 spaces	23 spaces	+1 space	22 spaces
MALC (LDA2017/0216)	22 spaces	20 spaces	-2 spaces	2 spaces
Total	44 spaces	43 spaces		24 spaces

Note: The above MRC count includes the approval granted under MOD2015/0235.

Therefore, in order to balance the provision of car parking under each DA consent, and given the loss of the at-grade spaces for the MRC building and the shortfall of spaces for the MALC building, it is considered acceptable to allocate the above 24 spaces to Morling College within proposed Basement Levels 02 and 03.

Tandem Parking

Clause 2.1 under Part 9.3 of the DCP refers to tandem parking and states:

“Tandem or stack parking may be carried out for a development if it is considered appropriate to the proposed development or land use/s. Tandem or stack parking will only be permitted where:

- i. each tandem or stacked parking arrangement is limited to a maximum of two spaces;*
- ii. in residential buildings and commercial/retail developments, the spaces are attached to the same strata title;*
- iii. in residential buildings and serviced apartments, they are used for resident parking only;*
- iv. in commercial or retail development, they are used for staff parking only;*
- v. they are not used for service vehicle parking; and*
- vi. the manoeuvring of stacked vehicles is able to occur wholly within the premises”.*

Noting that the tandem Morling College spaces are proposed to be assigned to the MRC building and the multiple uses within the MALC building, there is no ability to ensure that Points ii to iv can be satisfied in perpetuity. Furthermore, the tandem arrangement introduces an unsafe and inconvenient environment due to the proximity of blind corners – particularly when vehicles would need to be manoeuvred to enable access/egress from the internal tandem spaces.

Council considers that, based on the grounds and methodology applied to the parking component in the consent issued for the MALC building, insufficient justification has been provided by the applicant for the additional parking spaces and suggests that the tandem spaces should be deleted.

Figure 57 below indicates the 24 tandem spaces to be deleted (in red) with the retained 24 spaces in green allocated to Morling College. The deleted areas may be used as storage.

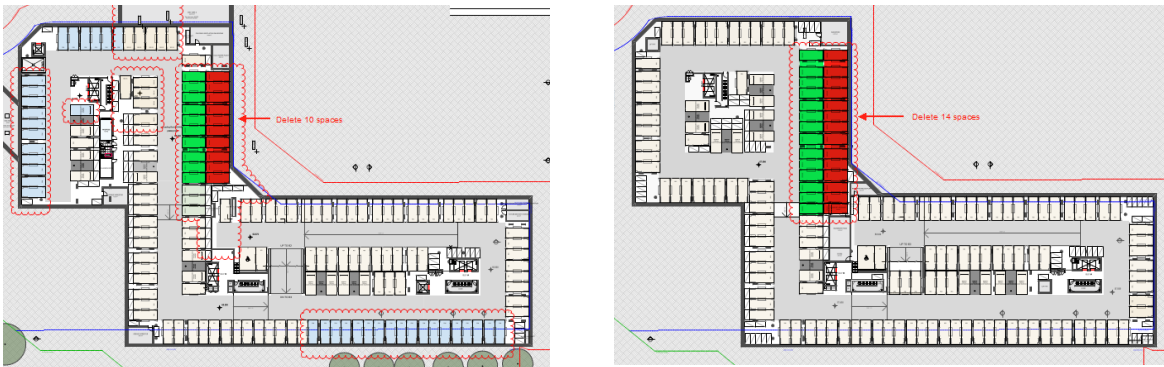


Figure 57 – Recommended Morling College tandem parking arrangement (shaded in red and green).
Source: Adapted from Plans DA-AR-110-006 and DA-AR-110-005 as prepared by Turner Studio.

Recommendation

Given that the sum of uses in the development results in 372 spaces (being 396 total proposed spaces less 24 tandem Morling spaces), it is considered appropriate to reallocate those residual spaces to those uses in the development which are not subject to the *maximum* rate under the DCP (i.e., Car Share and Retail).

