

COUNCIL ASSESSMENT REPORT

SNPP No	PPSSNH-362
DA Number	LDA2022/0408
Local Government Area	City of Ryde
Proposed Development	Demolition and construction of a 14-storey mixed use development comprising commercial premises at the ground level fronting Herring Road, 307 residential apartments, 4 basement parking levels and associated communal open space areas including a pool, landscaping, stormwater management works, public domain works and stratum subdivision.
Street Address	5-11 Lachlan Avenue & 155-159 Herring Road Macquarie Park
Applicant/owner	Applicant: One GC MQ Park Pty Ltd C/- Urbis Owner: The owners of: <ul style="list-style-type: none"> • SP 12698 (5 Lachlan Avenue); • SP 14550 (7 Lachlan Avenue); • SP 22475 (9 Lachlan Avenue); • SP 6760 (11 Lachlan Avenue); • SP 6782 (155 Herring Road); • SP 6956 (157 Herring Road); and • SP 16663 (159 Herring Road).
Date of Lodgement	15 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	General Development over \$30 Million. Cost of works: \$156,030,852 (excluding GST)
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979; • Environmental Planning and Assessment Regulation 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 (Sustainable Buildings) 2022; • State Environmental Planning Policy (Transport and Infrastructure) 2021;

	<ul style="list-style-type: none"> • 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.
Clause 4.6 Request	Clause 4.3 – Height of Buildings (4.7% to 7.3% variation)
Summary of Key submissions	<ul style="list-style-type: none"> • Building separation and sunlight access to 1 - 3 Lachlan Avenue. • Non-compliant building height. • Impact on local bird/marsupial species. • Excessive building heights. • Impact on local traffic.
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Attachment 1: Draft Conditions of consent • Attachment 2: Plans • Attachment 3: Clause 4.6
Report prepared by	Tony Collier - Senior Town Planner
Report date	3 October 2023

Summary of s4.15 matters	
Have all recommendations in relation to relevant s79 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 summarised, 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 demolition and construction of a 14-storey mixed use development comprising commercial premises at the ground level fronting Herring Road, 307 residential apartments, 4 basement parking levels and associated communal open space areas including a pool, landscaping, stormwater management works, public domain works and stratum subdivision at 5-11 Lachlan Avenue and 155-159 Herring Road, Macquarie Park.

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 2F – Building Separation.
- Clause 3B – Orientation.
- Clause 3F – Visual Privacy.
- Clause 4D – Apartment Size and Layout.

The above issues are supported and addressed in detail in Section 7.8 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 4.7% to 7.3%. The non-compliances predominantly involve roof edges and roof top plant structures.

A variation under Clause 4.6 demonstrates sufficient environmental planning grounds, as well as compliance with the control being unreasonable and unnecessary. For these reasons the Clause 4.6 request is supportable.

This issue is supported and addressed in detail in Section 7.9 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 Herring Road.

The non-compliance is acceptable in this particular instance as the encroachment is not visible from Herring Road, does not add to the bulk and scale of the development, and enables plantings through the provision of deep soil zones to a depth of 6.0m.

The above issue is 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 dewatering.

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

Public Exhibition and Submissions

The application was publicly exhibited as Integrated Development between 2 February 2023 and 28 February 2023. An advertisement was placed on Council's website and notification letters were sent to 839 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:

- Building separation and sunlight access to 1 - 3 Lachlan Avenue.
- Non-compliant building height.
- Impact on local bird/marsupial species.
- Excessive building heights.
- Impact on local traffic.
- Construction disturbance.
- Overdevelopment in the area and provision of supportive infrastructure.

The issues raised in the submission are addressed in detail in Section 10 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: One Global Capital MQ Park Pty Ltd

Owner of site: The owners of:

- SP 12698 (5 Lachlan Avenue);
- SP 14550 (7 Lachlan Avenue);
- SP 22475 (9 Lachlan Avenue);

- SP 6760 (11 Lachlan Avenue);
- SP 6782 (155 Herring Road);
- SP 6956 (157 Herring Road); and
- SP 16663 (159 Herring Road).

Estimated value of works: \$156,030,852 (excluding GST)

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

3. SITE DESCRIPTION

The site is located on the south-eastern side of Herring Road and is bounded by Windsor Road to the north, Lachlan Avenue to the south-east, and Mahogany Avenue to the south-west.



Figure 1 – Location of the site (outlined in orange).

The site is irregular in shape and has a frontage of 114.3m to Herring Road, a frontage of 67.24m to Windsor Road, a frontage of 73.16m to Lachlan Avenue, and a frontage of 25.91m to Mahogany Avenue. The site has a surveyed area of 6,952.3m².

The site includes seven (7) Strata allotments, each of varying size and accommodating a part 3/part 4 storey walk-up brick and tile flat building (circa 1960s) with carparking, and established landscaping. The site currently accommodates 89 apartments comprising 27 x 1 bedroom apartments and 62 x 2 bedroom apartments. Three (3) flat

buildings address Herring Road and four (4) flat buildings address Lachlan Avenue. At the time of writing, each of the flat buildings were occupied.

The site has a diagonal cross fall of 11.87m from the south-western corner of the site to the north-eastern corner of the site and a lateral cross-fall of 7.9m from the Herring Road frontage to the Lachlan Avenue frontage. The slope is graduated across the site due to the established footprints of each flat building and the installation of variable height retaining walls resulting in a terraced format.

The site accommodates a variety of established and mature indigenous, coniferous and ornamental trees. The *Arboricultural Impact Appraisal and Method Statement* submitted with the application identifies 70 trees in total of which 19 are street trees located on Council's verge area mainly comprising *Liquidambar styraciflua* ('Sweetgum') and *Callistemon sp* ('Bottlebrush').

The site is zoned MU1 - Mixed Use (formerly B4 – Mixed Use) under the Ryde Local Environmental Plan 2014 and is located within the Macquarie Park Corridor.

Figures 2 to 10 below provide views of the site.



Figure 2 - 155 Herring Road from Mahogany Avenue.



Figure 3 - 155 Herring Road (street facing)



Figure 3 - 157 Herring Road (street facing)



Figure 4 - 159 Herring Road (street facing)



Figure 5 - 159 Herring Road (from corner)



Figure 6 - 159 Herring Road (from opposite corner)



Figure 7 - 11 Lachlan Avenue (corner)



Figure 8 - 7 & 9 Lachlan Avenue



Figure 9 - 7 & 9 Lachlan Avenue



Figure 10 - 5 Lachlan Avenue

4. SITE CONTEXT

The local area is undergoing significant transformation in keeping with 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. The local area is identified in the SISA as the *Macquarie University (Herring Road) Urban Activation Precinct*.

The site is located approximately 210m from the intersection of Epping and Herring Roads and is in the general vicinity of Macquarie University and Macquarie Shopping Centre.

The Macquarie Centre Shopping Complex is situated 350m 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 south-western border is Ivanhoe Place and the State Significant Development - 'Ivanhoe Estate' which was approved by the Department of Planning, Industry and Environment (SSD 8707 & SSD 8903) for a mixed-use development comprising of social, affordable, senior and market housing, community and retail uses, a primary school, childcare centre, parks and landscaping. In total 3,300 dwellings including 950 social housing, 128 affordable housing and 273 seniors living dwellings are proposed.

Also neighbouring the site to the south-east is 1-3 Lachlan Avenue which currently accommodates a vacant 4-storey walk-up flat building (circa 1960s). This property received approval under LDA2021/0187 for the construction of a 16-storey residential flat building comprising 123 residential apartments, basement parking levels, communal open space areas and associated stormwater management works and landscaping. That development was approved by the SNPP on 27 February 2023 (under PPSSNH-237).

Windsor Road is situated to the north-east and forms the northern boundary of the site. Across Windsor Road is 13 to 15 Lachlan Avenue and 161 Herring Road which currently accommodate 3 storey walk up flat buildings (circa 1960s). These properties are currently for sale.

Further to the north-east, 17 to 19 Lachlan Avenue and 163 Herring Road currently accommodate 3 storey walk-up flat buildings (circa 1960s) however, these properties collectively form a site which is the subject of an application (LDA2023/0001) before the SNPP (PPSSNH-363) for determination on 20 September 2023 for the construction of a part 9, 13 & 14 storey development for a purpose-built student accommodation for 732 students.

At 23 to 25 Lachlan Avenue approval was granted by the SNPP (PPSSNH-210) for the construction of a 15-storey student accommodation facility (boarding house) comprising 488 beds, communal recreation rooms and facilities, basement parking and loading facilities and landscaping. Development had not commenced at the time of writing and the site currently accommodates 2 x 3 storey walk-up flat building (circa 1960s).

On the western side of Herring Road (opposite the subject site) is a recently approved mixed use development at 122 Herring Road comprising Stage 1 Detailed Works comprising demolition, construction of 3 x 13 and 14 storey mixed use buildings with 265 apartments and commercial and retail space with associated basement parking, partial construction of a road, landscaping and public domain improvements. As part of an overarching Masterplan, that site will be the subject of Stage 2 detailed works in the future.

Mixed use buildings of similar heights and scale are constructed and occupied along the north-western side and south-eastern side of Herring Road to the Epping Road intersection.

5. APPLICATION HISTORY

The application was lodged as Integrated Development with Council via the Planning Portal on 15 December 2022.

The application was publicly exhibited between 2 February 2023 and 28 February 2023 and notified to 839 properties in the area. In response, a total of three (3) submissions were received objecting to the proposal.

As Integrated Development, the application was referred to WaterNSW via the Planning Portal on 16 February 2023 for part of the proposed development requiring a Water Supply Work approval under the *Water Management Act 2000*.

On 15 May 2023 WaterNSW issued their General Terms of Approval to the application.

Letter to the Applicant

Following the preliminary assessment of the application, a letter was sent to the applicant on 15 March 2023 which outlined issues identified to date, including comments provided by the Urban Design Review Panel.

The letter provided the applicant with an opportunity to submit amended plans addressing the issues raised by 24 May 2023.

Noting that the issues raised in Council's letter suggested a significant redesign, an offer was made to the applicant via email on 16 March 2023 to meet and discuss requirements to facilitate an acceptable outcome and level of documentation on the submission of an amendment application. Noting that no approach was made to Council to discuss the amendment during the redesign stage, the offer was again made verbally on 20 April 2023. However, the applicant did not engage with Council during this regarding both offers.

Amended Plans

Amended plans were lodged with Council via the Planning Portal on 24 May 2023. The amendments included the following:

- Increase to the car parking area at the southern side of Basement Level 4 (the lowest level).
- Reconfiguration of parking arrangements and provision of storage within the basement levels.
- Reconfiguration of the building alignments at Towers A and C.
- Reskinning of all buildings to introduce a greater emphasis on framing elements and an increase in glass surface.

It was noted that the amendments included significant changes which required the following supporting documentation:

- Updated Design Statement/Report.
- Photomontages of the revised scheme.
- Updated BASIX Certificate(s).
- An updated NatHERS Certificate.
- Updated Geotechnical Report (noting there is enlarged excavation to the basement excavation at Basement Level 4).
- Updated Dewatering Management Plan (due to the enlarged excavation at Basement Level 4).
- Updated Ecologically Sustainable Development (ESD) Report (noting changes to apartment layout and increase of glass surface area to the south of Tower A and Tower B).
- Updated Arboricultural Impact Assessment.
- Updated Flood Report.
- Stormwater Management Plans.
- Civil Engineering Plans.

On 25 May 2023, the applicant was advised that the amended application was deficient and that, in order for the amended application to be assessed in a timely manner, the above-listed documentation was required to be submitted within 21 days (i.e., by 14 June 2023).

Updated Supporting Documentation

On 15 June 2023 the applicant lodged amended supporting documentation via the Portal. The updated information included:

- Updated Design Statement/Report.
- Photomontages of the revised scheme.
- Updated Geotechnical Report.
- Updated Dewatering Management Plan.
- Updated Arboricultural Impact Assessment.
- Updated Flood Report.
- Stormwater Management Plans.
- Civil Engineering Plans.
- Updated Landscape Strategy.

The submitted information also included a preliminary BASIX and NatHERS statement and a preliminary ESD statement advising that such documents can be provided prior to the approval of the application. This was not accepted by Council as it hindered the consent authority from understanding the application fully, and that these documents were to be submitted with the updated information. Subsequently, the applicant submitted this updated information on 30 June 2023.

On 3 July 2023 the amended application was selectively referred to the following external and internal departments for consideration:

- WaterNSW.
- City Works:
 - Traffic.
 - Drainage.
 - Public Domain.
 - Waste.
- Development Engineering.
- Landscape.
- Tree Management.
- Urban Design Review Panel.

A referral back to Transport for NSW (TfNSW) was not required as their prior response was advisory only and did not require amended plans to be referred.

Furthermore, the amended application, although including fenestration changes and changes to the basement level and building separation between Towers A and C, did not require re-exhibition in accordance with Council's Community Participation Plan as these changes were not significant, and did not result in additional environmental impact to surrounding properties.

6. THE PROPOSAL

The following describes the proposal as originally lodged:

Demolition and construction of a 14-storey mixed use development comprising commercial premises at the ground level fronting Herring Road, 304 residential apartments, 4 basement parking levels and associated communal open space areas including a pool, landscaping, stormwater management works, public domain works and stratum subdivision.

The stratum subdivision comprises the creation of 5 Part lots within the development which include the following:

- Part Lot 1 – Tower A Residential Stratum Lot.
- Part Lot 2 – Tower B Residential Stratum Lot.
- Part Lot 3 – Tower C Residential Stratum Lot.
- Part Lot 4 – Tower A Retail Stratum Lot.
- Part Lot 5 – Tower C Retail Stratum Lot.

The amended application submitted on 30 June 2023, included the following changes:

- Minor height increases at the lift overrun of Tower A from RL 107.06 to RL 107.11 (+0.05m).
- Removal of corner architectural pillar elements at Towers A and B to provide more open balcony edges and visual articulation.
- Incorporation of visually permeable roof/balcony overhangs at Towers A and B to lighten the built form.
- Replacing vertical architectural pillar elements across the facades of Towers A and B with continuous glass.
- Increased corner setback at the north-western corner of Tower A to preserve trees.

- Reduction to the building separation between Towers A and C from 18m to 12m to 15m as a result of the above increased corner setback.
- Increased corner setback at the south-western corner of Tower C to preserve trees.
- Reorientation of units in Tower A to provide longer balconies to north-western corner apartments.
- Reorientation of units at the southern end of Tower A to replace 1 bedroom apartments with 3 bedroom apartments.
- Decrease to the areas of Basement Levels 1, 2 and 3.
- Increase to the area of Basement Level 4.
- Relocation of the substation from indoor to outdoor.
- Change to the unit mix as follows:

Unit Typology	Original Proposal	Amended Proposal	Difference
Studio	35 (11.6%)	34 (11.1%)	-1
1 Bedroom	60 (19.7%)	46 (15.0%)	-14
2 Bedroom	149 (49.0%)	179 (58.3%)	+30
3+ Bedroom	60 (19.7%)	48 (15.6%)	-12
Total	304 (100%)	307 (100%)	+3

Note: The plans omit notating Levels 4 and 14. The applicant has advised that “the number ‘4’ is an unlucky number for the Chinese, and considering the Chinese are a common buyer for OGC/Crown Group we always remove the ‘4’ for our unit and levels for the product we deliver”.

The omission of notating Levels 4 and 14 does not change the physical number of storeys assessed under this application.

