

COUNCIL ASSESSMENT REPORT

SNPP No	PPSSNH-363
DA Number	LDA2023/0001
Local Government Area	City of Ryde
Proposed Development	Demolition works, excavation, construction and occupation of a part 9, 13 & 14 storey development for a purpose-built student accommodation for 732 students. The proposal includes associated basement parking, communal open space areas, stormwater drainage works, landscaping and public domain improvements. This application is lodged as 'Co-Living Housing' under State Environmental Planning Policy (Housing) 2021.
Street Address	17-21 Lachlan Avenue & 163 Herring Road, Macquarie Park
Applicant/owner	Applicant: Urbis Owner: Lachlan Avenue Development Pty Ltd
Date of Lodgement	9 January 2023
Number of Submissions	5 submissions objecting to the proposal
Recommendation	Approval subject to conditions
Regionally Significant Development Criteria (Schedule 6 of SEPP (Planning Systems) 2021)	General Development over \$30 Million. Cost of works: \$120,150,000 (excluding GST)
List of All Relevant s4.15(1)(a) Matters	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979; • Biodiversity Conservation Act 2016; • 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 (Housing) 2021; • State Environmental Planning Policy (Planning Systems) 2021; • State Environmental Planning Policy (Resilience and Hazards) 2021; • State Environmental Planning Policy (Transport and Infrastructure) 2021; • State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development; • Ryde Local Environmental Plan 2014; • Ryde Development Control Plan 2014; and • Section 7.11 Contribution Plan.
Clause 4.6 Requests	<u>SEPP (Housing) 2021</u> <ul style="list-style-type: none"> • Clause 68(2)(e) – Car Parking (69.4% variation)

	<ul style="list-style-type: none"> • Clause 69(1)(a) – Room Size (17.5% variation) <u>RLEP 2014</u> • Clause 4.3 – Height of Buildings (4.4% variation)
Summary of Key submissions	<ul style="list-style-type: none"> • Inadequate common (communal) facilities. • Internal privacy. • Inadequate room sizes. • Inadequate provision of laundries. • Traffic/parking impact and insufficient on-site parking. • Inadequate Operational Plan of Management. • Impact on infrastructure. • Acoustic impact on neighbours. • Wellbeing of residents. • Protection of Brush Turkey habitat and corridor. • Displacement of current residents. • Building height and incompatibility with local character. • Removal of trees. • Public amenity in Eloura Reserve.
List all documents submitted with this report for the panel's consideration	<p>Attachment 1: Draft Conditions.</p> <p>Attachment 2: Architectural and Landscape Plans.</p> <p>Attachment 3: Clause 4.6 request (SEPP (Housing) 2021)</p> <ul style="list-style-type: none"> • Clause 68(2)(e) – Car Parking <p>Attachment 4: Clause 4.6 request (SEPP (Housing) 2021)</p> <ul style="list-style-type: none"> • Clause 69(1)(a) – Room Size <p>Attachment 5: Clause 4.6 request (RLEP 2014)</p> <ul style="list-style-type: none"> • Clause 4.3 – Height of Buildings
Report prepared by	Tony Collier - Senior Town Planner
Report date	30 August 2023

Summary of s. 4.15 matters	
Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
Legislative clauses requiring consent authority satisfaction	
Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a 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 works, excavation, and the construction and occupation of a part 9, 13 & 14 storey development for a purpose-built student accommodation for 732 students.

The proposal includes associated basement parking, communal open space areas, stormwater drainage works, landscaping and public domain improvements.

The application is lodged as 'Co-Living Housing' under State Environmental Planning Policy (Housing) 2021.

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 (Housing) 2021

- Clause 68(2)(e) – Car Parking.
- Clause 69(1)(a) – Room Size.
- Clause 69(2)(b) – Building Separation.

Variations under Clause 4.6 for Car Parking and Room Size demonstrate sufficient environmental planning grounds and are supported.

A Clause 4.6 is not required for building separation.

The above matters are addressed in detail in **Section 6.6** of this report.

Ryde Local Environmental Plan 2014

Clause 4.3 – Height of Buildings

The proposal exceeds the permitted building height under Clause 4.3 by 5.2%. The non-compliances predominantly involve roof edges and roof top plant structures.