The resulting parking allocation will therefore be as follows:

Use (Site A)	Rate	Required	Proposed	Compliance
Residential				
1 Bedroom (75)	0.6/dwelling (max)	45		
2 Bedroom (159)	0.9/dwelling (max)	143.1		
3 Bedroom (24)	1.4/dwelling (max)	33.6		
4 Bedroom (7)	1.4/dwelling (max)	9.8		
Total		231.5 (232)	232	Yes
Visitors (265 dwellings)	1/10 dwellings (max)	26.5 (27)	27	Yes
Car Share	1/50 spaces	5.2 (6)	7	Yes
Retail (1,091m ²)	1/25m ² GFA	43.6 (44)	47	Yes
Commercial (3,611m ²)	1/100m ² GFA (max)	36.1 (37)	35	Yes
Morling College (MRC)		22 at-grade	24	Yes
Morling College (MALC)		2 spaces		
Total		370	372	Yes

Therefore, it is recommended to include the following conditions in the draft consent:

- a) A condition requiring the deletion of the 24 tandem parking spaces identified in **Figure 57**. This will reduce the Morling College parking component to 27 spaces (refer to **Condition 1(a)** in **Part B** of the draft consent).
- b) Apply conditions regarding the car parking allocation as per the table above. This will reduce the Morling College parking component to 24 spaces and balance out the

total car parking as reflected in the plans (refer to **Conditions 1(a), 60 and 196** in **Part B** of the draft consent).

9.2 Section 7.11 - Development Contributions Plan 2020

Council's Section 7.11 Development Contributions Plan 2020, effective 1 July 2020 requires a contribution for the provision of various additional services required as a result of increased development density.

With respect to the application of credits for the existing administration buildings being demolished on the site, Section 7.11 states, where a proposed development displaces either an existing residential or non-residential development, a demand credit will be granted for that existing development.

In this instance, demand credits are calculated on the workspace ratios for an educational establishment (university or TAFE college) which is 1 x worker per 40m² GFA.

The contribution that are payable with respect to the increase density on the subject site (being for residential and commercial development inside the Macquarie Park Area) are as follows (less credit):

A Contribution Type	B Contribution Amount
Community Facilities	\$1,630,403.40
Open Space & Recreation	\$3,152,623.90
Transport & Traffic Facilities	\$251,422.89
Plan Preparation & Administration	\$75,490.02
Total Contribution	\$5,109,940.21

The Section 7.11 Contribution of **\$5,109,940.21** has been included under **Condition 44** in **Part B** of the draft consent.

10. LIKELY IMPACTS OF THE DEVELOPMENT

- (i) The environmental impacts of the proposed development on the natural and built environment are addressed under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the *NSW Threatened Species Conservation Act 1995* (TSC Act) and within the RDCP 2014 sections of this report.

It has been found that the development would not have a detrimental impact on any ecological communities or flora or fauna species of national conservation significance nor, subject to conditions, upon the surrounding built environment by achieving a balanced outcome with landscaping and replacement trees to cater for trees removed.

- (ii) The proposed development will not have a detrimental social impact in the locality considering the mixed-use character of the proposal.

- (iii) The proposed development will not have a detrimental economic impact on the locality considering the mixed-use nature of the existing and proposed land use.
- (iv) The application has demonstrated that the site is suitable for the development.

11. REFERRAL RESPONSES

External Referrals

Transport for NSW (TfNSW)

The application was referred to TfNSW who raised no objection to the proposal subject to conditions.

Refer to **Condition 21** in **Part B** of the draft consent.

WaterNSW

The application was referred to WaterNSW who raised no objection to the proposal subject to conditions contained in their General Terms of Approval (GTAs).

In their response, WaterNSW noted that the proposal was for a drained basement however a drained basement is not supported and GTAs are issued for temporary construction dewatering (tanked basement) only.

The referral response and GTAs are included in the draft consent.

Refer to **Condition 24** in **Part B** of the draft consent.

NSW Police

The application was referred to NSW Police who raised no objection to the proposal subject to conditions addressing CPTED.

Refer to **Conditions 147 to 153** in **Part B** of the draft consent.