- Change to the retail floor area as follows:

Unit	Original Proposal	Amended Proposal	Difference
Tower A			
RA1 (Level 3)	172m² GFA	237m² GFA	+65m² GFA
RA2 (Level 3)	77m² GFA	148m² GFA	-25m² GFA
RA3 (Level 3)	96m² GFA		
Tower C			
RA4 (Level 3)	223m² GFA	204m² GFA	-19m² GFA
Retail (Level 2)	-	202m² GFA	+202m² GFA
Total	568m² GFA	791m²	+223m² GFA

- Change to the provision of car parking as follows:

Location	Original Proposal	Amended Proposal	Difference
Basement Level 4	90 spaces	121 spaces	+31 spaces
Basement Level 3	124 spaces	118 spaces	-6 spaces
Basement Level 2	66 spaces	65 spaces	-1 space
Basement Level 1	39 spaces	44 spaces	+5 spaces

Location	Original Proposal	Amended Proposal	Difference
Level 1	18 spaces	Nil	-18 spaces
Total	337 spaces	348 spaces	+11 spaces

- Change to the extent of tree removal/retention as follows:

Location	To be Removed		To be Retained		Total		Replacement	
	Original	Amended	Original	Amended	Original	Amended	Original	Amended
On-Site	49	44	2	7	51	51	39	39
Off-Site	0	0	19	19	19	19	32	32
Total	49	44	21	26	70	70	71	71

The 44 trees proposed to be removed comprise the following:

Tree No.	Species (Common Name)	Height (Estimated)
4	Melia azedarach (Chinaberry)	8m
5	Populus deltoides (Eastern Cottonwood)	20m
10	Cupressus sp. (Cypress)	3m
17	Eucalyptus scoparia (Wallangarra White Gum)	14m
18	Cupressus sp. (Cypress)	16m
19	Eucalyptus scoparia (Wallangarra White Gum)	12m
20	Schefflera actinophylla (Umbrella Tree)	6m
21	Corymbia maculata (Spotted Gum)	14m
22	Eucalyptus botryoides (Bangalay)	18m
25	Melia azedarach (Chinaberry)	8m
26	Persea americana (Avocado)	6m
27	Melia azedarach (Chinaberry)	10m
28	Pittosporum undulatum (Australian Cheesewood)	12m
29	Elaeocarpus reticulatus (Blueberry Ash)	9m
30	Mangifera indica (Mango)	3m
31	Magnolia grandiflora (Southern Magnolia)	6m
32	Callistemon sp. (Bottlebrush)	5m
33	Elaeocarpus reticulatus (Blueberry Ash)	9m
40	Phoenix canariensis (Canary Island Date Palm)	5m
44	Cupressus sp. (Cypress)	7m
45	Lophostemon confertus (Brush Box)	18m
46	Corymbia citriodora (Lemon Scented Gum)	18m
47	Corymbia citriodora (Lemon Scented Gum)	26m
48	Lophostemon confertus (Brush Box)	16m
49	Cupressus sp. (Cypress)	12m
50	Cupressus sp. (Cypress)	12m
51	Cupressus sp. (Cypress)	12m
52	Cupressus sp. (Cypress)	12m
53	Fraxinus angustifolia (Narrow Leaved Ash)	14m
54	Jacaranda mimosifolia (Blue Jacaranda)	16m
55	Casuarina cunninghamiana (River Oak)	22m
56	Schefflera actinophylla (Australian Umbrella Tree)	9m
57	Corymbia citriodora (Lemon Scented Gum)	22m
58	Corymbia citriodora (Lemon Scented Gum)	22m
59	Corymbia citriodora (Lemon Scented Gum)	22m
60	Corymbia citriodora (Lemon Scented Gum)	22m

Tree No.	Species (Common Name)	Height (Estimated)
61	Casuarina cunninghamiana (River Oak)	10m
62	Melia azedarach (Chinaberry)	6m
63	Gleditsia triacanthos (Honey Locust)	7m
64	Gleditsia triacanthos (Honey Locust)	7m
66	Phoenix canariensis (Canary Island Date Palm)	5m
67	Pittosporum undulatum (Australian Cheesewood)	8m
68	Pittosporum undulatum (Australian Cheesewood)	8m
69	Pittosporum undulatum (Australian Cheesewood)	8m

Therefore, the development seeks to remove 44 trees from the site, retain 26 trees and plant a further 71 trees (all of which are native). This will result in a net increase of 27 trees on the site from the existing situation.

Given the above detail, the following describes the proposal as amended:

Demolition and construction of a 14-storey mixed use development comprising commercial premises at the ground level fronting Herring Road, 307 residential apartments, 4 basement parking levels and associated communal open space areas including a pool, landscaping, stormwater management works, public domain works and stratum subdivision.

Figures 11 below shows the site layout of Towers A, B and C.



Figure 11 – Proposed site layout.

Source: Plan A0021 as prepared by Koichi Takada Architects.

Figure 12 below shows the development as viewed from Herring Road (Towers A and C).



Figure 12 – View of Tower A and C from Herring Road (looking south towards Epping Road).
Source: Plan A0006 as prepared by Koichi Takada Architects.

Figure 13 below shows the development as viewed from the corner of Lachlan Avenue and Windsor Drive (Tower B and the north-eastern corner of Tower A).



Figure 13 – View of Tower B and the rear of Tower A from Lachlan Avenue and Windsor Drive.
Source: Plan A0005 as prepared by Koichi Takada Architects.

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;
- Environmental Planning and Assessment Regulation 2021;
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004;
- State Environmental Planning Policy (Biodiversity and Conservation) 2021;
- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Sustainable Buildings) 2022;
- 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.

7.2 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(s); and
- Required drawings and montages.

7.3 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 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.

Clause 2.6 addresses the clearing of vegetation that requires permit or approval.

The application is accompanied by an Arboricultural Assessment Report (dated 13 June 2023) which responds to the amending development application which has been considered by Council's consulting Landscape Architect and no objection was raised regarding the removal of vegetation subject to conditions (see **Conditions 20 to 31, 48, 49, 62, 63, 94, 146, and 147**).

The proposal therefore satisfies the requirements of Clause 2.6.

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.

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

The amended application is accompanied by two Multi-Dwelling BASIX Certificates (Certificate Nos. 1355374M-04 and 1355397M-04, both dated 30 June 2023).

The Certificates identify that the development will achieve the following:

Requirement	Target Score	Provided Score
Towers A & B		
Water	40	41
Thermal Comfort	Pass	Pass
Energy	25	25
Tower C		
Water	40	40
Thermal Comfort	Pass	Pass
Energy	25	25

The amended application is also accompanied by a NatHERS Certificate (Certificate No. 0008260730 dated 30 June 2023) which provides an average energy rating of 6.7 out of 10 (i.e., 67%).

7.5 State Environmental Planning Policy (Planning Systems) 2021

As the proposed development has a Capital Investment Value of \$156,030,852 (excluding GST) is classified as Regionally Significant Development and is required to be determined by the Sydney North Planning Panel (SNPP).

7.6 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 Douglas Partners dated 1 December 2022.

The Investigation based data on 15 bores which were sunk around the subject site with exception to 155 Herring Road (owing to the recent acquisition of that lot) and notes that:

“Contaminant concentrations in the soil samples were generally low and below the adopted Site Assessment Criteria for a high-density residential land use with minimal opportunities for soil access”.

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.

With respect to 155 Herring Road, the Investigation notes:

“As 155 Herring Road (i.e., SP 6782) was only recently acquired and included in the proposed development, some site history information (SafeWork NSW and historical title deed search results) are outstanding. Additionally, the lot could not be sampled at the time of writing this report. Following receipt of the outstanding site history information and completion of the intrusive investigations at the lot, this DSI report should be updated. If contamination is identified, then a remediation action plan (RAP) would need to be prepared and implemented although the results of the current assessment (that exclude 155 Herring Road) do not warrant the need for a RAP at this stage”.

Although given the above disclaimer, the Investigation notes the following with respect to the history of the site:

“The site history information suggests that prior to the 1930, the majority of the site comprised natural bushland and some agricultural activities occurred in the southern and western portions. By 1943, the majority of the site was being used for agricultural purpose and two residential style buildings with small sheds were present in the western portion. The site was acquired by Macquarie Estates Pty Ltd in 1967 and was subsequently developed into apartment blocks that appear to have remained relatively unchanged to the present day”.

The historical ownership of the property (circa 1943) was under Michael McGrath who was registered as an Orchardist (between 1939 and 1967).

Therefore, the agricultural activity on the land at that time (and prior to redevelopment for the purposes of current residential development in 1967) was as an orchard although it is noted from **Figure 14** below that this activity occurred on the portion of the subject site which has been investigated in the Detailed Site Investigation.

The part of the subject site which was not investigated (i.e., 155 Herring Road) accommodated the dwelling and domestic garden only and therefore, that part of the site has been used for residential purposes since the land was originally occupied.

Figures 14 and 15 below show the site (outlined in red) in 1943 and 1978.



Figure 14 – The subject site in 1943.

Source: Detailed Site Investigation dated 1 December 2022 as prepared by Douglas Partners.



Figure 15 – The subject site in 1978.

Source: Detailed Site Investigation dated 1 December 2022 as prepared by Douglas Partners.

Given the above history, there is sufficient evidence demonstrating that 155 Herring Road has been continuously used for residential purposes, and given the recommendations contained in the Detailed Site Investigation, it is considered that the site could be made suitable for the continued purpose of residential use and, that if remediation is required to be carried out, that the land is able to be remediated through the extensive excavation for the proposed basement levels before the land is used for that purpose.

The submitted Detailed Site Investigation Report is included as an approved document under **Condition 1** in the consent. Furthermore, a condition is included which addresses the further investigation of 155 Herring Road (see **Condition 19**).

7.7 State Environmental Planning Policy (Sustainable Buildings) 2022

On 1 October 2023, the State Environmental Planning Policy (Sustainable Buildings) 2022 comes into effect.

The SEPP includes increased sustainability standards for residential (BASIX) and non-residential development.

Planning Circular PS 23-001 published in September 2023 by the NSW Department of Planning states that the SEPP will apply only to development applications that are submitted on the NSW Planning Portal on or after 1 October 2023.

The application was submitted on 15 December 2022 and, therefore, the Sustainable Buildings SEPP does not apply.

7.8 State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 2 - Infrastructure

Ausgrid

Clause 2.48 - Determination of Development Applications - Other Development

This clause applies to development comprising or involving any of the following:

- a) *the penetration of ground within 2m of an underground electricity power line or an electricity distribution pole or within 10m of any part of an electricity tower,*
- b) *development carried out:*
 - i. *within or immediately adjacent to an easement for electricity purposes (whether or not the electricity infrastructure exists), or*
 - ii. *immediately adjacent to an electricity substation, or*
 - iii. *within 5m of an exposed overhead electricity power line.*

If applicable, Clause 2.48(2) requires that, before determining a development application the consent authority must:

- a) *give written notice to the electricity supply authority for the area in which the development is to be carried out, inviting comments about potential safety risks, and*
- b) *take into consideration any response to the notice that is received within 21 days after the notice is given.*

There are no overhead power cables in the vicinity of the site, there are no easements for electricity purposes adjacent to the site, an electricity tower is located in proximity to the site, and a substation is not located immediately adjacent to the site.

A review of the survey diagrams submitted with the application indicate that underground electrical cables are located around the perimeter of the site at a distance (from the property boundary) of approximately 2.2m along Herring Road, 0.5m along Windsor Drive, and 0.7m along Lachlan Avenue.

Excavation works for the development are setback from the property boundary between 0.3m and 5.0m along Herring Road, between 5.0m and 7.7m along Windsor Drive, and 10.8m from Lachlan Avenue. This results in a total distance of between 2.5m and 7.2m along Herring Road, between 5.5m and 8.2m along Windsor Drive, and 11.5m along Lachlan Avenue.

Therefore, the development satisfies the above criteria in that the setback distances are achieved and that referral to Ausgrid is not required.

The development does include provision for a kiosk substation. **Condition 16** is included in the draft consent which requires that this substation satisfies Ausgrid Network Standard NS141 'Site Selection and Preparation for Kiosk Substations'.

Transport for NSW

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
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 Columns 2 (residential) and 3 (retail).

It is noted that the development, as amended, includes:

- 307 dwellings.
- 791m² GFA Retail.

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

Refer to **Condition 18** in 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 for the development to be assessed against the noise provisions of Clause 2.120.

Notwithstanding, the application is accompanied by an Acoustic Assessment (dated 1 December 2022). The report concludes that *“an assessment of the impacts associated with the number of vehicles on surrounding public roads around the site predicted the impact to be less than 2dBA and therefore is compliant with the NSW EPA RNP”*.

7.9 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. The towers have heights of between 13 to 14 storeys and accommodate a total of 307 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 proposal and application were referred to the UDRP on four (4) separate occasions, being:

- 19 May 2022 (Pre-lodgement meeting #1 with the applicant's team).
- 21 July 2022 (Pre-lodgement meeting #2 with the applicant's team).
- 17 February 2023 (Post-lodgement meeting with the applicant's team).
- 18 July 2023 (Desktop review of amended plans and documentation submitted on 3 July 2023).

The post-lodgement comments provided by the UDRP on 17 February 2023 and on 18 July 2023 are as follows:

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

17 February 2023

The subject site is in the existing residential area in Macquarie Park. The area is undergoing significant change from a medium density residential area into a high-density urban centre. The existing and future character of Macquarie Park is strongly influenced by its undulating topography, creek corridors and established tree canopy. The desired future character of Macquarie Park as defined by Council reinforces the value of the landscape character of the area and seeks to retain or augment the existing tree canopy within a higher density urban form.

The site sits at the threshold between Herring Road and the existing residential neighbourhood to its east. The Herring Road frontage addresses a major connector street with high vehicle volumes, serving the University and Macquarie Centre Shopping Centre and linking Epping Road to the M2. The Windsor Drive and Lachlan Avenue frontages are residential streets. Quandong Reserve opposite the site on Lachlan Avenue connects through to Wilga Park and the Shrimpton's Creek corridor. Immediately to the south-east of the site is the Ivanhoe Estate renewal site.

The site has a significant slope from Herring Road on the ridge line toward Shrimpton's Creek to the east. The site falls from 9m from Herring Road to Lachlan Avenue and a moderate fall of 3m from the side boundary to Windsor Drive.

Immediately adjacent the site to the south-west is an existing 4 storey apartment building at 1-3 Lachlan Avenue. There is a DA recently approved for this property for a residential development within the 45m height zone.

Since the previous meeting, the proponent has included 155 Herring Road in the site area resolving the Panel's concerns for site isolation.

The Panel appreciates the exploration of site layout and massing options and understands that the focus of the meeting is on agreeing to the detailed building design within a preferred building envelope.

18 July 2023

No further comments were provided.

Assessing Officer Comments

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

17 February 2023

Building Envelopes

The Panel continues to support the general configuration of built form and the massing approach as the most logical resolution for the site and supports the inclusion of 155 Herring Road within the site.

However, the proposed built form massing is still dominant and largely unrelieved as it presents to Herring Road and to a lesser extent towards Lachlan Ave, and hence the Panel's previous comments remain relevant.

The degree of articulation and manipulation of the building silhouettes and expression remains insufficient to meaningfully moderate against the height length of these building forms, particularly as they present to Herring Road.

The concept sketch in the urban design report, seeks to interpret the ‘tall forest of trunks’ and ‘green canopy’ above, presenting evocative imagery that is not yet evident in the building form and expression. The Panel is concerned that the conceptual approach may not be capable of resolving the scale of these particular buildings. In reality, the column rhythm is too regular and too recessive in the façade to mitigate against the scale and proportion of the building (A and C) in particular. The sketch also evokes a strong horizontality at the base of the building, but the design of the awning is not sufficiently robust to translate this idea, nor to convincingly establish a sense of comfort, character and scale at the street level.

The Panel is concerned the overall expression of the buildings is too dependent on a ‘singular’ curtain wall glass facade and a planar expression that tends to exacerbate their form. At lower levels, the Panel is concerned for visual privacy within highly glazed apartments and concerned for the environmental performance (heat gain and glare control) of westerly orientation in particular.

A wind study has now been provided and the wind mitigation relies upon dense landscape and a fence in the undercroft spaces, however these impacts likely arise from the unrelieved facade and due to the absence of a podium form or other wind mitigation. Reliance on fences to manage wind effects is not ideal. Reliance on landscape treatments creates issues of interim solutions during landscape establishment and may result in wind pruning that compromises the ability for landscape to mature.

It is positive to see that each building now has a direct entry from the street and reasonable retail tenancies at ground level to Herring Road and the corner of Windsor Drive. The relationships to Herring Road also appear to be improved.

The Panel seeks to ensure high quality outcomes are defined at DA stage and therefore requests detailed sections of each primary facade type at 1:50. Details should include treatment and fixing of balustrades, soffit details and treatment of sumps for balcony drainage, downpipes locations, planter beds and treatment of A/C units, etc. The objective is to describe the design intent for key features of the proposal at DA.

Communal open space and facilities

There is now a full landscape package supporting the proposal which delivers a series of spaces and places throughout the central courtyard area for use by residents. There is also a landscape roof space available for Tower A.