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

This matter is addressed in detail in **Section 6.10** of this report.

Ryde Development Control Plan 2014

Part 4.5 – Macquarie Park Corridor

Clause 8.2 – Site Coverage, Deep Soil Areas and Private Open Space

Clause 8.2 requires development to provide a minimum site area of 20% as deep soil area with a minimum dimension of 20m x 10m. This would equate to 780.3m².

Despite the development not meeting the required dimension, the quantum of deep soil is calculated at 1,150.9m² (i.e., 29.5%) which exceeds the requirement by 370.6m² (i.e., 47.5%) and achieves the objectives of the control.

Given the quantum and quality of deep soil area and landscaping throughout the site, the variation is supported in this instance.

This matter is addressed in detail in **Section 8** of this report.

Referral Responses

The application was referred to external and internal departments. Each department supports the proposal, subject to conditions.

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

Public Exhibition and Submissions

The application was publicly exhibited between 2 February 2023 and 28 February 2023. Notification letters were sent to 774 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 five (5) submissions were received which raise the following issues:

- The development does not provide adequate common (communal) facilities.
- Concern regarding internal privacy of residents given shared living spaces.
- Non-compliant room sizes.
- Inadequate provision of laundries.
- Traffic/parking impact and insufficient provision of on-site parking.
- Inadequate Operational Plan of Management, pastoral care, security, and use of students as Residential Customer Advisors.
- Impact on infrastructure.
- Inadequate consideration on acoustic impacts to neighbouring properties.
- Impact on mental wellbeing of residents.
- Protection of Brush Turkey habitat/corridor and local bird/marsupial species.
- Impact upon and displacement of current residents.
- Excessive building heights of development in the area and incompatibility with the character of the local area.
- Negative impact from the removal of trees on the site.
- Loss of public amenity in Eloura Reserve.

The issues raised in the submissions do not warrant the refusal of the application and are addressed in detail in **Section 11** of this report.

Recommendation

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.

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 and unresolvable issues of concern. Consequently, this report concludes that this development proposal is sound in terms of design, function, and relationship with its neighbours and within the locality generally.

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

2. APPLICATION DETAILS

Name of applicant: Urbis

Owner of site: Lachlan Avenue Development Pty Ltd

Estimated value of works: \$120,150,000 (excluding GST)

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

3. SITE DESCRIPTION

The site is located on the southern side of Herring Road and is bounded by Lachlan Avenue to the south-east.



Figure 1 – Location of the site outlined in orange.

Source: City of Ryde Mapping.

The site will be the result of the consolidation of four (4) separate properties being:

- 163 Herring Road (SP11078): 1,124m².
- 17 Lachlan Avenue (SP6781): 920m².
- 19 Lachlan Avenue (SP6947): 939.7m².
- 21 Lachlan Avenue (SP7041): 917.9m².

The site is irregular in shape and has a frontage of 43.1m to Herring Road and a frontage of 56m to Lachlan Avenue. The site will have a total surveyed area of 3,901.6m².

The site accommodates 4 x 3 storey walk-up flat buildings with on-site car parking and landscaping.

The site has an average fall of approximately 6m from the Herring Road boundary to the Lachlan Avenue boundary and is terraced by a retaining wall along the rear of No. 163 Herring Road as illustrated later in **Figures 15 and 16**.

The site has been heavily modified over time and accommodates a variety of remnant and planted indigenous, coniferous, and ornamental trees although these are sparsely distributed across the site, most notably within the front and rear setback areas of each block.

Figures 2 to 17 below provide views of the site.



Figure 2 – Western side of 165 Herring Road.



Figure 3 – Eastern side of 163 Herring Road.



Figure 4 - Side of 163 Herring Road towards rear of 21 Lachlan Avenue.



Figure 5 - Rear of 163 Herring looking towards rear of 17 and 19 Lachlan Avenue.



Figure 6 - Front setback of 163 Herring Road looking west.



Figure 7 -163 Herring Road.



Figure 8 – Western side of 163 Herring Rd.



Figure 9 - Corner view of 161 Herring Road.