Internal Referrals

Urban Design Review Panel (UDRP)

The application was referred to the UDRP who raised no objection to the proposal subject to condition.

Refer to **Condition 1(c)** in **Part B** of the draft consent.

City Works

Drainage

The application was referred to the Drainage section in Council's City Works Department who raised no objection to the proposal subject to conditions.

Refer to **Conditions 13, 68 to 72, 130, and 162 to 165** in **Part B** of the draft consent.

Traffic

The application was referred to the Traffic section in Council's City Works Department who raised no objection to the proposal subject to conditions.

Refer to **Conditions 22, 30, 31, 73, 74, 102, 167 to 170, and 210** in **Part B** of the draft consent.

Public Domain

The application was referred to the Public Domain section in Council's City Works Department who raised no objection to the proposal subject to conditions.

Refer to **Conditions 14 to 16, 23, 25, 63, 75 to 80, 103 to 106, 132, 172, and 176 to 193** in **Part B** of the draft consent.

Waste

The application was referred to the Resource Recovery section in Council's City Works Department who raised no objection to the proposal subject to conditions.

Refer to **Conditions 37, 81, 82, 135, 137, 189 to 192, and 206 to 209** in **Part B** of the draft consent.

Development Engineering

The application was referred to Council's Development Engineer who did not have any objection to the drainage/stormwater elements of the proposal but did raise an issue regarding the proposed parking provision, namely the additional 51 spaces proposed for the Morling College.

This issue has been discussed under Part 9.3 of the RDCP 2014 and its resolution is subject to a condition which requires the combined deletion and reallocation of the 51 spaces as follows:

- The deletion of 24 tandem parking spaces at Basement Levels 02 and 03 assigned to Morling College.
- The reallocation of 5 spaces to other uses in the development.

The above will result in the provision of 24 spaces to be allocated to Morling College to account for the loss of at-grade parking spaces approved for the MRC building under LDA2014/0170 and the residual spaces approved for the MALC building.

Refer to **Conditions 14 to 16, 25, 60 to 65, 75, 93, 95, 123 to 126, 130, 156 to 163, and 195 to 197** in **Part B** of the draft consent.

Consultant Landscape Architect

The application was referred to Council's Consultant Landscape Architect who raised no objection to the proposal subject to conditions.

Refer to **Conditions 1, 17, 18, 19, 20, 35, 36, 83, 89, 99, 100, 101, 127, 128, 129, and 141** in **Part B** of the draft consent.

12. PUBLIC NOTIFICATION AND SUBMISSIONS

The application was publicly exhibited as Integrated Development between 18 January 2023 and 20 February 2023. An advertisement was placed on Council's website and notification letters were sent to 1,170 local properties in accordance with Council's Community Participation Plan.

Amended plans received during the assessment were not required to be re-exhibited as the amendments were minor and did not result in additional environmental impact.

As a result of the exhibition, a total of three (3) submissions were received which raise the following issues:

- **Overdevelopment in the area and provision of supportive infrastructure**
- **Height and proximity of the development to existing neighbouring buildings.**
- **Traffic generation/congestion.**
- **Construction disturbance.**

The following addresses the above issues individually:

- **Overdevelopment in the area and provision of supportive infrastructure**

The submission raises concern that the development will contribute towards an overdevelopment of residential apartments in the local area and queries the need for additional dwellings.

The submission also raises concern that Macquarie Park lacks sufficient infrastructure to cater for the increase in residential apartments being constructed in the local area.

Comment

The site is within the 'Herring Road and North Ryde Station Priority Precinct' which aims to revitalise the area and provide new homes within an area that is close to infrastructure, public transport and employment opportunities.

Furthermore, the development is located within the MU1 Mixed Use zone and is permitted pursuant to development consent under the RLEP 2014.

The development includes a variety of uses which aim to respond to the social, economic and environmental opportunities envisaged under the RLEP 2014 to utilise the land to its full potential while ensuring that any adverse impact is minimised.

The development is also consistent with the concept approval granted under LDA2019/0246 and the objectives of the MU1 Mixed Use zone.