Tower C is somewhat removed from the central courtyard that benefits Towers A and B, and the Panel considers it would benefit from roof top COS as well (perhaps on level 18) if the plant area could be reduced or relocated.

Vehicle Access

The Panel supports design amendments to address vehicle access and the inclusion of a basement under Tower C.

18 July 2023

The amended proposal has generally evolved positively to address the comments of the Panel. Building A (as the most prominent and visible building in the proposal) has been amended to emphasise the central recess addressing Herring Road.

This primary articulation is essential to breaking up the otherwise unrelenting street wall along Herring Road. The indentation here is of the order of 2m and the architectural expression depends on the success and longevity of planting proposed on these balconies. Given the importance of this architectural move, Council should satisfy itself that:

- *Planter beds shown on these indented balconies are adequately sized to support meaningful vegetation.*
- *Adequate irrigation is available to support vegetation growth.*
- *The wind environment is suitable for the selected species and will not result in wind pruning.*
- *A viable maintenance regime exists to keep the planting presentable and contributory to the architectural character of the building.*

The base of buildings addressing Herring Road have been amended to introduce a primary vertical emphasis and secondary vertical fins. These are generally positive amendments serving to bring visual order to the proposal. The Panel notes that there continues to be no true street wall podium to Herring Road and so, these secondary vertical fins are an applied texture to the primary building form. The fins will provide some sense of a base to the buildings and introduce an increased level of privacy. The more continuous awning and portal framing provided to the ground floor retail uses are generally positive.

Council should satisfy itself that:

- *The dimensions and spacing of these secondary vertical fins are adequate to create a strong sense of differentiation from the upper portions of the building.*
- *The planter bed integrated above the retail awnings is adequately sized to support climbing vegetation (and that environmental conditions are favourable to plant growth, and that a viable maintenance regime exists).*

The Panel notes that the secondary vertical fins do not currently describe a consistent upper datum along Herring Road, instead adopting a stepping alignment which is likely undermining the sense of a coherent building base. The overall composition may be improved by holding single, consistent upper datum alignment.

The Panel notes the awning provided to Building A appears to be interrupted at the centre where the primary building indentation occurs. A continuous awning line should be provided along the length of Herring Road.

The Panel notes drawing A0320 has been provided in response to a request to more fully describe the proposed design intent. However, these drawings do not yet adequately describe the design intent for the entire proposal.

The Panel recommends that more complete information be provided to fully describe the proposed design intent of each primary facade type.

The current drawings are generally silent on:

- *Balustrade details and fixings.*
- *Balcony slab set downs (if proposed) that demonstrate balcony drainage and downpipes are integrated, and waterproofing strategies generally.*
- *Dimensions of planter beds and provision of irrigation.*
- *Confirmation that A/C condenser units (if proposed) are appropriately housed and screened.*

Assessing Officer Comments

The matters indicated by the UDRP (bullet points) are addressed separately as follows:

- *Balustrade details and fixings.*

The applicant has submitted a plan (see plan A0321) which details the balustrades proposed for the development. Balustrading comprises spandrel panels and glazed panels as well as rendered planter boxes.

- *The Panel notes the awning provided to Building A appears to be interrupted at the centre where the primary building indentation occurs. A continuous awning line should be provided along the length of Herring Road.*

A condition is included in the draft consent to address this (see **Condition 1(d)**).

- *Planter beds shown on these indented balconies are adequately sized to support meaningful vegetation.*
- *The planter bed integrated above the retail awnings is adequately sized to support climbing vegetation (and that environmental conditions are favourable to plant growth, and that a viable maintenance regime exists).*

The balcony planter boxes have a depth of 1.1m and an internal width of 0.4m which is considered sufficient to plant shrubs of any meaningful volume and appearance.

Figure 16 below shows a section through the balcony planter boxes.

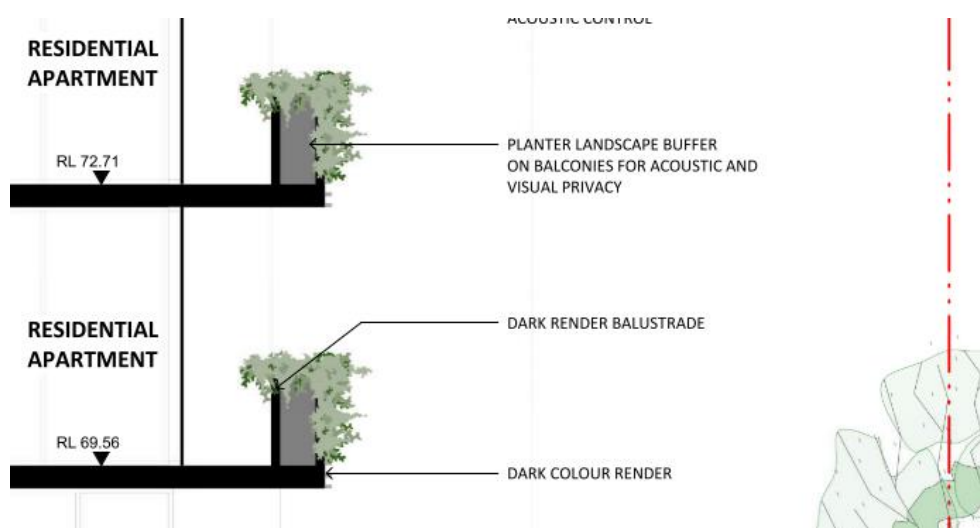


Figure 16 – Cross section through balconies/planter boxes (Tower A).

Source: Plan A0320 (Revision E) dated 25 May 2023 as prepared by Koichi Takada Architects.

- *Adequate irrigation is available to support vegetation growth.*
- *The wind environment is suitable for the selected species and will not result in wind pruning.*
- *A viable maintenance regime exists to keep the planting presentable and contributory to the architectural character of the building.*
- *Dimensions of planter beds and provision of irrigation.*

The applicant has submitted plans which detail the wind resistant species and irrigation method used in balcony planter boxes (see landscape plan 601). Notwithstanding, these matters included in a condition to ensure they're enforced in Construction Certificate drawings (see **Condition 64** in the draft consent).

- *The dimensions and spacing of these secondary vertical fins are adequate to create a strong sense of differentiation from the upper portions of the building.*

Figure 17 below shows the secondary vertical fins to the Herring Road and Windsor Drive façade.

As can be seen in **Figure 17**, the secondary fins comprise a wood finish which assists in softening the lower levels to the street as well as differentiating the lower levels from the upper levels of Tower A.



Figure 17 – Façade detail (secondary fins).

Source: Design Statement dated 8 June 2023 as prepared by Koichi Takada Architects.

- *Balustrade details and fixings.*

As can be seen in **Figures 16 and 17**, the balconies to Tower A predominantly comprise rendered balustrades. The balustrades to Towers B and C are primarily glass.

These materials are considered to be satisfactory as they provide architectural variety and interest as well as visually contributing to the articulation of the built form.

- *Balcony slab set downs (if proposed) that demonstrate balcony drainage and downpipes are integrated, and waterproofing strategies generally.*

The applicant has provided sections which show balcony slab set downs being fully contained within the balcony and not external to the building (see plan A0321). Notwithstanding, a condition is included in the draft consent to ensure this feature remains included in Construction Certificate drawings (see **Condition 65** in the draft consent).

- *Confirmation that A/C condenser units (if proposed) are appropriately housed and screened.*

This is addressed by condition (see **Condition 66** in the draft consent).

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

17 February 2023

The Panel can support the density if the issues with identity, amenity and articulation for the long bulky tower forms are resolved.

18 July 2023

No further comments were provided.

Assessing Officer Comments

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

17 February 2023

Sustainability was not discussed in detail other than the concern around the building's identity, articulation and form and lack of evident environmental performance in the architectural resolution.

Suitable landscape concept information is now provided.

18 July 2023

No further comments were provided.

Assessing Officer Comments

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

17 February 2023

The Panel notes the landscape package that supports the application and the detailed analysis of trees to be removed and replacement trees and locations.

Please note earlier concerns for the reliance of trees to mitigate wind effects and the risk this has for wind pruning trees as they establish.

18 July 2023

Council should satisfy itself that the existing retained trees and proposed new street trees along all site boundaries are appropriate species and will attain good mature form and health.

Assessing Officer Comments

The application is accompanied by an Arboricultural Assessment Report (dated 13 June 2023) which responds to the amending development application.

The Report, together with the Landscape Plans and Landscape Strategy, has been considered by Council's consulting Landscape Architect and no objection was raised regarding the removal of vegetation and the retention of trees subject to conditions (see **Conditions 20 to 31, 48, 49, 62, 63, 94, 146, and 147**).

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

17 February 2023

Now that apartment layouts are provided there are a few elements of concern which should be redesigned. The balcony configuration in a number of units is not ideal as it creates a narrow deep balcony inset into the plan which looks too narrow to support reasonable furniture e.g., unit B301, 303, A 502 and others like them.

There are 'snorkel' bedrooms evident in the plan for Tower C (e.g., C503) and these should be designed out.

The other amenity concern is the reliance extensively on glazed facades the towers, particularly at lower levels. This is likely to create privacy concerns for residents on the lower levels of the building within a clear line of sight from the street, as well as heat load and glare control concerns for environmental performance.

18 July 2023

The proposed amendments appear to resolve the Panel's concerns with balcony sizes and apartment configurations.

The Panel notes that the proposal remains highly dependent on floor-to-ceiling and wall-to-wall curtain glass facades and restates that the associated environmental

performance, comfort and privacy issues which typically follow 'all glass' buildings need to be thoroughly mitigated against. Council should satisfy itself that:

- Acceptable facade performance can be achieved, particularly including late afternoon solar heat gain.*
- Adequate glare control can be achieved in apartments.*
- Adequate internal privacy (particularly to bedrooms and across lower levels of the buildings) can be achieved.*

Assessing Officer Comments

The amended application is accompanied by two Multi-Dwelling BASIX Certificates (Certificate Nos. 1355374M-04 and 1355397M-04, both dated 30 June 2023) which determine that the development will satisfy water, thermal and energy requirements.

The amended application is also accompanied by a NatHERS Certificate (Certificate No. 0008260730 dated 30 June 2023) which provides an average energy rating of 6.7 out of 10 (i.e., 67%).

The amended application is also accompanied by an updated BASIX, Thermal Comfort and Environmentally Sustainable Development (ESD) Report dated 30 June 2023. The report includes the following detail on window treatments which address thermal loading including window U-values (being a measure of how much heat is transferred through a window) and Solar Heat Gain Coefficient (SHGC) (being a measure of how much solar radiation passes through a window):

Window Type & Specification	Material and Ratings
Awning or Hinged U-Value SHGC	Aluminium frames and double-glazing with tinting ≤ 3.4 0.30 to 0.34
Sliders/Hung U-Value SHGC	Aluminium frames and double-glazing with tinting ≤ 3.2 0.35 to 0.39
Fixed Glazing U-Value SHGC	Aluminium frames and double-glazing with tinting ≤ 2.9 0.40 to 0.44

Note: The lower the U-Value and SHGC rating the better the performance.

The low ratings expressed for U-Values and SHGC indicate that acceptable facade performance can be achieved, particularly including late afternoon solar heat gain. The inclusion of tinting also indicates that adequate glare control can be achieved in apartments.

With regard to adequate internal privacy (particularly to bedrooms and across lower levels of the buildings), this is appropriately addressed under the Apartment Design Guide later in this section (see ‘Clause 2F (Building Separation) and 3F (Visual Privacy)’).

In summary, an assessment of building separation and visual privacy has been conducted where it was found that the separation between Tower A and Tower B satisfied the recommended building separation considerations.

The separation between Tower A and Tower C was found to be deficient, however this was considered to be not unreasonable given the orientation of the site, its location relative to 1-3 Lachlan Avenue, the take-up of the remnant 155 Herring Road into the development, and the sloping topography which has informed the architectural outcome for the development.

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

17 February 2023

The Panel notes the pavilion has been deleted.

18 July 2023

No further comments were provided.

Assessing Officer Comments

Safety has been addressed through consideration given to CPTED by NSW Police.

Appropriate conditions are included in the draft consent to address this (see **Conditions 1(e), and 157 to 163**).

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

No comments were provided on this Principle by the UDRP although it is considered that the mix of dwelling types within the development provides for a range of affordability options to respond to market demand.

The development includes large areas of communal open space which enable gathering and social interaction.

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

17 February 2023

The Panel is concerned that the further development of the proposal has not yet successfully resolved the scaling and subdivision of the built form massing to Herring Road and also towards Lachlan Avenue.

The degree of articulation, and management of the buildings' silhouettes and their length is not sufficient to mitigate against their scale.

The buildings are still too blocky 'truncated' at the top without a characterful base to address scale along Herring Road and to moderate the overall form. The facades appear too reliant on glazed curtain walls and glazed balconies and risk creating privacy and amenity issues for residents 'on show' to passers-by on Herring Road in particular.

The more recessive 'green' balcony expression is a positive design response to an extent. The Panel encourages a more developed and richer composition of different facade types to mitigate against the scale of these buildings.

The different orientations of the facades do not appear to be informing or moderating the nature of the façade expression and there is no clear identity or differentiation between each tower, with a uniform treatment on each tower.

Further design development is needed to reduce the 'boxiness' of all 3 towers, provide a real silhouette, stronger base expression and reduce the apparent length of the longer towers. Different materiality for the façade may assist as may addressing the different orientation challenges in the façade design.

18 July 2023

UDRP comments on aesthetics were included in Principle 2 (Built Form and Scale).

Assessing Officer Comments

See comments under Principal 2.

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 Does the development relate well to its context and is it sited appropriately?	Consistent A Site Analysis plan and supporting Statement of Environmental Effects is provided to accompany the application. Both documents adequately describe the context of the site and the considered relationship of the development to its surrounds. The built form responds to the street conditions and neighbouring site configurations. The building form and character reflects the changing context anticipated by the RLEP 2014 for the Macquarie Park Corridor.
3B Orientation Does the development respond to the streetscape and site and optimise solar access within the development and to neighbouring properties?	Not consistent (See separate discussion after this table) The development is considered to respond appropriately to the street frontages of Herring Road and Lachlan Avenue. The development (as originally proposed) impacted upon the shadows cast over 1-3 Lachlan Avenue greater than 20%. Due to the corner location to the south of the block and the stepped configuration of Towers A and B, solar access is optimised both internally and externally although it is considered that, given the site orientation to 1-3 Lachlan Avenue, overshadowing of that neighbouring site is unavoidable on 21 June.
3C Public Domain Interface Does the development transition well between the private and public domain without compromising safety and security? Is the amenity of the public domain retained and enhanced?	Consistent 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. The amenity of the public domain (being the three street frontages of Herring Road, Windsor

Criteria/Guideline	Comments										
	Drive and Lachlan Avenue) through proposed public domain works is retained.										
3D Communal and Public Open Space Appropriate communal open space is to be provided as follows: 1. Communal open space has a minimum area equal to 25% of the site; 2. 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).	Consistent The site has an area of 6,952.3m ² which requires the provision of 25% (1,738m ²) communal open space (COS). The development provides a total of 33.2% (i.e., 2,312m ²) of the site area of COS located at the ground and roof levels as follows: <ul style="list-style-type: none">Ground: 1,885m².Tower A Roof: 408m².Tower C Roof: 19m²Total COS: 33.2% (2,312m²). The principal useable parts of the centrally located COS area at ground level have been assessed to receive the following direct sunlight access over a 2-hour period between 9 am and 3pm on 21 June: <ul style="list-style-type: none">9.00am: 100%10.00am: 94.3%11.00am: 43% Given the orientation of the site, the design has attempted to maximise the provision of sunlight access to the central communal open space area at ground level. The 7% non-ground level non-compliance at 11.00am (i.e., 43%) is offset by the provision of roof-top communal open space areas on Towers A and C which will receive more than 50% direct sunlight access for the majority of the day due to their elevation and lack of obstruction. In this regard, the provision of sunlight access to usable communal open space areas is considered to be acceptable.										
3E Deep Soil Zones Deep soil zones are to meet the following minimum requirements: <table><tr><th>Site area</th><th>Minimum dimension</th><th>Deep soil zone (% of site area)</th></tr><tr><td>Less than 650m²</td><td>-</td><td rowspan="3">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></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	Consistent The site has an area of 6,952.3m ² which requires the provision of 7% (486.7m ²) deep soil zone with a minimum dimension of 6.0m. Based upon the above requirements, the development provides for 11% (770.4m ²) deep soil zone with a minimum dimension of 6.0m.
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										

Criteria/Guideline			Comments												
Greater than 1,500m ² with significant existing tree cover	6.0m														
3F Visual Privacy Minimum required separation distances from buildings to boundaries are as follows: <table><tr><th>Building height</th><th>Habitable rooms and balconies</th><th>Non-habitable rooms</th></tr><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></table> <i>Note: Separation distances between buildings on the same site should combine required building separations depending on the type of rooms.</i> <i>Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.</i>			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	Not consistent (See separate discussion after this table) <u>Internal</u> <ul style="list-style-type: none">Tower A to Tower B: 24m to 28m.Tower A to Tower C: 12m. <u>External</u> <ul style="list-style-type: none">Tower A to 1/3 Lachlan Ave: 12m.Tower B to 1/3 Lachlan Ave: 12m.Tower C to 1/3 Lachlan Ave: 6.0m to 9.0m.
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													
3G Pedestrian Access and entries Do the building entries and pedestrian access connect to and addresses the public domain and are they accessible and easy to identify? Large sites are to provide pedestrian links for access to streets and connection to destinations.			Consistent The development provides level pedestrian access to all floor levels from the Herring Road and Lachlan Avenue, the communal open space area, and the basement car parking areas via lift access.												
3H Vehicle Access Are the vehicle access points designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscapes?			Consistent The development includes one driveway into the site accessing from Lachlan Avenue. The driveway access point is sufficiently separated and treated to minimise conflict between pedestrians and vehicles and create high quality streetscapes through the reduction to the number of crossovers from 3 to 1.												
3J Bicycle and Car Parking For development in the following locations: <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			Consistent The site is located with the MU1 Mixed Use zone (formerly the B4 Mixed Use zone).												