Figure 10 - Rear of 161 Herring Road (17 Lachlan Avenue is in the centre).



Figure 11 - Corner of Lachlan Avenue and Windsor Drive.



Figure 12 - Eastern side of 15 Lachlan Avenue.



Figure 13 - 17 and 19 Lachlan Avenue.



Figure 14 - 19 and 21 Lachlan Avenue.



Figure 15 - Level difference between 17 and 19 Lachlan Avenue and 163 Herring Road.



Figure 16 - Level difference between 19 and 21 Lachlan Avenue and 163 Herring Road.



Figure 17 - 17, 19 and 21 Lachlan Avenue from the cul-de-sac bowl.

The Surrounding Area

The site is located approximately 250m from the intersection of Epping and Herring Roads and is within walking distance to Macquarie University and Macquarie Shopping Centre.

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

4. BACKGROUND

The application was lodged with Council via the Planning Portal on 19 January 2023.

The application was publicly exhibited between 2 February 2023 and 28 February 2023 and notified to 774 properties in the area.

Letter to the Applicant

Following the preliminary assessment of the application, a letter was sent to the applicant on 4 April 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 1 May 2023.

Meeting (18 April 2023)

On 18 April 2023 a meeting was held between Council and the applicant. Discussion at the meeting focussed on the requested provision of on-site visitor parking, and the provision of a compliant Common Living Area (as required by the *State Environmental Planning Policy (Housing) 2021*).

At the meeting, the applicant contended that the provision of on-site visitor parking was not a viable option and that it was also being considered not to provide any parking on the site as there was data to suggest that students do not use cars and that other similar facilities are not required to provide any car parking. It was also contended by the applicant that students residing at the facility would be required to sign a contract prohibiting the ownership of cars while a resident although it has also been suggested in the application documentation that, should students own cars, then they would be able to obtain parking permits from Council. The applicant also suggested that, if there was no available parking in the street, students could park on the University grounds.

Council disagreed with the contentions put forward by the applicant and maintained that the provision of visitor parking was required in this particular area, which was unlike the inner-city areas of other similar facilities and the reliance upon other properties to accommodate parking was not acceptable. Instead, Council requested that the applicant provide the supportive data for review and consideration.

With respect to the provision of a compliant common living area, it was agreed that further work would be done by the applicant to resolve this issue and that any minor shortfall would be addressed by a request to vary the non-discretionary development standard under Clause 4.6.

Amended Plans and Documentation (19 May 2023)

Amended plans and supporting documentation was lodged with Council via the Planning Portal on 19 May 2023. The amendments and documentation include the following:

Architectural

- Amendment to the mix of room typologies including the introduction of 4 bed cluster units (achieved by reducing the number of 5 bed cluster units and increasing the number of studio rooms). The total number of rooms remains as originally proposed (i.e., 732), however the mix is amended as follows:

Room Type	Area (Net)	Number	Area (Net)	Number
	Original		Amended	
Type A – Standard Studio	12.0m ²	451	12.4m ²	451
Type B – Premium Studio	14.4m ²	81	14.6m ²	76
Type C – Standard Studio (Wide)	-	-	12.3m ²	18
Type D – DDA Ambulant Studio	15.3m ²	13	15.5m ²	13
Type E – DDA Ambulant Studio (Premium)	20.5m ²	-	20.6m ²	5
Type F – DDA Accessible Studio	23.7m ²	12	23.6m ²	12
Type G – 4 Bed Cluster Units	-	-	9.9m ²	72
Shared Living Area	-	-	22.2m ²	
Type H – 5 Bed Cluster Units	10.0m ²	175	9.9m ²	85
Shared Living Area	18.8m ²		22.2m ²	
Total		732		732