With respect to the provision of supportive infrastructure, Macquarie Park is the subject of the *Macquarie Park Place Strategy* prepared by the NSW Department of Planning & Environment (DPE). The Strategy does not rezone land but will guide council, State agencies and the private sector on land use planning for Macquarie Park. The Strategy is supported by the '*Macquarie Park Strategic Infrastructure and Services Assessment*' (SISA) which was published by the Greater Cities Commission in September 2022.

In that publication, the Commission acknowledges that there is growing demand for infrastructure and services from the local community, with future demand from new residents, workers and students expected to grow.

The local area (being the subject of the submission) is identified in the SISA as the *Macquarie University (Herring Road) Urban Activation Precinct* as shown in **Figure 58** below (the subject site is circled in red):



Figure 58 - Macquarie University (Herring Road) Urban Activation Precinct.
Source: Macquarie Park Strategic Infrastructure and Services Assessment: Final Report.

The SISA includes service initiatives and proposals for the precinct within a 6 to 10 year delivery timeframe. These initiatives and proposals include (but are not limited to):

- BPIP Stage 1B: Upgrades to Herring Road and the intersections with Waterloo Road, Epping Road and Ivanhoe Place.
- Macquarie University Bus Interchange (MUBI).
- Macquarie Park northern bus layover.
- Electric vehicle charging stations.
- Talavera Road/Christie Road intersection – pedestrian crossings on all legs.
- Talavera Road/Macquarie Shopping Centre intersection – pedestrian crossings on all legs.

- Herring Road intersection improvements.

Therefore, the provision of infrastructure within Macquarie Park is the subject of ongoing state and local government research and action is being undertaken to resolve existing and to address future impacts because of ongoing development.

Therefore, this issue does not warrant the refusal of the application.

- **Height and proximity of the development to existing neighbouring buildings**

The submission raises concern that the height and proximity of the development (namely Buildings 1A and 1B to apartments on the northern side of Saunders Close) results in impacts on neighbouring residential buildings by reducing sunlight access, airflow, outlook and privacy.

Comment

It is acknowledged that the development includes breaches to the permitted building height. However, these have been appropriately assessed against the provisions of Clause 4.3 and Clause 4.6 of the Ryde Local Environmental Plan 2014. The assessment found that the non-compliant elements were minor, did not add unreasonable bulk and scale beyond that envisaged by the Concept Approval, and that the request to vary the requirement demonstrated sufficient environmental planning grounds to warrant the variation.

With regard to the physical separation of Building 2 to the apartment buildings on the northern side of Saunders Close, it is noted that the buildings are separated by a distance of approximately 28m which exceeds the maximum separation requirements recommended by the Apartment Design Guide.

With respect to the proximity of the development to existing neighbouring buildings generally, it is noted that the development complies with the building separation requirements recommended under the Apartment Design Guide with exception to minor encroachments between habitable room windows and neighbouring window of the apartment building at 1 Saunders Close. This is discussed in detail in Section 7.10 (Clause 3F - Visual Privacy) of this report and has been addressed by a condition which requires the proposed windows to be treated to resolve visual privacy concern.

Refer to **Condition 1(b)** under **Part B** of the draft consent.

Therefore, this issue does not warrant the refusal of the application.

- **Traffic generation/congestion**

The submission raises concern that the development will generate traffic which will add to traffic congestion within the local area.

Comment

The traffic generated by the Ivanhoe Estate development and the subject development were closely examined both separately and together to assess the projected impact upon the local road network.

The analysis of traffic generated by the Ivanhoe Estate development was conducted under SSD 8707 where the submitted *Transport Management and Accessibility Plan* (as prepared by the Ason Group and dated 3 April 2018) for the proposal identified the following road infrastructure upgrades required to service the Estate and give relief to the local road network:

- A new road connection to Lyonpark Road via a bridge over Shrimptons Creek.
- A new road providing left in only access from Epping Road.
- The signalisation of the Herring Road/Ivanhoe Place intersection.

It is noted that the proposed new road connection to Lyonpark Road in conjunction with the signalisation of Herring Road/Ivanhoe Place would create a new major east-west link in the Macquarie Park precinct resulting in significant reassignment of traffic in the area.