Criteria/Guideline	Comments
<ul style="list-style-type: none"> 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>The Guide to Traffic Generating Developments requires a total of 347 residential and visitor car parking spaces to be provided on the site.</p> <p>Clause 9.3 of the DCP requires the development to provide a lesser <i>maximum</i> of 316 residential and visitor off-street parking spaces. The DCP is therefore the relevant control in this instance.</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>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, the development would be required to provide for 39 bicycle parking spaces. The development provides for 20 bicycle parking spaces (adjacent to ‘end-of-trip’ facilities) which is deficient by 19 spaces. Although deficient, it is noted that the development includes a compliant cubic volume of storage and bike storage within these areas is considered to be acceptable.</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 70% (216) 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"> Tower A: 92 Tower B: 76 Tower C: 49 Total: 70% (216/307) <p>The development allows for a maximum of 14.6% (45) of apartments receiving no direct sunlight between 9am and 3pm at mid-winter.</p>
<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>	<p>Consistent</p> <p>The development provides for 60% (108) of apartments having access to natural cross</p>

Criteria/Guideline	Comments												
<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 allows adequate natural ventilation and cannot be fully enclosed; Overall depth of a cross-over or cross-through apartment must not exceed 18m, measured glass line to glass line. 	<p>ventilation for dwellings within the first 9 storeys as follows:</p> <ul style="list-style-type: none"> Tower A: 40 Tower B: 54 Tower C: 14 Total: 60% (108/179) <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"> <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. 												
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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"> <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>Consistent</p> <p>The development provides the following apartment sizes:</p> <ul style="list-style-type: none"> Studio: 40m² to 43m² 1 Bedroom: 50m² to 81m² 2 Bedroom: 74m² to 115m² 3 Bedroom: 91m² to 194m² 4 Bedroom: 158m² to 159m² <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> <p>Master bedrooms have been assessed as having areas (excluding wardrobe space) of between</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>10.4m² and 12.9m² - all with a minimum dimension of 3.0m.</p> <p>Secondary bedrooms have been assessed as having areas (excluding wardrobe space) of between 9.0m² and 9.6m² - 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 centrally located within Tower A and Tower B which have minimum widths of 4.2m.</p>															
<p>4E Private Open Space and Balconies</p> <p>All apartments are required to have primary balconies as follows:</p> <table><tr><th>Dwelling Type</th><th>Min Area</th><th>Min Depth</th></tr><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></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	4m²	-	1 bedroom	8m²	2m	2 bedroom	10m²	2m	3+ bedroom	12m²	2.4m	<p>Consistent</p> <p>Subject to condition.</p> <p>The development achieves compliance with minimum balcony depths and areas with exception to the following depths of 3 bedroom apartments:</p> <ul style="list-style-type: none">• B305: 2.3m.• B505-1305: 2.2m.• B1505: 2.3m.• B1510: 2.1m. <p>Although minor, the above depths are considered to be unreasonable given the size of each 3 bedroom apartment and the increased occupancy of those apartments. Given the minor departure, increasing these balconies to the required minimum dimension is considered to be achievable without impacting upon the amenity and living area of each apartment. In this respect a condition is included in the draft consent to address this matter (see Condition 1(c)).</p> <p>The ground floor apartments each provide terraces with a minimum area of 15m² and a minimum depth of 3m.</p>
Dwelling Type	Min Area	Min Depth														
Studio	4m²	-														
1 bedroom	8m²	2m														
2 bedroom	10m²	2m														
3+ bedroom	12m²	2.4m														
<p>4F Common Circulation and Spaces</p>	<p>Consistent</p>															

Criteria/Guideline	Comments										
<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>The development provides the following number of apartments per circulation core:</p> <ul style="list-style-type: none"> • Tower A: 5 • Tower B: 5 • Tower C: 4 										
<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"> • Studio: 4m³ (136m³) • 1 Bedroom: 6m³ (276m³) • 2 Bedroom: 8m³ (1,432m³) • 3 Bedroom: 10m³ (480m³) • Total: 2,324m³ <p>The development provides 2,727.70m³ storage.</p> <p>Of the above, 50% (1,363.85m³) 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 condition.</p> <p>The application is accompanied by an Acoustic Report which includes recommendations to mitigate acoustic impact from both inside and outside the development.</p> <p>The recommendations in the Acoustic Report are included in Conditions 1, 79 and 156.</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><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> <p>See Conditions 41, 42, 77, 103, 104, 123, 140 and 144.</p>										
Configuration											

Criteria/Guideline	Comments
<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 apartments as follows:</p> <ul style="list-style-type: none"> • Studio: 34 (11.1%) • 1 Bedroom: 46 (15%) • 2 Bedroom: 179 (58.3%) • 3+ Bedroom: 48 (15.6%) <p>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 stepped and separated to provide visual relief and architectural interest.</p>
<p>4O Landscape Design</p>	<p>Consistent</p> <p>Subject to condition</p>

Criteria/Guideline					Comments
Was a landscape plan submitted and does it respond well to the existing site conditions and context.					<p>The application was referred to Council's Landscape Architect who did not raise any objection to the proposal subject to conditions.</p> <p>See Conditions 20 to 31, 48, 49, 62, 63, 94, 146, and 147.</p>
4P Planting on Structure					Consistent
When planting on structures, the following are recommended as minimum standards for a range of plant sizes:					The development includes adequate soil depths which ensure suitable soil depths for a range of plant sizes.
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		
4S Mixed Use					Consistent
Can the development be accessed through public transport and does it positively contribute to the public domain?					<p>It is noted that the site is close to public transport and has ready access to services and amenities.</p>
Non-residential uses should be located on lower levels of buildings in areas where residential use may not be appropriate or desirable.					<p>The proposed development appropriately utilises existing infrastructure whilst providing new higher density residential accommodation on a well located and serviced site.</p>
4T Awning and Signage					Consistent
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>The development includes awnings to the podium beneath Towers A and C (facing Herring Road).</p>

Criteria/Guideline	Comments
Signage must respond to the existing streetscape character and context.	<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>
Performance	
4U Energy Efficiency Have the requirements in the BASIX certificate been shown in the submitted plans?	Consistent The BASIX Certificates submitted with the application indicate that the development will achieve the target scores for water and energy usage while Thermal Comfort will achieve a target pass. The application is also accompanied by a NatHERS Certificate which provides an average energy rating of 6.7 out of 10 (i.e., 67%).
4V Water Management and Conservation Has water management taken into account all the water measures including water infiltration, potable water, rainwater, wastewater, stormwater and groundwater?	Consistent 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. Areas of landscaping are located throughout the site, and these areas will allow for natural water infiltration into the ground.
4W Waste Management Supply waste management plans as part of the development application demonstrating safe and convenient collection and storage of waste and recycling.	Consistent Subject to condition. The application includes a Waste Management Plan which details the location of garbage rooms, the method of disposing of waste and recycling. 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. See Conditions 75, 76, 192, 193, 194, 195, 211, and 212 to 215.
4X Building Maintenance Incorporates a design and material selection that ensures the longevity and sustainability of the building.	Consistent The application includes a Schedule of Materials and Finishes which ensures the longevity and sustainability of the development.

Clause 3B (Orientation)

Clause 3B includes design guidance under Objective 3B-2 which recommends that:

“Where an adjoining property does not currently receive the required hours of solar access, the proposed building ensures solar access to neighbouring properties is not reduced by more than 20%”.

It is noted that the above guidance does not stipulate any hourly period (i.e., 2 hours) and therefore is considered for a full day in mid-winter.

Consideration is given to the approved development at 1-3 Lachlan Avenue (to the south-east of the subject site) and the impact created to that future development as a result of the subject proposal.

A review of the approved plans for 1-3 Lachlan Avenue (under LDA2021/0187) notes that that development (for a residential flat building containing 123 apartments within a 12-13 storey building) is divided into two halves being the northern half and the southern half.

This arrangement effectively located 56 apartments (45.4%) to the southern self-shadowed side thereby leaving the remaining 67 apartments (54.5%) oriented to the north and to the sun. In this respect, it would be unreasonable to assess the subject application on an impact to the total 123 approved apartments at 1-3 Lachlan Avenue but rather on the 67 north-facing apartments.

A count of north-facing apartments in 1-3 Lachlan Avenue which are able to continue receiving direct sunlight in access in mid-winter as a result of the originally proposed development is estimated at approximately 43 apartments. This equates to 64.2%.

Given that approved plans for 1-3 Lachlan Avenue indicate that that development would achieve 70.7% (87 apartments) solar access, the reduction as result of the proposed development is estimated at 50.5% (44 apartments) which is greater than the recommended 20% (which would equate to 18 apartments).

Notwithstanding the numerical departure, the impact is not considered to be unreasonable given the orientation of both sites relative to each other and the topography.

It is noted that the property at 155 Herring Road was the subject of a prospective purchase by the applicant of 1-3 Lachlan Avenue however, this was not achieved. Rather than leaving 155 Herring Road as a remnant site, the lot is now incorporated into the subject development to accommodate Tower C.

Given the permitted building heights in the area, it would be unreasonable to expect that the development of the subject site (including 155 Herring Road) would not have any additional shadow impact on 1-3 Lachlan Avenue.

In this regard, it is considered that the subject development has been designed to address solar impact according to the limitations of the site's orientation to 1-3 Lachlan Avenue and its topography.

The (generally) north-south parallel positioning of Towers A and B enable solar access to be gained to the majority of apartments across all levels during the morning period. As the sun progresses into the afternoon the shadows over 1-3 Lachlan Avenue become more pronounced at the lower levels due to the shadow created by the longer north-south oriented towers in the subject development.

Although Clause 3B does not specify a time period, **Figures 18 to 20** show the impact of the development on 1-3 Lachlan Avenue at 9.00am, Noon and 3.00pm on 21 June. The red shading indicates the development as originally lodged, the blue shading indicates the amendment to Tower A.

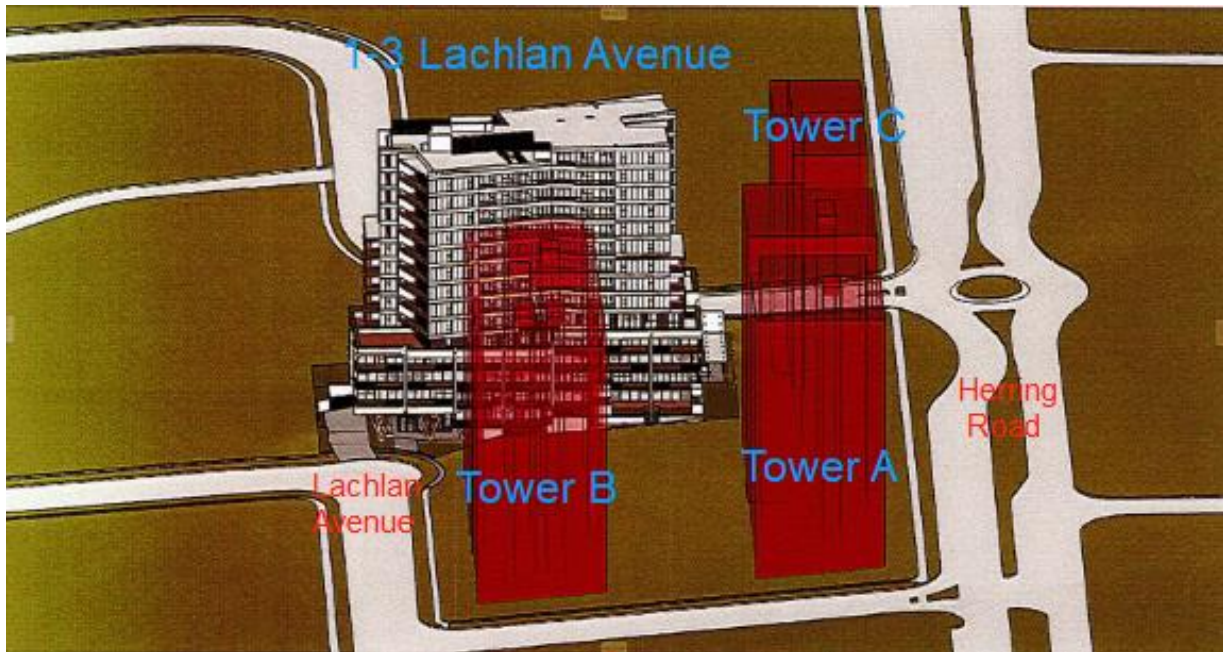


Figure 18 – View from the sun at 9.00am on 21 June.

Source: Adapted from the submission by Eco World International.

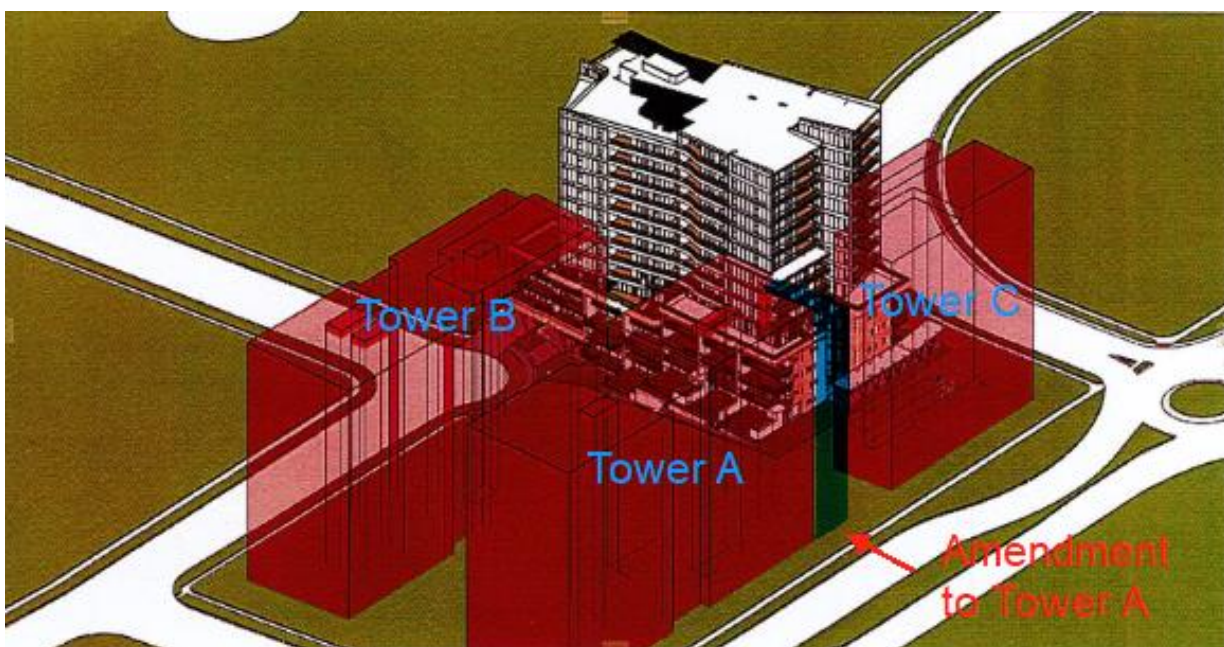


Figure 19 – View from the sun at Noon on 21 June.