- Changes to the communal living areas include:
 - Conversion of the meeting room at ground level to a communal area.
 - Relocation of one communal student room per level within the Lachlan Avenue wing;
 - Increase to the communal living areas on the alternative levels of the Herring Road wing; and
 - Increase to the width (and area) of the communal living areas servicing the cluster units in the central spine.
- Increase to single occupancy unit (SOU) windows and refined solid panel detailing.
- Change of gable end brick materiality on the northern end of the Herring Road wing and the southern end of the Lachlan Avenue wing.
- Rationalisation of the fins applied to the crown element on Lachlan Avenue with additional detailed fins applied to the crown element over the gym on Herring Road.
- Revised Levels 2 to 8 planter box designs.
- Relocation of main switch board (MSB) room closer to the sub-station near Herring Road.
- Refinement to the plant and equipment rooms across the basement levels.
- Increase depth of the basement levels by 0.32m.
- Reconfiguration of the car parking arrangement and relocation of disabled spaces.
- Provision of solar panelling on the roof of the Herring Road wing and the Lachlan Avenue wing.

Landscape

- Additional planting detail plans.

Further Information

- Amended Operational Management Plan.
- Amended Clause 4.6 (Room Size).
- Amended Clause 4.6 (Height of Buildings).
- New Clause 4.6 (Communal Living Area).
- Car Parking Data:

- Visitor Travel Mode Study.
- Parking Comparison Table.
- Car Parking PBSA Fact Sheet.
- GENiUX EV (Electric Vehicle) Offer.

Additional Information (5 June 2023)

Clarification was sought on 29 May 2023 with respect to the car parking data provided in the amended plans and documentation package on 19 May 2023.

Further information was received on 5 June 2023 in response to Council's request.

Meeting (13 June 2023)

On 13 June 2023 a meeting was held with the applicant to discuss Council's position regarding the provision of car parking for the development, considering the data received on 19 May 2023 and further clarified on 5 June 2023.

At that meeting it was requested that the data provided be supplemented by documentation which summarises the method, data sample, factor values, and peak hour calculations used to determine the demand of visitor parking.

Additional Information (23 June 2023)

The documentation requested at the meeting of 13 June 2023 was submitted to Council for review and consideration.

5. THE PROPOSAL

The following describes the proposal as amended on 19 May 2023.

The application seeks consent for the following:

- *Demolition of the existing buildings and structures within the site.*
- *Construction of a part 9, part 13 and part 14 storey development comprising 17,163m² gross floor area with a mix of land use activities including:*
 - *Basement: 45 car parking spaces, 19 electric bicycle parking spaces, 78 bicycle parking spaces, waste management facilities and ancillary services and facilities.*
 - *Lower levels: building entries to Lachlan Avenue and Herring Road, 874m² of communal area including lounges, cinema, and communal laundry, 86m² office space and external open space.*
 - *Upper levels: student accommodation providing a total of 732 beds, including studios, 4 & 5-bed cluster units, internal communal spaces, and additional external communal areas on the roof.*
- *Landscaped courtyards (communal open space) at the ground level and rooftop terrace, including a swimming pool.*
- *Public domain improvements to Lachlan Avenue and Herring Road frontages, including footpath upgrades and the planting of 7 new street trees along Lachlan Avenue.*
- *Removal of 15 trees within the site and 4 street trees along Lachlan Avenue.*

In detail, the development will accommodate the following:

Basement Level B1a & B1b (RL 54.520 & RL 53.020)

- 34 car parking spaces.
- 1 shuttle bus park.
- Loading dock.
- Waste rooms.
- OSD and fire water tanks.
- Services.
- Lift core (2 lifts).
- Stairs.

Basement Level B0b (RL 56.020)

- 11 car parking spaces.
- 78 bicycle parking spaces (within dedicated storage room).
- 22 e-bike parking spaces.
- Parcel store.
- Stairs.

Lower Ground (RL 56.690)

- Entry lobby (off Lachlan Avenue).
- Reception.
- Work space.
- Meeting rooms & offices.
- Lift core (2 lifts).
- Stairs.
- 12 visitor bicycle parking spaces.

Level 00 (RL 59.750)

- Communal living area (common lounge/dining).
- Café.
- Work space.
- Cinema.
- Laundry.
- Amenities.
- 2 lift cores (4 lifts).
- Stairs.
- External communal open space areas to the north and south of the communal living area.

Level 01 (RL63.100 & RL 63.750)

- Communal living area.
- 59 rooms (plus 4 common living areas attached to cluster unit groups).
- Waste chutes.
- 2 lift cores.
- Stairs.
- 9 (approx.) visitor bicycle parking spaces.