In their report, the Ason Group forecasted a large reduction in trips along Waterloo Road and Herring Road as the result of traffic being diverted through Ivanhoe Estate to access Epping Road, thereby leading to an overall effect of decreased through traffic along Herring Road.

An analysis of traffic generated by the Morling College development (the Concept Approval) was conducted under LDA2019/0264 where the submitted *Parking and Traffic Assessment* (as prepared by PTC and dated 24 June 2019) incorporated the findings of the *Transport Management and Accessibility Plan* submitted with the Ivanhoe Estate development as a baseline to estimate traffic generation. In that report, the assessment concluded that the Morling College Masterplan development (of which the subject application is derived) would have minimal impact on the surrounding road network when taking into account the cumulative traffic impacts from the Ivanhoe Estate development.

Therefore, this issue does not warrant the refusal of the application.

- **Construction disturbance**

The submission raises concern that the development will contribute towards disturbances (such as noise, dust and construction traffic) in the local area generated by construction activity.

Comment

Development, particularly of the scale proposed, will generate an increased level of impact beyond the status quo although this impact largely occurs during the early and initial excavation/construction phases and not the later and final fit-out phase.

The draft consent includes detailed conditions which address noise and dust control during the demolition, excavation and construction phases of the development.

Furthermore, conditions have also been included to address traffic management (particularly referring to construction vehicles) during each phase of the development to ensure that impact upon the local road network and users is minimised.

Refer to **Conditions 28 to 31, 73, 85, 92, 112, 118, and 136** in **Part B** of the draft consent.

Therefore, this issue does not warrant the refusal of the application.

13. CONCLUSION

After consideration of the development against section 4.15 of the Environmental Planning and Assessment Act 1979 and the relevant statutory and policy provisions, the proposal is considered suitable for the site and is in the public interest.

The application is responsive to the strategic intentions of the Macquarie Park, Council's RLEP 2014 that have been adopted for the locality and the concept plan approved under LDA2019/0264. The proposal is consistent with the MU1 Mixed Use zone objectives.

The allocation of gross floor area, siting of buildings across the site, provision of open space, and the construction of Road 3 allows for the redevelopment for a mixed residential/commercial use in an orderly and coordinated manner.

Therefore, it is recommended that the application be approved subject to the surrender of LDA2019/0264, and the conditions of consent for the following reasons:

- 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 satisfies the objectives of the zone and the development standard, is consistent with the scale anticipated on this site and will read favourably in the context of the redevelopment of neighbouring sites in the future. Compliance with this development standard is unreasonable or unnecessary in the circumstances of this specific proposal; and there are sufficient environmental planning grounds to justify contravening this development standard.
- The issues raised in the submissions do not warrant the refusal of the application and have been adequately addressed in this report.
- The proposed development does not create unreasonable environmental impact to existing adjoining existing development in the immediate vicinity.
- The site is considered suitable for the proposed development.
- The development is in the public interest through the provision of a through-site roadway, a publicly accessible open space area, and will provide a mix of apartment types to address growing housing demand and support the growth of the local community.

14. RECOMMENDATION

- 1) THAT the Sydney North Planning Panel accepts that the Clause 4.6 written request to vary Clause 4.3 in the Ryde Local Environmental Plan 2014 which has adequately addressed the matters in sub-clause (3) and will be in the public interest as it is consistent with the objectives of the MU1 Mixed Use Zone of Ryde Local Environmental Plan 2014.
- 2) That the Sydney North Planning Panel grant consent to development application LDA2022/0394 for an amending Development Application to amend Concept

Development Approval under LDA2019/0264 (building envelopes and footprint), including Stage 1 Detailed Works comprising demolition, construction of 3 mixed use buildings with associated basement parking, partial construction of a road, landscaping and public domain improvements within Site A at 122 Herring Road, Macquarie Park, subject to conditions of consent in Attachment 1 of this report.

- 3) That Transport for NSW and WaterNSW be advised of the decision.
- 4) That those persons who provided a submission be notified of the decision.