Source: Adapted from the submission by Eco World International.

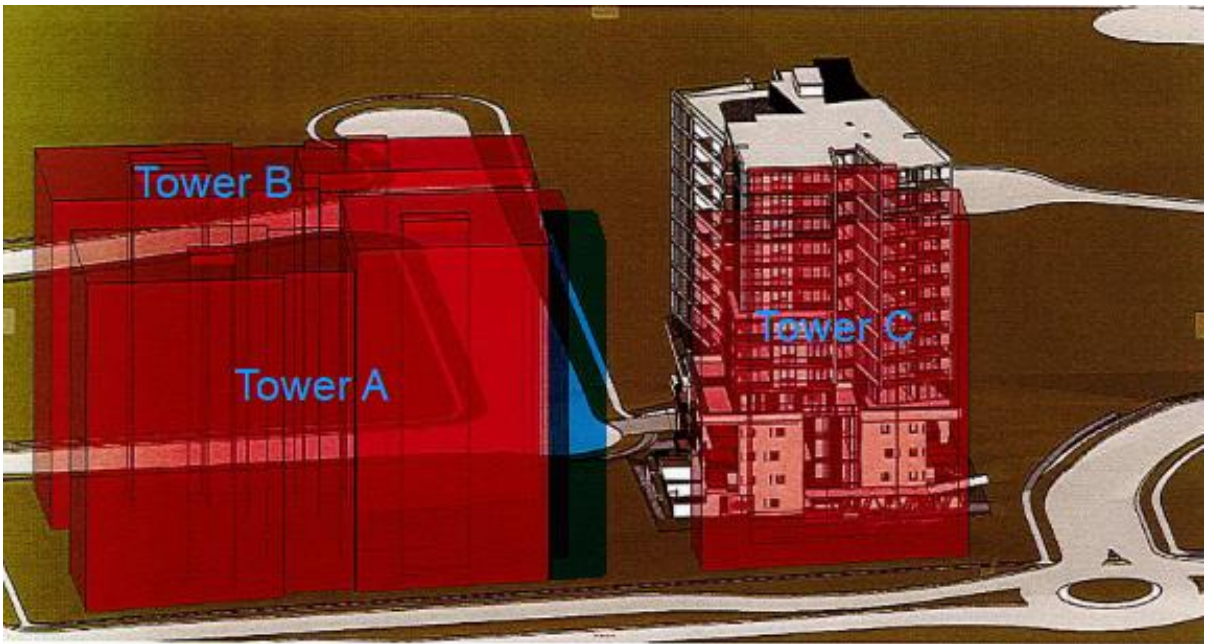


Figure 20 – View from the sun at 3.00pm on 21 June.
Source: Adapted from the submission by Eco World International.

Therefore, it is considered that the impact of the development is not regarded as unreasonable and that the departure from the design guidance under Objective 3B-2 can be supported.

Clause 2F (Building Separation) and 3F (Visual Privacy)

Clause 2F – Building Separation

Clause 2F includes the following *considerations* in setting building separation controls (noting these are not ‘design criteria’ as prescribed in Section 3 and 4 of the ADG).

Consideration	Between Habitable Rooms/Balconies	Between Habitable Rooms to Non-Habitable Rooms	Between Non-Habitable Rooms
Up to 4 storeys (12m)	12m	9m	6m
5 to 8 storeys (25m)	18m	12m	9m
9+ storeys (over 25m)	24m	18m	12m

Note: The ADG advises to half the above distances when measured to the boundary.

The following separation distances are noted:

Internal

- Tower A to Tower B: 24m to 28.3m.
- Tower A to Tower C: 12m to 22.6m

As noted above, Tower A to Tower B satisfies the recommended building separation considerations.

Tower A to Tower C has a building separation of between 12m and 22.6m. The 12m separation is between habitable rooms and non-habitable rooms. The recommended separation between these rooms is 18m for development 9 storeys and above.

Figure 21 below shows the development subject to strict building separation recommendations between Tower A and Tower C (red indicating where the separation would be increased and green indicating where the separation could be reduced).

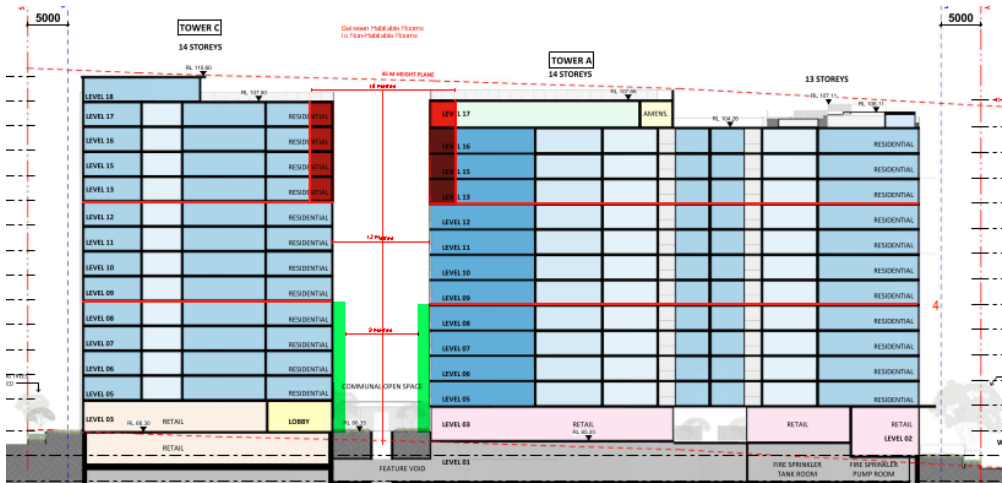


Figure 21 – Recommended building separations.
Source: Adapted from Plan A0300 (Rev E) as prepared by Kiochi Takada Architects.

Figure 22 below shows the application of strict building separation recommendations at Levels 9 and above (i.e., 18m).



Figure 22 - Recommended building separation at Levels 9 and above between Tower A and Tower C.
Source: Adapted from Plan A0104 (Rev F) as prepared by Koichi Takada Architects.

The linking of the minimum building separation distances to room types in the above table indicates that building separation is related to visual privacy rather than physical separation and this is addressed under Clause 3F below.

External

- Tower A to 1-3 Lachlan Avenue (boundary): 12m.
- Tower C to 1-3 Lachlan Avenue (boundary): 6m to 9m.

With respect to the separation between Tower C and 1-3 Lachlan Avenue, it is noted that the east-facing wall of Tower C which directly faces the approved development at 1-3 Lachlan Avenue comprises a blank wall (largely being the rear of Tower C).

A review of the approved plans for 1-3 Lachlan Avenue reveal that the building includes habitable rooms and balconies which are orientated towards the rear of Tower C and thus, a separation distance of between 9.0m to 18m (or 4.5m to 9.0m to the boundary) is recommended.

The rear of Tower C comprises a variable setback of between 6.0m (service and lift/stair core) and 9.0m (main building), with the main part of the building (9.0m) satisfying the recommended building separation to the boundary.

The 6.0m setback is below the recommended 9.0m setback at Level 9 and above however, a review of the approved plans for 1-3 Lachlan Avenue show that that building has been set back at 11.2m at Level 9 and above resulting in a physical building separation of 17.2m.

On review of the approved plans for 1-3 Lachlan Avenue, it was noted that the upper level separation distance was 0.8m less than the recommended 9.0m to the boundary (as shown in red in **Figure 23** below). This results in an increased setback to Tower C by 0.8m which equates to the reduced building separation of 1-3 Lachlan Avenue.

Figure 23 below shows Tower C (shown in blue) and the effect a strict application of building separation (shown in red) because of the separation distances established by the approved development at 1-3 Lachlan Avenue and between proposed Tower A.

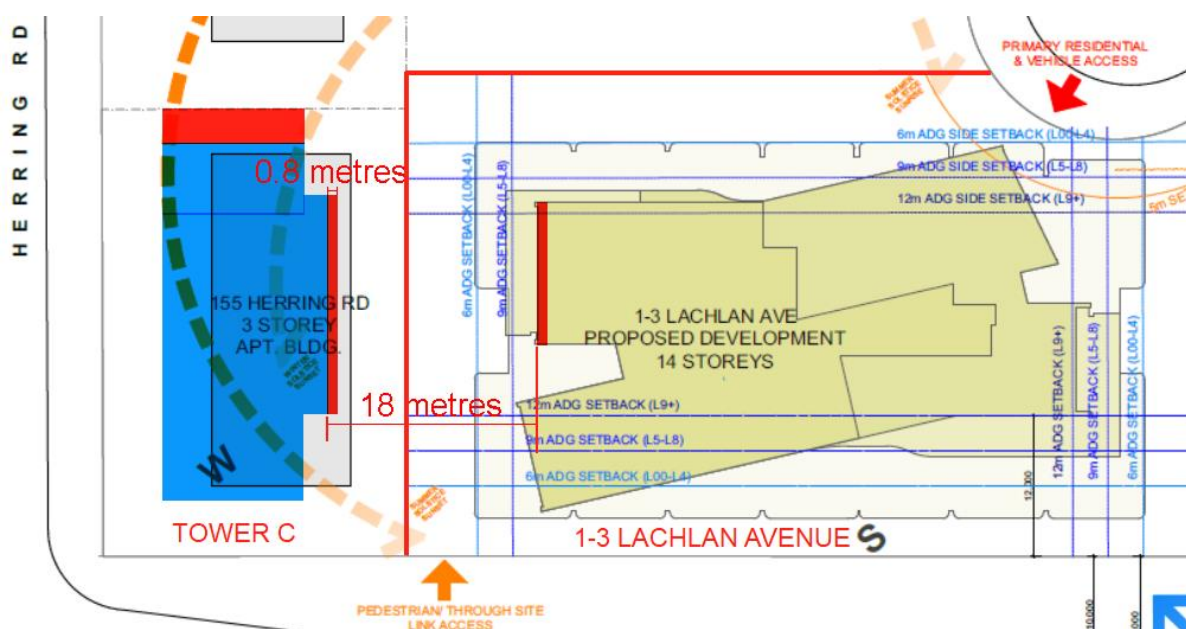


Figure 23 – Building separations from Tower C to the approved development at 1-3 Lachlan Avenue.
Source: Adapted from the Site Plan (Rev 03) dated 28 August 2022 as prepared by Bureau SRH.

As indicated in **Figure 23**, the protrusion of the Tower C (which comprises the service core) into the building separation area is minor and largely a result of the already established building separation of 1-3 Lachlan Avenue and to increase the setback by 0.8m would, as a result, unreasonably penalise Tower C.

Notwithstanding, the setting in of the service core from both sides of Tower C results in a graduation and articulation to the built form which reduces its overall presentation to 1-3 Lachlan Avenue and given the configuration of the western side of 1-3 Lachlan Avenue, does not unreasonably impact upon outlook given the context of both sites within an area subject to large scale development.

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	Between Habitable rooms and balconies	Between 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

Note: Unlike Clause 2F, Clause 3F does not include any criteria for situations between Habitable Rooms to Non-Habitable Rooms.

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.

With regard to the separation of Tower A and Tower C, the development includes habitable room windows (Tower A) facing a blank wall (Tower C). Therefore, from a visual privacy perspective, there is no impact.

7.10 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 B4 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 and residential flat buildings. Each of these 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.

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	Compliance	Variation
4.3 Height of Buildings	45m	Tower A: 47.1m Tower B: 47.3m	No No	4.7% (2.1m) 5.1% (2.3m)

Standard	Permitted	Proposed	Compliance	Variation
		Tower C: 48.3m	No	7.3% (3.3m)
4.4 Floor Space Ratio (Site Area: 6,952.3m ²)	4.0:1 (27,809m ²)	4.0:1 (27,809m ²)	Yes	N/A

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 47.1m to 48.3m as noted in the table above. The non-compliances vary between 4.7% and 7.3%.

The non-compliant elements are illustrated in **Figures 24 to 26** below where it is noted that the development breaches the permitted building height at the uppermost section of the roof and rooftop plant for all three buildings by varying degree.

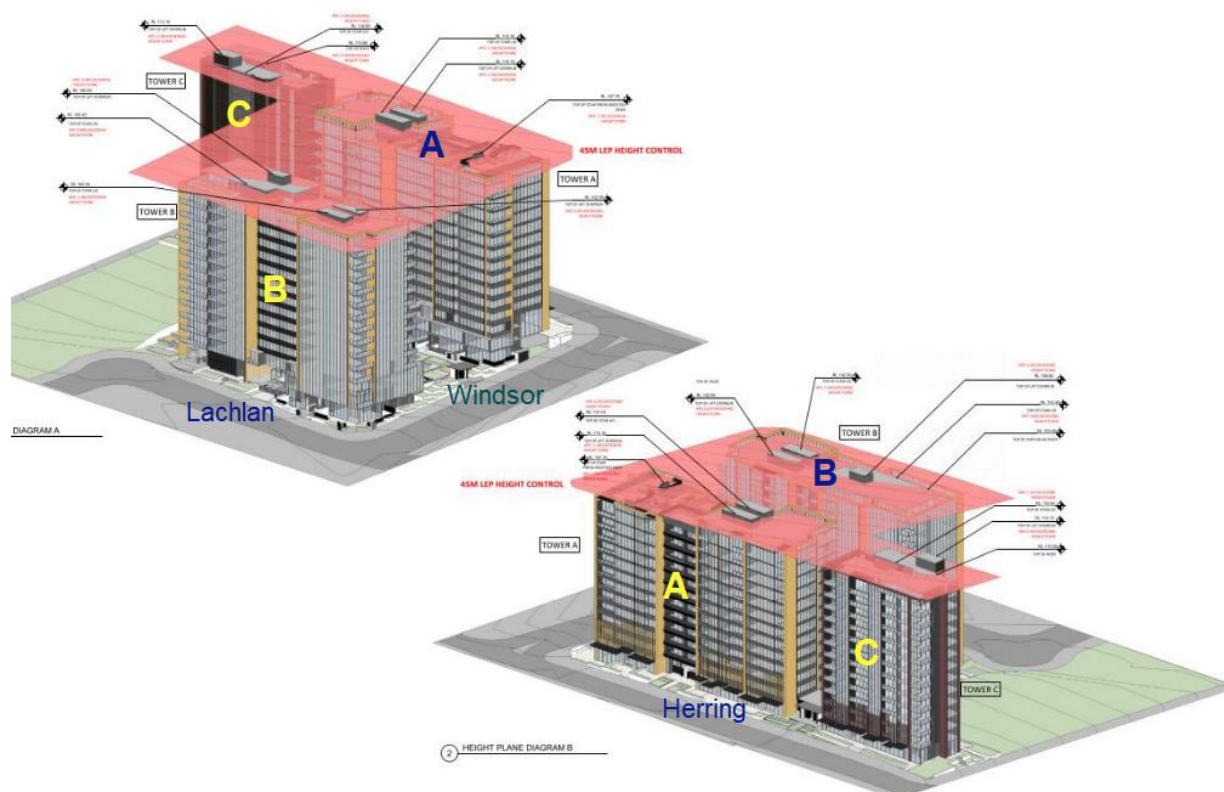


Figure 24 – Permitted 45m height plane (in pink) across Towers A, B and C.
Source: Plan A0401 (Rev E) as prepared by Koichi Takada Architects.



Figure 25 – North-west elevation showing height non-compliances at Towers A and C from Herring Road.
Source: Plan A0200 (Rev G) as prepared by Koichi Takada Architects.