Level 02 (RL 66.780)

- 2 communal living areas.
- 66 rooms (plus 4 common living areas attached to cluster unit groups).
- Services.
- 2 lift cores.
- Stairs.

Level 03 (RL 69.830)

- 66 rooms (plus 4 common living areas attached to cluster unit groups).
- Services.
- 2 lift cores.
- Stairs.

Level 04 (RL 72.880)

- 2 communal living areas.
- 66 rooms (plus 4 common living areas attached to cluster unit groups).
- Services.
- 2 lift cores.
- Stairs.

Level 05 (RL75.930)

- 66 rooms (plus 4 common living areas attached to cluster unit groups).
- Services.
- 2 lift cores.
- Stairs.

Level 06 (RL 78.980)

- 2 communal living areas.
- 66 rooms (plus 4 common living areas attached to cluster unit groups).
- Services.
- 2 lift cores.
- Stairs.

Level 07 (RL 82.030)

- 66 rooms (plus 4 common living areas attached to cluster unit groups).
- Services.
- 2 lift cores.
- Stairs.

Level 08 (RL 85.100)

- 2 communal living areas.
- 66 rooms (plus 4 common living areas attached to cluster unit groups).
- Services.
- 2 lift cores.
- Stairs.

Level 09 (RL 88.130)

- 61 rooms (plus 3 common living areas attached to cluster unit groups).
- Plant room.

- Services.
- 2 lift cores.
- Stairs.

Level 10 (RL 91.530)

- Gymnasium.
- Yoga room.
- 41 rooms.
- Roof top communal outdoor area (with swimming pool, decking, and landscaping).
- Services.
- 2 lift cores.
- Stairs.

Note: This level splits the building into two distinct 'book-end' towers facing Herring Road and Lachlan Avenue respectively.

Level 11 (RL 94.580)

- 42 rooms.
- Services.
- 2 lift cores.
- Stairs.

Level 12 (RL 97.630)

- 1 communal living area.
- 1 communal outdoor terrace.
- 48 rooms.
- Services.
- 2 lift cores.
- Stairs.

Level 13 (RL 100.680)

- 19 rooms (Herring Road wing).
- Roof top (Lachlan Avenue wing).
- Services.
- 2 lift cores.
- Stairs.

Roof (RL 103.750)

- Solar panel arrays.
- Hot water tank.
- Cooling towers.
- 2 lift overruns (RL 105.500 & RL 106.500).

Figure 18 below shows the site layout of the development.



Figure 18 – Site layout
Source: Landscape Plan LA-3.

Figure 19 below shows a typical floor layout as depicted for Level 02. Note that the cluster rooms are all located within the central spine of the building at each residential level.



Figure 19 – Typical floor plan.
Source: General Arrangement Plan Level 02 – DA2005 8.
Note: Sky blue = Standard Studio. Orange = Large Studio. Pink = Premium Studio. Dark Blue = Accessible Studio. Dark & light grey (central spine) = Cluster rooms.



Figure 20 – The development depicted from Herring Road (looking south-west towards Epping Road)
Source: Photomontage submitted with the amended application.

Figure 21 below shows the 3D representation of the development depicted from Herring Road.



Figure 21 – Representation of the proposed development from Herring Road.
Source: Plan DA0005 5.

The following table summarises the key numerical features of the development:

	Proposed	Required	Compliance
RLEP 2014			
Height ¹	47.36m	45m	No 5.2% (2.36m)
Floor Space Ratio	4.4:1 (17,163m ²)	4.0:1 (15,604m ²)	See SEPP Housing
SEPP Housing			
<u>Room Types</u>			
Type A – Standard Studio	451	N/A	N/A
Type B – Premium Studio	76		
Type C – Standard Studio Wide	18		
Type D – Ambulant Studio	13		
Type E – Ambulant Studio Premium	5		
Type F – Accessible Studio	12		
Type G – 4 Bed Cluster	72		
Type H – 5 Bed Cluster	85		
Total	732		
FSR (with 10% Bonus)	4.4:1 (17,164m ²)	4.4:1 (17,164m ²)	Yes
<u>Car Parking</u> ²			
Car Share (Resident use only)	19	147	No
Staff	2		
Visitors	18		
Disabled	5		
Shuttle	1		
Total	45 spaces	147 spaces	No 69.4% (102)
Communal Living Area	1,617.5m ²	1,482m ²	Yes
Communal Open Space	1,012.5m ²	780.3m ²	Yes
Room Size ³ (All single occupancy)	Type A – 12.4m ² Type B – 14.6m ² Type C – 12.3m ² Type D – 15.5m ² Type E – 20.6m ² Type F – 23.6m ² Type G – 9.9m ² Type H – 9.9m ²	12m ²	Yes Yes Yes Yes Yes Yes No 17.5% (-2.1m ²) No 17.5% (-2.1m ²)
External			
Tree Removal/Retention/Planting	<u>To be removed</u> 19 trees <u>To be retained</u> 25 trees <u>To be Planted</u> 79 trees	N/A	N/A

Notes:

1. The non-compliance to building height is addressed under Clause 4.3 and Clause 4.6 in 'Ryde Local Environmental Plan 2014' section of this report.
2. The non-compliance to car parking is addressed under Clause 68(2)(e) – Car Parking and Clause 4.6 in the 'State Environmental Planning Policy (Housing) 2021' section of this report.
3. The non-compliance to room size is addressed under Clause 69(1)(a) – Room Size and Clause 4.6 in the 'State Environmental Planning Policy (Housing) 2021' section of this report.

With respect to the number of trees to removed and retained, a review of Table A in the *Arboricultural Assessment Report* submitted with the application indicates that a total of 19 (43.2%) trees will be removed and 25 (56.8%) trees will be retained.

The landscape plans and planting schedule indicate that the development will include 111 replacement trees.

This following table provides a breakdown of tree removal/retention and replacement:

Location	To be Removed	To be Retained	Total	Replacement
On-Site				
• 163 Herring Road	5	9		
• 15 & 17 Lachlan Avenue	8	5		
• 21 Lachlan Avenue	1	1		104
Sub-Total On-Site	14	15	29	104
Off-Site				
• 161 Herring Road		2		
• 165 Herring Road		3		
• 23 Lachlan Avenue (see Note)	1*	5		
• Lachlan Avenue Street Verge	4	0		7
Sub-Total Off-Site	5	10	15	7
Total	19 (43.2%)	25 (56.8%)	44	111

Note: The removal of two trees on 23 Lachlan Avenue (identified as Tree 37 and comprising 2 x large leaved privet which is an exempt species) is proposed to be the subject of a separate development application for tree removal. A review of the plans reveal that Tree 37 is located at the north-western junction between 23 Lachlan Avenue, 165 Herring Road and the subject site. The plans indicate that the tree is situated 16.4m from the proposed excavation of the basement parking and will not be impacted by the development. Therefore, Tree 37 will not be required to be removed as part of this application.

The trees proposed to be removed comprise the following:

Tree No.	Species (Common Name)	Height (Estimated)
Lachlan Avenue Frontage		
1	Narrow Leafed Peppermint	11m
2	Liquidambar	13m
3	Scribbly Gum	6.5m
4	Weeping Bottlebrush	10.5m
Within the Site		
5	Lawson Cypress	8m
6	Grevillea Moonlight	1.8m
12	African Olive & Small Leaved Privet	8m
13	African Olive & Small Leaved Privet	8m
14	Grevillea Moonlight	1.8m
15	Camphor Laurel	7m
16	Southern Blue Gum	30+m
17	Spotted Gum	20+m
18	Monterey Cypress	6m
19	Bangalow Palm	14m
22	Bangalow Palm (tri-form)	3m, 6m & 9m
27	Prickly Paperbark & Weeping Bottlebrush	4.5m
28	Monterey Cypress	8m
29	Eucalyptus	19m
45	Cotoneaster	4m

Figure 22 below shows the location of the 4 street trees on Lachlan Avenue and trees within the site proposed for removal.