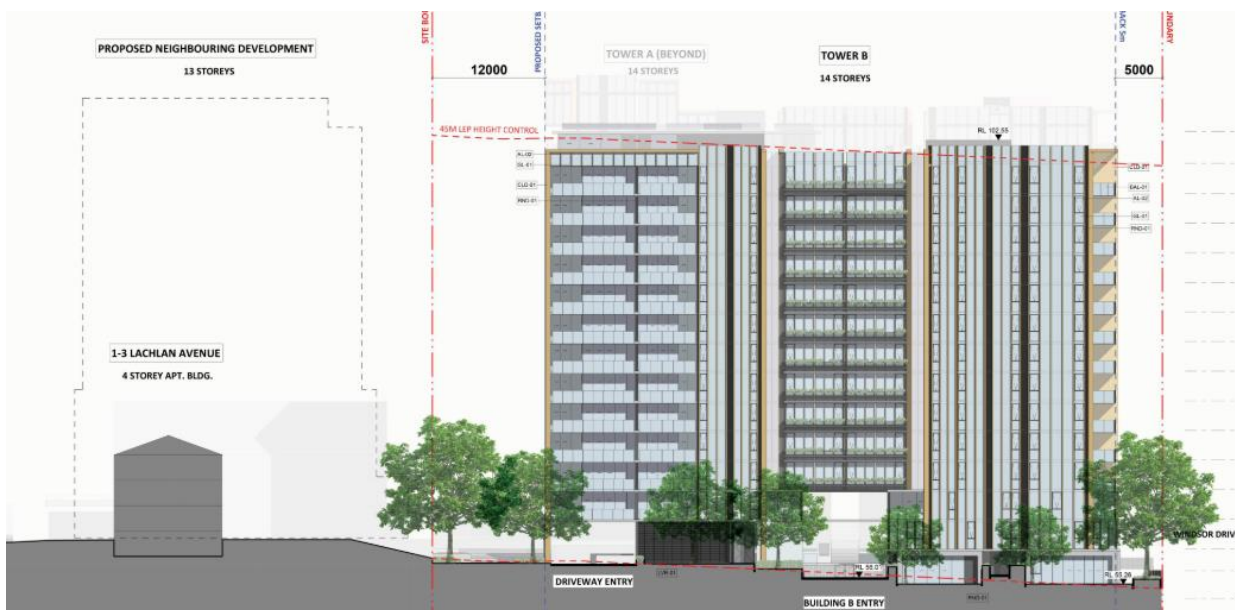


Figure 26 – South-east elevation showing height non-compliance at Tower B from Lachlan Avenue.
Source: Adapted from Plan A0202 (Rev G) as prepared by Koichi Takada Architects.

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 sufficient environmental planning grounds, as well as compliance with the control being unreasonable and unnecessary.

- 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 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.

In demonstrating sufficient environmental planning grounds, the applicant states:

“The site’s topography comprises a significant level change of around 12m from a high of approximately RL 67.24 at the western corner of the site (at Herring Road and Ivanhoe Place), falling to RL 54.46 to the south-eastern corner of the site (at Windsor Drive and Lachlan Avenue). The significant level change across the site means the minor exceedance above the 45m height plane occurs on the parts of the three buildings which are located at the low point of the site (i.e., towards the south-east).

The minor variation to the building height relates predominantly to roof top plant, services, lift overruns and a small portion of the upper-level roof parapets. These roof top elements have been setback from the perimeter of each of the three buildings and positioned in a central location where possible. The intent of setting back these roof top elements away from the building perimeters is to minimise or eliminate their visibility such that they are not perceived from the surrounding public domain, and to also minimise any additional overshadowing on the nearby residential properties to the south.

*The extent of additional overshadowing caused by the roof top elements which exceed the 45m height limit is shown below [see **Figure 27 to 29** in this report] within the area shaded blue. This additional overshadowing is cast by the roof top elements from Tower C only. Any additional overshadowing due to the roof top elements which exceed the height limit above Towers A and B is contained within the existing shadow cast by these buildings. There will be no additional overshadowing to neighbouring properties due to the minor height exceedances above Towers A and B.*

This analysis shows that this additional overshadowing from Tower C would have negligible effect on overall overshadowing and amenity to the nearby properties to the south when compared to a scheme that strictly complies with the height control. The extent of shadow that falls on an existing residential building at 3pm falls on a side blank wall. The minor variation will not result in any significant or unacceptable impacts on amenity, privacy or overshadowing to the adjacent properties to the south.

Importantly, the parts of the buildings that exceed the maximum building height do not comprise any habitable floor space. The proposed development also complies with the maximum floor space ratio (FSR) control for the site, and the minor variation to the height control (in conjunction with a compliant FSR) will ensure that the overall built form comprises a scale and massing which is appropriate for the site and consistent with the emerging character of development within the Macquarie Park Corridor.

Overall, the proposed development is consistent with the nature and scale of the emerging character of the Macquarie Park Corridor, which is undergoing significant transformation into a high-density strategic centre.

These specific circumstances of the proposal and the site constitute sufficient environmental planning grounds which justify the proposed variation to the development standard”.

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 cl 1.3(c) and (g) of the EP&A Act.

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 or not 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 development is consistent with the nature, scale and character of recently completed developments to the north, west and south of the site. This includes the completed mixed-use developments on the opposite side of Herring Road (at 120 to 128 Herring Road), and the Neue residential development at 137 to 139 Herring Road to the south.

The proposal is also consistent with the emerging character of development within the broader precinct including the proposed residential development at 1-3 Lachlan Avenue (to the south), and the Midtown Macquarie Park redevelopment (formerly known as Ivanhoe Estate, which will be delivered in stages and is currently under construction).

The existing residential buildings towards the east of the site were constructed around the 1970s and comprise 3-4 storeys in height which are setback from the street. These buildings represent the historic character of Macquarie Park and do not reflect the future character reflected within the current planning controls”.

Comment

The street frontage of the development, as it faces Herring Road, is consistent with that approved for similar developments in the area.

The architectural design and physical separation of all three buildings provides satisfactory articulation such that the development relates to its neighbours and other development which is currently under construction and/or being considered in separate development applications.

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 variation to the building height control predominantly relates to roof plant / services which are located at the low point of the site as it slopes down towards the south-east. These roof elements include:

- *Lift overruns.*
- *Stair pressurisation risers and stair lids.*
- *A small portion of the upper most roof parapets.*

These roof top elements are setback from the street and/or the roof parapet and positioned centrally on the roof of all three buildings to minimise their appearance from the public domain surrounding the site.

The extent of additional overshadowing due to the variation above the 45m height plane is minor and would have a negligible effect on overall overshadowing and amenity to the nearby properties to the south when compared to a scheme that strictly complies with the height control”.

Comment

The scale of development in the immediate area of this site is permitted up to 45m in height. Given the subdivision pattern along Herring Road and Lachlan Avenue, overshadowing of neighbouring properties to the south and south-east is unavoidable.

A review of the shadow diagrams submitted with the application indicates that the development would, on balance, not unreasonably impact upon surrounding development or the public domain (also see the separate discussion under Clause 3B (Orientation) of the Apartment Design Guide earlier in this report).

Figures 27 to 29 illustrate the shadows cast by the development (noting the footprints of development at Ivanhoe Estate which is currently under construction).



Figure 27 – Shadows cast at 9.00am on 21 June.
Source: Plan A0603 (Rev E) as prepared by Koichi Takada Architects.



Figure 28 – Shadows cast at Noon on 21 June.
Source: Plan A0603 (Rev E) as prepared by Koichi Takada Architects.



Figure 29 – Shadows cast at 3.00pm on 21 June.

Source: Plan A0603 (Rev E) as prepared by Koichi Takada Architects.

As can be seen in the figures above, the non-compliant elements to building height (shaded in blue) do not unreasonably exacerbate the degree of overshadowing.

It is therefore agreed that the development is consistent with this objective.

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 proposed development consolidates a total of 7 existing lots to deliver a mixed-use development in a location which benefits from improved public transport connections between Macquarie Park and other metropolitan centres throughout Sydney. These improved public transport connections include the Sydney Metro line from Macquarie University Station which opened in 2019, as well as the Macquarie Park Precinct bus interchange”.

Comment

The development provides a range of uses and activities all of which are located within walking distance from the 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:

“The proposed siting and configuration of the buildings on site achieves compliant building separating distances with the adjacent development at 1-3 Lachlan Avenue (noting that this site is subject to a development application for a residential development of a similar scale which is approved). These compliant building separation distances seek to maximise amenity and privacy to surrounding residential developments.

The roof top elements that project above the height plane do not contribute to the overall bulk and scale of the proposed development, will have an imperceptible impact on the amenity of surrounding properties when compared to a scheme that strictly complies with the height control”.

Comment

As noted under Objective (b) above, the non-compliant elements to building height do not unreasonably exacerbate the degree of overshadowing and, due to the separation of buildings across the site, creates an acceptable sunlight access outcome to neighbouring properties to the south and east.

Although the development does not obstruct any notable views, the design of the development, as well as the separation between Towers A and C and between Towers A and B, provide for an acceptable outlook from within the site and from neighbouring properties. The massing of the building arrangements result, in part, in a street-wall appearance when viewed obliquely from Herring Road, however, the separation between Towers A and C give relief to this and provide an acceptable level of visual permeability through the provision of through-site viewing from the public domain.

The application is accompanied by a Pedestrian Wind Assessment (as prepared by RWDI dated 30 November 2022) which concludes that the development benefits from wind buffering by surrounding development but has incorporated several design features and wind mitigating strategies and is expected to be suitable for the intended use for the majority 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.

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 site’s main frontage is to Herring Road, a regional road that connects the site to the M2 Motorway and Epping Road. The proposed development has been designed to provide an articulated façade with vertical elements that responds to the emerging high-density character of Herring Road and provides differentiation

between buildings. This reinforces its importance within the Macquarie Park Corridor”.

Comment

The design outcome will not affect the favourable presentation of the development to Herring Road such that it positively emphasises 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 will provide both short and long-term employment opportunities. Short term employment opportunities will be generated through the construction of the development. Longer term employment opportunities will be providing in the servicing and maintenance of the development and in the operation of the retail component of the development”.

Comment

It is agreed that the development, comprising a mixed-use typology, will encourage a diversity of land uses that generate employment opportunities. Of note, the development includes 791m² 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 proposed development includes retail areas along the site’s Herring Road frontage at the ground floor (within Towers A and C). These retail spaces will contribute to the creation of a vibrant streetscape and will encourage pedestrian activity in the Macquarie Park Corridor. The activation of the frontages will provide enhanced opportunities for casual surveillance improving the functionality of the streetscape as a safe and secure environment”.

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 proposed mixed-use development (comprising residential and retail land uses) is permissible with consent within the MU1 Mixed Use zone. The site is located within the Macquarie Park Corridor in an area which is surrounded by existing and future high density residential and mixed-use developments, and which is predominantly zoned MU1.

The proposal is consistent with the emerging scale and character of development within the Macquarie Park Corridor. The site is located within a residential apartment precinct on the edge of Macquarie Park commercial area. The proposed development is therefore consistent with the character of the area and will not result in conflict with adjoining land uses”.

Comment

It is agreed that the development minimises conflict between land uses within the MU1 Mixed Use zone and neighbouring residential buildings by virtue of the intent of the mixed-use zoning. The impact on other zones is negligible given the significant distance of approximately 250m from the nearest residential zone to the south.

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

In the request the applicant states:

“Small scale retail spaces have been provided along the ground floor of Towers A and C. These retail spaces will facilitate businesses that will improve residential amenity by providing local convenient services to residents of the proposed development, as well as the surrounding community. It will also establish the potential night-time active uses that will enhance the vibrancy of the streetscape”.

Comment

The development provides for retail uses, together with communal outdoor open space areas on the ground floor. It is agreed that this arrangement will provide local convenient services to residents of the proposed development, as well as the surrounding community.

- ***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 site is located in a residential precinct adjacent to the university. The proposal will provide residential accommodation in close proximity to local employment and education activities which is consistent with the strategic planning framework objectives of providing homes close to jobs. The proposed development complements the existing and future desired character of the Macquarie Park

Corridor and will support the development of a vibrant health and education precinct where residents can live, work and play”.

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 affiliated with) 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:

“The proposal supports the strengthening of connections between Macquarie University and other businesses and research institutions within the corridor by providing residential apartments and convenience retail space in close proximity. The apartments will provide additional accommodation options in the area for occupation by future students and staff of the university, and future employees of nearby businesses and research institutions. The retail tenancies would also provide employment opportunities for the community. The provision of new housing will support the university and business operations in offering opportunity to live close to work and study”.

Comment

This objective is not applicable as the development does not propose activities which are directly aligned to research and business. However, it is acknowledged that the use will include retail facilities and accommodation which may service the needs of students attending Macquarie University and thus may indirectly form links with research institutions and businesses in the Macquarie Park corridor.

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 request 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 objectives of the development standard and those applicable to development within the zone.

Accordingly, the 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 located 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

Development consent is required for the earthworks associated with the development.

The development includes earthworks required to accommodate the basement car park and to level the central part of the site to provide a step down to Lachlan Avenue from Herring Road.

The amended application is accompanied by an updated Geotechnical Investigation dated 7 June 2022 as prepared by Douglas Partners. The investigation notes the following:

Groundwater

Groundwater was measured in the wells on the site between 6.9 m and 14.2 m (RL 45.3 m to RL 54.1 m) which is slightly above the proposed basement at RL 48.01 and anticipated bulk excavation level.

A drained basement is technically feasible and will require permanent subfloor drainage below the basement floor slab to direct seepage to the stormwater drainage system. However, a drained basement and pumping to the stormwater system will be subject to approval from Council and relevant authorities.

The original application was referred to WaterNSW for consideration and approval. On 15 May 2023 WaterNSW issued their General Terms of Approval (GTAs).

The amended application increased the volume of Basement Level 4 and therefore required referral back to WaterNSW. On 4 September 2023 WaterNSW issued their approval without amendment to the original GTAs. The GTAs are included as a condition in the draft consent (see **Condition 17**).

Dilapidation Surveys

The investigation recommends that dilapidation surveys be carried out on neighbouring buildings, pavements and infrastructure that may be affected by the excavation works. Appropriate conditions are included in the draft consent to address this (see **Conditions 99, 115 and 176**).

Clause 6.6 Environmental Sustainability

The objective of this clause is to ensure that development on land in a business or industrial zone exceeding 1,500m² in GFA embraces principles of quality urban design and is consistent with principles of best practice environmentally sensitive design.

Water Sensitive Urban Design

Clause 8.2 of the RDCP 2014 includes Water Sensitive Urban Design (WSUD) Guidelines which require that a WSUD Strategy be submitted for development applications lodged within City of Ryde, for the following development types:

- *Development of land located in a mixed-use business zone or industrial zone if the development is 1,500m² or greater. This will include residential flat buildings and mixed-use developments.*
- *Development on land for SP2 Infrastructure e.g., schools, hospitals, and other institutions.*
- *Above ground parking areas accommodating more than 50 car spaces.*
- *Land subdivisions that result in 5 or more allotments.*

The application is accompanied by an Ecologically Sustainable Design (ESD) report (prepared by Integreco and dated 30 June 2023) which includes an overview of the ESD principles and greenhouse gas emissions and energy efficiency measures that will be implemented. The Report includes a section on addresses water efficiency notes the following strategies employed in the design of the development:

- Water efficient fittings, fixtures and appliances.
- Rainwater harvesting and re-use on the site (>20kL of storage).
- Rainwater reuse for irrigation and car washing.
- Recycling (in closed loops) of any water required for fire testing.
- Efficient irrigation such as drip irrigation to planters and gardens.
- At least 70% use by area of locally indigenous or “one-drop” water-efficient plants.
- Deep-soil allocation.
- Garden areas and green-roof gardens/planters.

A condition is included in the draft consent for the submission of certification of the drainage system to ensure that WSUD matters required to be considered under Clause 8.2 of the RDCP 2014 are satisfied (see **Condition 96**).

The updated BASIX, Thermal Comfort and Environmentally Sustainable Development (ESD) Report includes detail on window treatments to address thermal loading. The report indicates that acceptable thermal performance can be achieved, particularly with respect to late afternoon solar heat gain. The inclusion of tinting also indicates that adequate glare control can be achieved in apartments.

BASIX

The amended application is accompanied by two Multi-Dwelling BASIX Certificates (Certificate Nos. 1355374M-04 and 1355397M-04, both dated 30 June 2023).

The Certificates identify that the development will achieve the following:

Requirement	Target Score	Provided Score
Towers A & B		
Water	40	41
Thermal Comfort	Pass	Pass
Energy	25	25
Tower C		
Water	40	40
Thermal Comfort	Pass	Pass
Energy	25	25

The amended application is also accompanied by a NatHERS Certificate (Certificate No. 0008260730 dated 30 June 2023) which provides an average energy rating of 6.7 out of 10 (i.e., 67%).

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. The DCP 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”.

The development 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		
<u>Streets</u> Provide new public streets and pedestrian connections in accordance with Access Structure Plan New Streets are to be dedicated to the Council. New streets are to be maintained by the landowner until dedicated to Council.	As can be seen in Figure 30 below, the site (shaded in red) is not located in an area which requires the provision of new streets and pedestrian connections (as marked in orange and dotted lines).	Yes

Control	Comments	Compliance
	 <p>Figure 30 – Access Network. Source: RDCP 2014 (Figure 4.1.1)</p>	
<u>Sustainable Transport.</u> A Framework Travel Plan. (FTP) is required to be submitted to Council for approval for all development that exceeds 10,000sqm new floor space.	<p>A Framework Travel Plan has been submitted with the application.</p> <p>A condition of consent is included in the draft consent (see Conditions 191 and 215) which requires a finalised Framework Travel Plan to be submitted prior to the issue of an Occupation Certificate.</p>	Yes Subject to conditions.
<u>Parking Rates</u> Bicycle parking and end of trip facilities and parking to be provided in accordance with Part 9.3 Parking.	<p>With respect to the provision of bicycle parking, the SEPP only requires that <i>adequate</i> bicycle parking be provided (i.e., it does not include a quantum amount). Therefore, using Part 9.3 of the DCP as a guide to establish adequacy, Clause 2.7 stipulates that “<i>in every new building, where the floor space exceeds 600m² GFA, provide bicycle parking equivalent to 10% of the required car spaces or part thereof</i>”. Using this method, as the SEPP calls for 147 parking spaces, the development would be required to provide 14.7 (15) bicycle parking spaces.</p> <p>Plan DA2002 (Revision 10) indicates that the development will provide 78 parking spaces for bicycles. Separate visitor bike parking is also provided at the frontage to Herring Road (5 spaces) and to Lachlan Avenue (12 spaces).</p> <p>End-of-trip facilities are within each private room and within the gymnasium located on the 10th floor.</p>	Yes
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.	As can be seen in Figure 31 below, the site (shaded in red) is not located in an area which requires the provision of public open space (shaded in green).	Yes

Control	Comments	Compliance
	 <p>Figure 31 – Open Space Network. Source: RDCP 2014 (Figure 5.1.1)</p>	
<p><u>Community Facilities</u></p> <p>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. A condition is included in the draft consent to address this requirement.</p> <p>Refer to Condition 56.</p>	<p>Yes Subject to condition.</p>
<p><u>Art in Publicly Accessible Place</u></p> <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. 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 Preliminary Public Art Plan which includes a detailed provision of public art within the centrally located open space area and walk-through access points.</p> <p>A condition is included in the draft consent to reflect this requirement and to include provision of public art.</p> <p>Refer to Condition 78 and 155.</p>	<p>Yes Subject to conditions.</p>
6.0 Infrastructure, facilities and public domain improvement.		
<p>Floor space ratios and building 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>Clause 4.3 permits a maximum building height of 45m. The development proposes building heights of between 47.1m to 48.3m.as noted in the table above. The non-compliance equates to a variation of between 2.1m (4.7%) to 3.3m (7.3%).</p> <p>The application is accompanied by a request to vary the development standard and has been considered to satisfy Clause 4.6 of the RLEP 2014.</p>	<p>Yes</p>
<p>Access Network and open space network being park are to be dedicated to Council, be designed and constructed in</p>	<p>As seen earlier in Figure 30 and Figure 31, the site (shaded in red) does not include any features identified in the Access Network or Open Space Network.</p>	<p>Yes</p>

Control	Comments	Compliance
accordance with the Macquarie Park Corridor Public Domain Technical Manual.		
7.0 Built Form		
<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.	No new streets or open spaces are scheduled on or adjacent to the site.	Yes
<u>Activity Centres</u> Macquarie Park Station Macquarie University Station North Ryde Station	<p>As can be seen in Figure 32 below, the site (shaded in blue) is not located within any Activity Centre (the Macquarie University Station Activity Centre is shaded in red).</p>  <p>Figure 32 – Activity Centres (shaded in red). Source: RDCP 2014 (Figure 7.3.2)</p>	Yes
<u>Active Frontage</u> <p>Continuous ground level active uses must be provided where primary active frontages are shown in Figure 7.3.2.</p> <p>Buildings must address the street or public domain.</p>	<p>The site is not located within an Activity Centre or in an area defined by Primary Active Frontages.</p> <p>The development addresses both street frontages.</p>	Yes
<u>Setbacks and Build to Lines</u> 5m to all new and existing streets.	The development is setback 5.0m to Herring Road, Lachlan Avenue, Windsor Drive and Ivanhoe Place. No new streets are required or proposed.	Yes
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>The basement car parking is designed to comply with the minimum required setback provisions, with exception to the basement beneath Tower C (see separate discussion on this issue after this table).</p> <p>The setback to Herring Road includes a continuous deep soil zone across the majority of the street frontage which has a width of 5.0m.</p> <p>Similarly, the setback to Lachlan Avenue includes broken deep soil zones (with a minimum width of</p>	Yes

Control	Comments	Compliance																		
<p>60% of the street setback area is to be soft landscaping.</p> <p>Existing mature trees are to be retained where possible.</p> <p>Paved areas are to relate to the materials and finishes of the adjacent streetscape.</p> <p>At grade car parking must not be located within this setback.</p>	<p>5.0m) owing to this frontage being the main vehicle and pedestrian entry.</p> <p>Herring Road: 77% (164.2m²) soft landscaping. Lachlan Avenue: 68.4% (187m²) soft landscaping.</p> <p>The development proposes to retain 7 trees on the site and 19 trees off-site (i.e., in the street verge). This, together with 71 replacement tree plantings will result in the provision of 97 trees.</p> <p>Paved areas will relate to the street.</p> <p>No at-grade parking is proposed.</p>																			
Figure 7.2.2 Parking is not permitted within required setbacks, allowing for deep soil landscaping along streets	All parking is located within the basement levels.	Yes																		
<p><u>Awning and Canopies</u></p> <p>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 encouraged elsewhere in the Corridor.</p>	<p>The site is not located within an Activity Centre or in an area defined by Primary Active Frontages.</p> <p>The development includes glazed canopy awning at the entry facing Herring Road</p>	Yes																		
<p><u>Rear and Side Setbacks</u></p> <p>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>The site has a dual frontage (to Herring Road and Lachlan Avenue) and a secondary frontage to Windsor Drive.</p> <table border="1"> <thead> <tr> <th>Orientation</th><th>Setback</th><th>Complies</th></tr> </thead> <tbody> <tr> <td>Herring Road</td><td>0.3m to 5.0m</td><td>No</td></tr> <tr> <td>Lachlan Avenue</td><td>5.0m</td><td>Yes</td></tr> <tr> <td>Windsor Drive</td><td>5.0m to 7.5m</td><td>Yes</td></tr> <tr> <td>Ivanhoe Place</td><td>5.0m</td><td>Yes</td></tr> <tr> <td>South (Side)</td><td>5.0m to 20m</td><td>Yes</td></tr> </tbody> </table> <p>No new roads are required to be shown on the site.</p>	Orientation	Setback	Complies	Herring Road	0.3m to 5.0m	No	Lachlan Avenue	5.0m	Yes	Windsor Drive	5.0m to 7.5m	Yes	Ivanhoe Place	5.0m	Yes	South (Side)	5.0m to 20m	Yes	<p>No</p> <p>See separate discussion after this table.</p>
Orientation	Setback	Complies																		
Herring Road	0.3m to 5.0m	No																		
Lachlan Avenue	5.0m	Yes																		
Windsor Drive	5.0m to 7.5m	Yes																		
Ivanhoe Place	5.0m	Yes																		
South (Side)	5.0m to 20m	Yes																		
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.	As seen earlier in Figure 27 , the site does not include any new road features identified on the site in the Access Network.	Yes																		
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>The basement car parking is designed to comply with the minimum required setback provisions.</p> <p>The side setback areas include variable width deep soil zones (with a minimum width of 5.0m) which includes dense landscaping and which can support deep root planting.</p>	Yes																		

Control	Comments	Compliance
Building Separation Provide building separation as recommended by the ADG.	This matter is discussed in detail earlier in this report under Clause 3F of the ADG.	Yes
8.Site Planning & Staging		
<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.	The site is not located in areas identified in Figure 4.1.1 and Figure 5.1.1 and is therefore not required to provide new streets, pedestrian connections, and open spaces.	Yes
<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 2m deep. For the purpose of calculating deep soil areas, only areas with a minimum dimension of 20 m x 10 m may be included.	Site Area: 6,952.3m ² Required: 1,390.46m ² (20%) Provided: 1,394.2m ² (20%)	Yes
A minimum 20% of the site area is to be provided as Landscaped Area.	Site Area: 6,952.3m ² Required: 1,390.46m ² (20%) Provided: 2,883m ² (41.5%) Landscaped Area means: “an area on the site not occupied by any buildings, except for swimming pools or open-air recreation facilities, which is landscaped by way of gardens, lawns, shrubs or trees and is available for use and enjoyment by the occupants of the building, excluding areas used for driveways, parking areas or drying yards”.	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 central communal open space area and the roof top communal open space areas will receive a minimum of 3 hours direct sunlight between 9 am and 3 pm on the 21st of June.	Yes
Appropriate shading is to be provided so that communal spaces are useable during summer.	The landscape plans and strategy submitted with the application includes rooftop communal areas which incorporate covered and enclosed seating. The central communal open space area is sufficiently shaded to be useable in summer.	Yes
<u>Topography and Building Interface</u> Level changes across sites are to be resolved within the building footprint. Where buildings are set back from the street boundary, entries are to be provided at street level wherever possible. An accessible path of travel is to be provided from the street	The development responds to the topography through the separations and terracing of the built form from Herring Road to Lachlan Avenue. All pedestrian entries are provided at street level (namely Herring Road, Windsor Drive and Lachlan Avenue in this instance).	Yes

Control	Comments	Compliance
through the main entry door of all buildings.	Accessible paths of travel are provided from Herring Road to Lachlan Avenue and the internal open space area.	
<u>Site Facilities Commercial</u> Vehicular access to loading facilities is to be provided from secondary and tertiary streets where possible. Rubbish and recycling areas must be provided in accordance with Section 6.3 Waste Management. These areas must be integrated with the development;	Vehicle access to the loading bay (located in the basement) is via the proposed driveway and 9.0m wide crossover onto Lachlan Avenue.	Yes
<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.	The site is not located within an Activity Centre of in an area defined by Primary Active Frontages. Vehicle access is gained solely from Lachlan Avenue.	Yes
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.	The development includes one (1) driveway crossover on Lachlan Avenue. This effectively consolidates three (3) existing driveways and crossovers into one (1) which benefits pedestrian and vehicles safety in the public domain.	Yes
<u>On-site Parking</u> Safe and secure 24-hour access to car parking areas is to be provided for building users. 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.	The car parking in the basement levels is secured over a continual 24 hour period. CCTV cameras are conditioned to be installed within the basement parking levels to ensure ongoing surveillance and safety. Refer to Condition 157 . The development does not include any at-grade parking.	Yes Subject to condition
<u>Basement parking</u> Basement parking areas should be located directly under building footprints to maximise opportunities for deep soil areas unless the structure can be designed to support mature plants and deep root plants.	Basement parking is contained predominantly beneath the building footprint with exception to the central spine which narrows between the two street facing elements. The areas immediately above the basement parking on both sides of the central spine are employed as communal open space areas to support the particular use of the development. Deep soil is situated around the perimeter of these communal open space areas to provide dense landscaping which will serve as a visual and acoustic buffer to neighbouring land.	Yes Subject to condition

Control	Comments	Compliance
<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>Basement areas do not extend forward of the street setback.</p> <p>Ventilation of the car park is subject to Condition 102.</p>	
Environmental Performance		
<p><u>Wind Impact</u></p> <p>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. Refer to Council for documentation and report requirements.</p>	<p>The application is accompanied by a Pedestrian Wind Assessment (dated 30/11/2022) as prepared by RWDI Australia Pty Ltd.</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. The Assessment notes the following design responses and recommendations:</p> <ul style="list-style-type: none"> • Barrier landscaping to reduce pedestrian movement near the corners of the building where highest wind accelerations are generally expected have been incorporated in the design and are a positive design feature. • For ground level areas, it is recommended that planters be at least 1m tall with dense vegetation to provide immediate protection in their vicinity. The planters are also likely to provide buffer to the wind movement and reduce the impact further downwind of their location. • The gates to the communal open space along Lachlan Avenue and Herring Road can provide significant reduction to channelling winds. It is recommended that these be at least 1.5m tall. • Seating areas should be located away from the corners of the development within areas that are noted to be suitable for passive use. Additional measures including screening / vegetation can be located in the vicinity of such areas. • The entrances to Towers A and B are recessed and therefore well shielded from strong winds. Similar measures can be taken for the entrance to Tower C. Furthermore, entrances to the various retail elements along Herring Road should be kept away from the corners of the towers where higher wind speeds are expected. • Incorporate full height screens (impermeable or louvred) along one of the aspects of the corner balconies within the development to reduce the 	<p>Yes Subject to condition.</p>

Control	Comments	Compliance
	<p>acceleration of winds around the exposed corners.</p> <ul style="list-style-type: none"> Planters around the periphery of the penthouse terracing should incorporate dense shrubs (total height should be at least 1.5m). In addition, it is recommended to incorporate 1.5m high impermeable balustrades around the periphery of the terrace to provide direct shielding from prevailing winds. Incorporate 1.5m high impermeable screening along the perimeter of the rooftop terrace to reduce direct exposure to regional winds. Localised canopies have been incorporated and are a positive design feature. <p>The Assessment (including its recommendations) are included in the draft consent as a condition (see Condition 1).</p>	
<p><u>Noise & Vibration</u></p> <p>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 an Acoustic Assessment (dated 1 December 2022) as prepared by Pulse White Noise Acoustics.</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 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).</p>	Yes Subject to condition.
Development is to comply with all relevant statutory regulations.	Conditions are included in the draft consent to address compliance with all relevant statutory prescribed requirements.	Yes

Detailed Assessment of Non-Compliant Matters

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.

The development provides the following setbacks (non-compliances in bold):

Structure	Herring Rd	Epping Rd
Basement Levels 1, 2, 3 & 4	0.3m to 5.0m	28m to 35m

As noted above, the development encroaches within the western side of the property facing Herring Road and extends to 0.3m from the boundary.

Figures 33 to 35 below show the areas (in red) which encroach within the 5.0m setback.

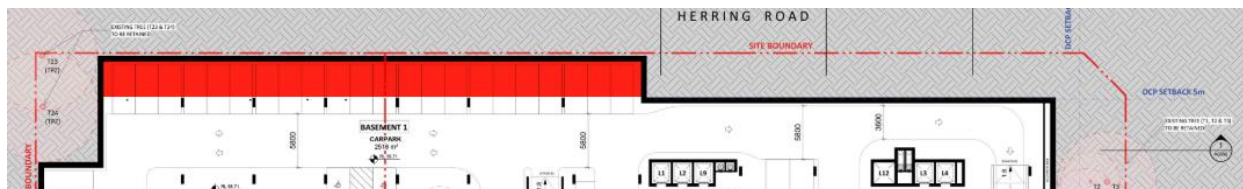


Figure 30 - Basement 1 non-compliant front setback.

Source: Plan A0098 (Rev F) as prepared by Koichi Takada Architects.