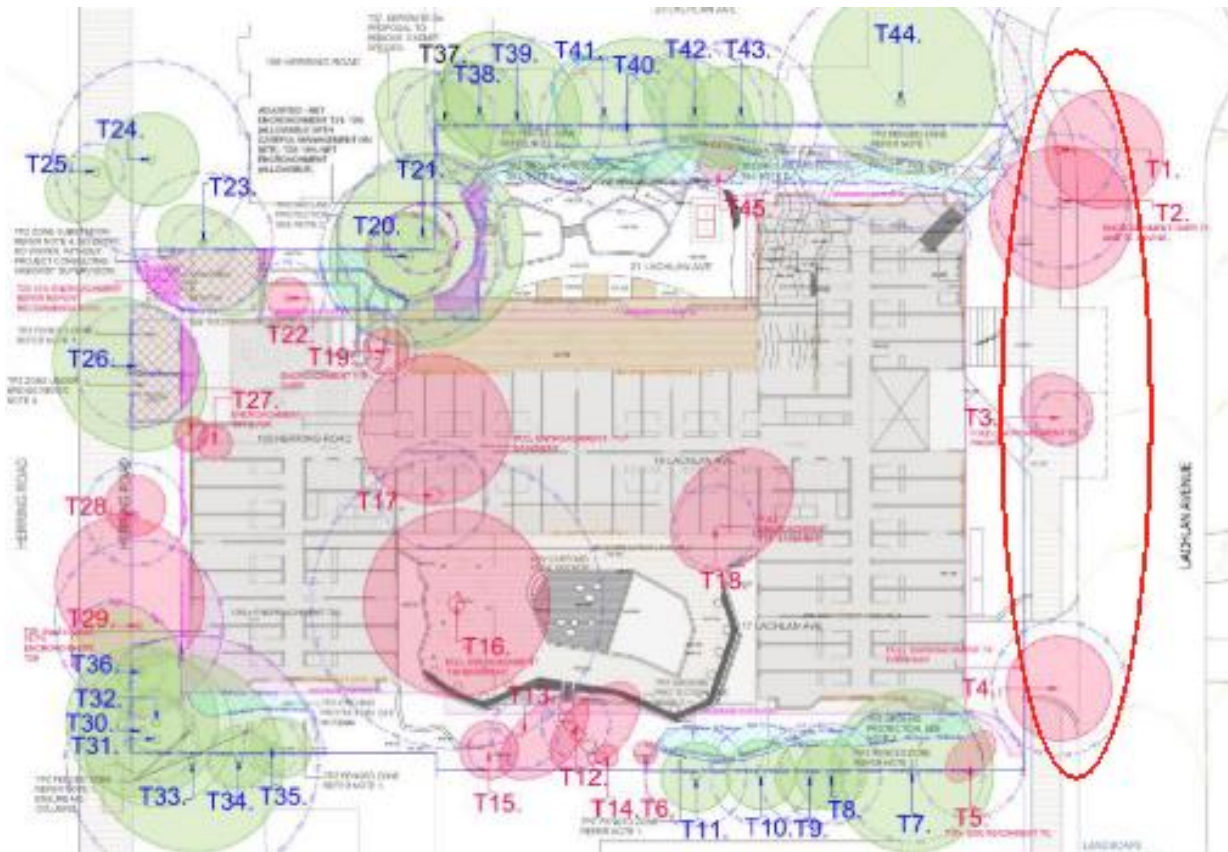


Figure 22 – Trees 1 to 4 on Lachlan Avenue ((other trees to be removed are shaded in red).

Source: Consulting Arboricultural Assessment Report prepared by Elke Landscape Architect.

6. PLANNING ASSESSMENT

The following planning instruments, policies and controls are relevant to the consideration of this development:

- Environmental Planning and Assessment Act 1979;
- Biodiversity Conservation Act 2016;
- 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 (Housing) 2021;
- State Environmental Planning Policy (Planning Systems) 2021;
- State Environmental Planning Policy (Resilience and Hazards) 2021;
- State Environmental Planning Policy (Transport and Infrastructure) 2021;
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (Apartment Design Guide);
- Ryde Local Environmental Plan 2014;
- Ryde Development Control Plan 2014; and
- Section 7.11 Contribution Plan.