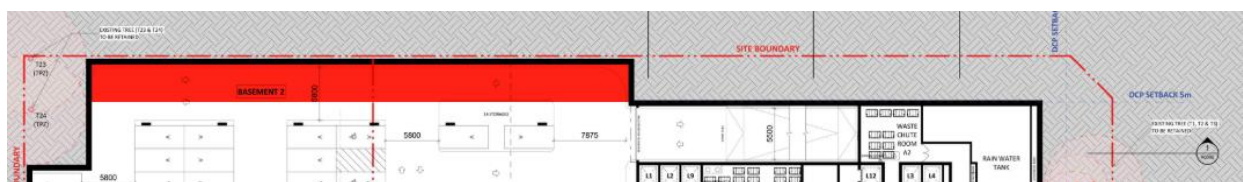


Figure 33 - Basement 2 non-compliant front setback.

Source: Plan A0097 (Rev F) as prepared by Koichi Takada Architects.

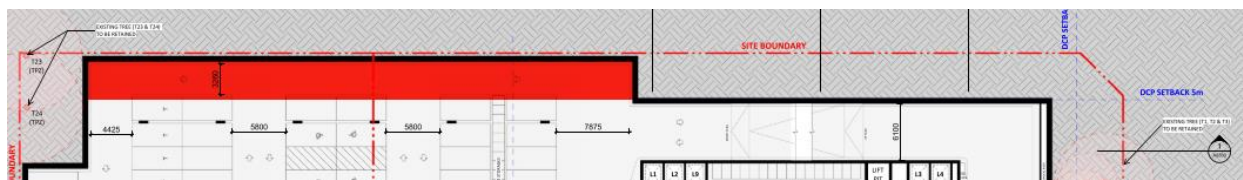


Figure 34 - Basement 3 non-compliant front setback.

Source: Plan A0096 (Rev F) as prepared by Koichi Takada Architects.



Figure 35 - Basement 4 non-compliant front setback.

Source: Plan A0095 (Rev F) as prepared by Koichi Takada Architects.

It is noted that Basement levels commence at a depth of 6.0m from street level and that the below ground structures within that depth are set back 5.0m as required as shown in **Figure 36** below.

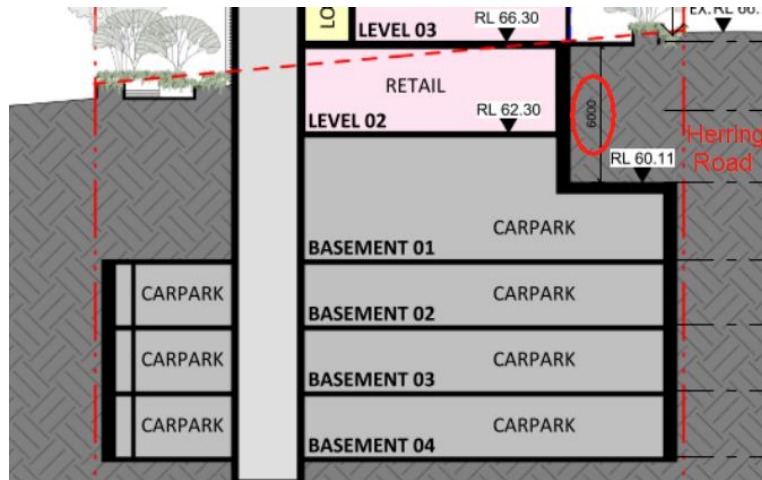


Figure 36 – Cross section through basement levels of Building C.
Source: Plan A0305 (Rev A) as prepared by Koichi Takada Architects.

Figure 37 below shows the design intent for the deep soil strip (shaded in green) between Tower C and Herring Road (the red line indicates the property boundary).

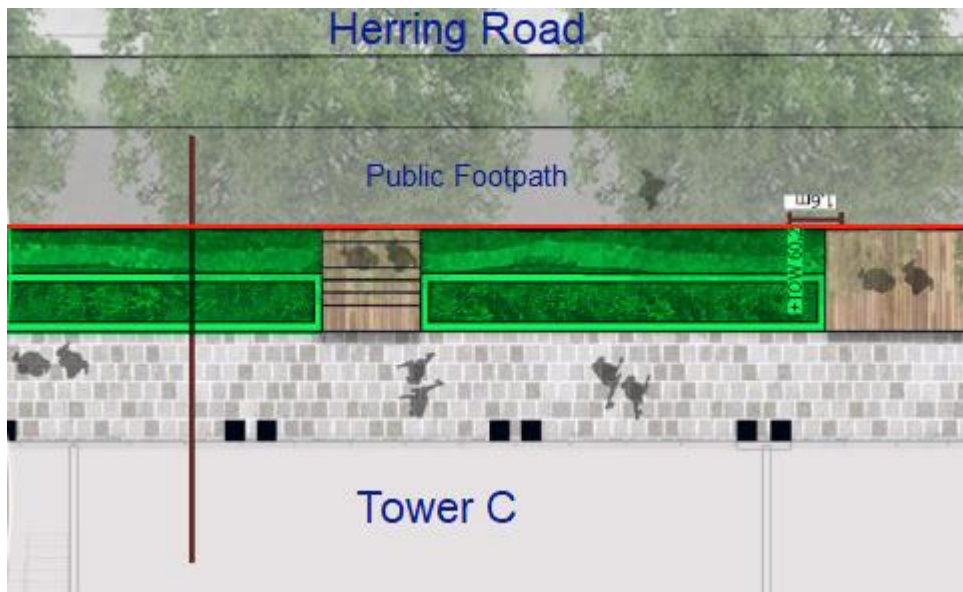


Figure 37 – Landscape design strategy – Tower C/Herring Road interface.
Source: Landscape Strategy as prepared by Arcadia.

Council's consultant Landscape Architect has reviewed the landscape strategy for the development and, with respect to this particular section, has included conditions in the draft consent which requires that the planting areas which adjoin the site boundary fronting Herring Road are to be contiguous, provided entirely at ground level and not impeded by planter walls / hobs (see **Condition 62**).

The encroachment is not visible from Herring Road 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 subject to the above condition.

Part 9.3 Car Parking

Use	DCP Rate	Required	Proposed	Compliance
<u>Residential</u>				
1 Bedroom (80)	0.6/apartment (max)	48		
2 Bedroom (179)	0.9/apartment (max)	161.1 (162)	234	Yes
3 Bedroom (48)	1.4/apartment (max)	67.2 (68)		
Visitors (307 units)	1/10 apartments (max)	30.7 (31)	31	Yes
Car Share	1/50 parking spaces	6.04 (7)	7	Yes
<u>Retail</u>				
791m ² GFA	1/25m ² GFA (No max)	31.6 (32)	76	Yes
Total		348	348	Yes

As seen above, the development complies with the parking requirements of Part 9.3.

7.2 Section 7.11 - Development Contributions Plan

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.

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	\$1,339,189.31
Open Space & Recreation	\$2,583,965.84
Transport & Traffic Facilities	\$189,492.73
Plan Preparation & Administration	\$61,692.51
Total Contribution	\$4,174,340.39

The Section 7.11 Contribution of **\$4,174,340.39** has been included under **Condition 56** in the draft consent.

8 LIKELY IMPACTS OF THE DEVELOPMENT

- (i) The environmental impacts of the proposed development on the natural and built environment are addressed under *State Environmental Planning Policy (Biodiversity and Conservation) 2021* (see Section 7.3 of this report) and within the RDCP 2014 sections of this report.

The development seeks to remove 44 trees from the site (all of which are not identified as threatened or protected species), retain 26 trees and plant a further 71 trees (resulting in a net increase of 27 trees on the site).

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.

- (ii) The proposed development will not have a detrimental social impact in the locality considering the residential character of the proposal.
- (iii) The proposed development will not have a detrimental economic impact on the locality considering the residential nature of the existing and proposed land use, which includes retail premises which will generate local employment opportunity.

9 REFERRAL RESPONSES

External Referrals

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).

The amended design was referred back to WaterNSW who raised no objection to the amendment and advised that no change is required to the GTAs issued earlier.

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

Refer to **Condition 17** in the draft consent.

Transport for NSW (TfNSW)

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

Refer to **Condition 18** in 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 157 to 163** in the draft consent. Furthermore, **Condition 1(e)** requires the development to comply with the recommendations contained within the CPTED Assessment submitted with the application.

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 **Conditions 1(d), 64 to 66** in 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 67 to 71, 112, 133, 183 to 185, and 202** in 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 33 to 36, 43, 44, 74, 85, 86, 90, 99, 118 to 121, 134, 135, 143, 166, 167, 181, 186, 187, 188, 191, 215, and 217** in 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 38, 72, 73, 87, 88, 89, 113, 114, 115, 116, 130, 153, 165, 168, 169, 170, 171, 172, 173, 177, 178, 179, and 180** in 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 75, 76, 192, 193, 194, 195, 211, and 212 to 215** in the draft consent.

Development Engineering

The application was referred to Council's Development Engineer who raised no objection to the proposal subject to conditions.

Refer to **Conditions 95, 96, 97, 98, 100, 101, 136, 141, 142, 149, 151, 152, 189, 190, 199, 200, 201, and 205** in 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 20 to 31, 48, 49, 62, 63, 94, 146, and 147** in the draft consent.

Tree Management

The application was referred to Council's Tree Management Officer who raised no objection to the proposal subject to conditions.

Refer to **Condition 32** in the draft consent.

Environmental Health

The application was referred to Council's Environmental Health Officer who raised no objection to the proposal subject to conditions.

Refer to **Conditions 19, 45, 46, 50, 51, 52, 53, 54, 102, 103, 104, 137, 138, 139, 140, 156, 196, 204, 206, 207, 208, and 209** in the draft consent.

10 PUBLIC NOTIFICATION AND SUBMISSIONS

The application was publicly exhibited as Integrated Development between 2 February 2023 and 28 February 2023. An advertisement was placed on Council's website and notification letters were sent to 839 local properties in accordance with Council's Community Participation Plan.

Amended plans received during the assessment included an additional impact to the property at 1-3 Lachlan Avenue, Macquarie Park. The remainder of the amended design did not have any impact upon the remainder of the locality or adjacent properties. As a result, the amended plans were notified only to the adjoining property owner at 1-3 Lachlan Avenue, Macquarie Park via email between 4 September 2023 and 18 September 2023. No further submission was received.

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

- **Building separation and sunlight access to 1 - 3 Lachlan Avenue.**

These issues have been addressed in detail under Section 7.8 of this report where the matters of impact to 1-3 Lachlan Avenue have been examined with respect to building separation and sunlight access.

In summary, an assessment of building separation and visual privacy has been conducted where it was found that the separation between Tower A and Tower B satisfied the recommended building separation considerations.

The separation between Tower A and Tower C was found to be deficient, however this was considered to be not unreasonable given the orientation of the site, its location relative to 1-3 Lachlan Avenue, the take-up of the remnant 155 Herring Road into the development, and the sloping topography which has informed the architectural outcome for the development.

In terms of overshadowing, it is acknowledged that the approved development at 1-3 Lachlan Avenue will experience increased shadow on 21 June as a result of this development, however, a review of the shadow diagrams and the view from the sun montages provided by the developer of 1-3 Lachlan Avenue (see **Figures 18 to 20** showing the approved development at 1-3) but, as noted above, and given the location and topographical circumstances of both sites relative to each other, this is also not considered to be unreasonable.

This issue does not warrant the refusal of the application.

- **Non-compliant building height.**

This issue has been addressed in detail under Section 7.9 of this report where the non-compliance was considered against the provisions of Clause 4.6 of the RLEP 2014.

In summary, the applicant's written request to vary the standard demonstrated that compliance 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 therefore satisfied that the proposal is in the public interest and that it is consistent with the objectives of the development standard and the zone. Accordingly, the departure from the standard is supported in this instance.

- **Impact on local bird/marsupial species.**

The site is not directly affected by wildlife corridors which are centred along creek lines (such as Shrimptons Creek to the east and Kikkiya Creek to the north-west).

It is noted that, although 44 trees are proposed to be removed, the development will plant 71 replacement trees on the site (equating to a total of 97 trees on the site due to the retained 26 trees). This, together with the consolidation of the built form and reduction in hardstand areas that are currently evident, is a significant improvement and will serve to encourage rather than deter fauna.

This issue does not warrant the refusal of the application.

- **Excessive building heights.**

The local area comprises a range of maximum permitted building heights as illustrated in **Figure 38** below which is extracted from Council's 'Height of Buildings' Map (the subject site is outlined in red).

Noting the site outlined in red, the predominant maximum building height in the immediate vicinity of the development is 45m. This varies towards to north-east and south-west of Herring Road of between 65m, 75m and 120m.



Figure 38 – Permitted building heights (Sheet HOB-004).
Source: City of Ryde mapping.

Variations to the maximum permitted building height can be applied for and considered under Clause 4.6 of the Standard Instrument. Generally, breaches to the maximum height involve the addition of lift overruns and rooftop plant rooms which do not significantly alter the overall bulk and scale of the building due to their recessed design.

The subject development proposes a height of between 47.1m to 48.3m (being a variation of between 4.7% and 7.3% respectively). Therefore, a request to vary the building height development standard has been submitted. In consideration against the requirements of Clause 4.6, Council has concluded that the variation to the proposed height breach (which comprises the afore-mentioned lift overrun and rooftop plant room) is reasonable in the circumstances of this case.

The detailed assessment of this matter can be found in Section 7.9 'Ryde Local Environmental Plan 2014' of this report.

The proposed building heights are compatible with the local area, which is subject to significant development of similar scale to that proposed. The quantum of large-scale developments which have been constructed, are under construction and are the subject recent approvals, current and upcoming development applications are responding to the permissible building height and floor space ratio as contained in the Ryde Local Environmental Plan 2014, which has established the direction and expectations for the area. In this respect, the development is considered to be consistent with the evolving character of the local area.

This issue does not warrant the refusal of the application.

- **Impact on local traffic.**

The application has been assessed by Council's Traffic Services Department who notes that, based on the trip generation rates detailed in the Transport for NSW's '*Guide to Traffic Generating Development*', a total of 96 AM and 121 PM peak hour vehicle trips are expected to be generated by the proposed development.

It is further noted that the additional vehicle trips generated by the development is expected to exacerbate the poor traffic conditions along Herring Road and Waterloo Road during weekday peak periods in the future, which will require infrastructure improvements within the surrounding road network to ameliorate future traffic impacts associated with the subject development and surrounding land uses.

However, as the development is not the sole contributor to traffic along Herring Road and Waterloo Road and there are no plans within Council's planning controls/studies detailing specific infrastructure improvements at the affected intersections, it is understood that there is no mechanism to impose on the applicant for the design and implementation of a viable solution (in part or in whole) to address traffic issues at the affected intersections.

In conclusion, and based on the above discussion, Council's Traffic Services Department has raised no objection to the approval of this application subject to conditions.

See **Conditions 33 to 36, 43, 44, 74, 85, 86, 90, 99, 118 to 121, 134, 135, 143, 166, 167, 181, 186, 187, 188, 191, 215, and 217.**

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

- **Construction disturbance.**

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 7, 33, 36, 41, 42, 43, 44, 55, 79, 85, 104, 120, 123, 125, 134, 135, and 143** of the draft consent.

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

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

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.

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*.

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.

11 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 considered to be responsive to the strategic intentions of the Macquarie Park, and Council's RLEP 2014 that have been adopted for the locality. The proposal is consistent with the MU1 Mixed Use zone objectives.

The allocation of gross floor area, siting of buildings across the site, and provision of communal open space within the site allows for the development to be established in an orderly and coordinated manner.

Therefore, it is recommended that the application be approved subject to 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 and will provide a mix of apartment types to address growing housing demand and support the growth of the local community.

12 RECOMMENDATION:

That LDA2022/0408 at 5-11 Lachlan Avenue and 155-159 Herring Road, Macquarie Park be approved subject to the conditions included in the attached draft consent.

- 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 LDA2022/0408 for demolition and construction of a 14-storey mixed use development comprising commercial premises at the ground level fronting Herring Road, 307 residential apartments, 4 basement parking levels and associated communal open space areas including a pool, landscaping, stormwater management works, public domain works and stratum subdivision at 5-11 Lachlan Avenue and 155-159 Herring Road, Macquarie Park subject to conditions of consent in Attachment 1 of this report.
- 3) That Transport for NSW and Water NSW be advised of the decision.
- 4) That those persons who provided a submission be notified of the decision.

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