6.1 Environmental Planning and Assessment Act 1979

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

6.2 Biodiversity Conservation Act 2016

The Biodiversity Conservation Act 2016 addresses the protection of native animals.

The local area accommodates Brush Turkeys which are protected under the Act.

It is noted that the Brush Turkeys appear to travel between Elouera Reserve (to the north-east of the subject site) and Quandong Reserve (to the south-east of the subject site) and have been observed as occasionally foraging on-route at various locations, including the front yard of the subject site.

The locations of Elouera Reserve and Quandong Reserve in relation to the subject site can be seen in **Figure 23** below.

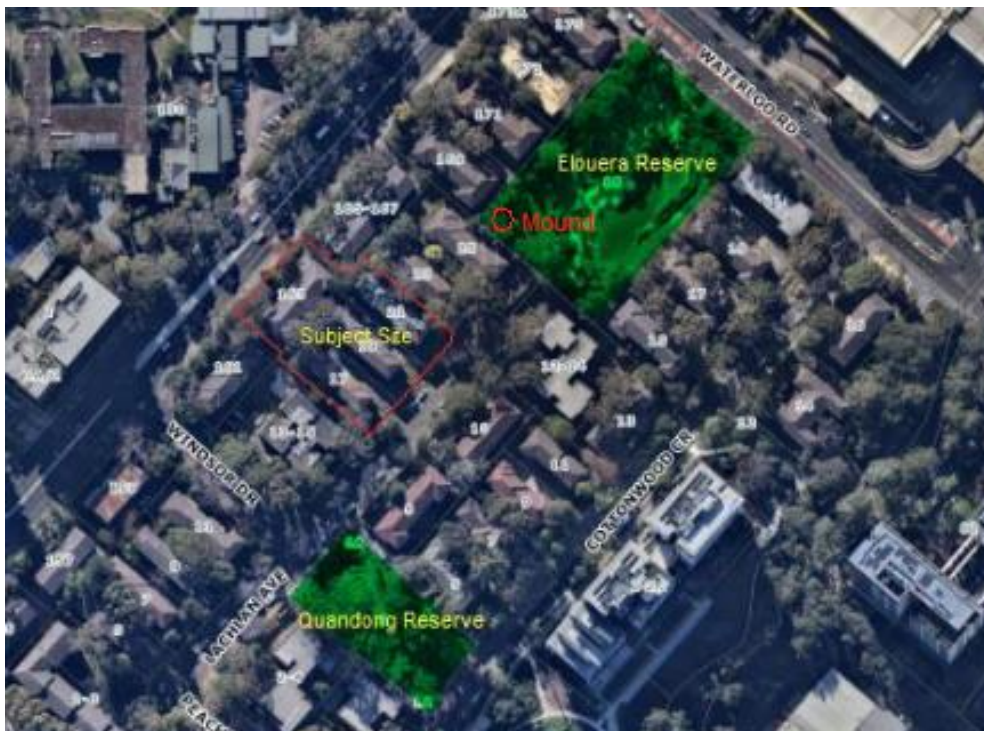


Figure 23 – Locations of Elouera Reserve and Quandong Reserve (subject site in red).
Source: City of Ryde mapping.

A mound was located on Elouera Reserve (see **Figure 23** above), but no mounds were found on the subject site, and it therefore considered that the subject site does not provide a habitat location.

Figure 24 below shows the habitat mound at the south-western corner of Elouera Reserve.



Figure 24 – Brush Turkey mound at Elouera Reserve (see also **Figure 23**)

In this respect, and given the adaptable nature of Brush Turkeys, it is anticipated that the site will be avoided once construction fencing is installed and that this will not disrupt the foraging patterns and habitat of the local Brush Turkey population.

6.3 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 co-living development and associated car parking.

6.4 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 has been considered by Council's consulting Landscape Architect and no objection was raised regarding the removal of vegetation subject to conditions (see **Conditions 21, 22, 23, 26, 35, 36, 77, 89, 90, 101 to 104, 119, 131 and 132**).

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, except for 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.

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

The development is excluded from consideration under the SEPP pursuant to the Environmental Planning and Assessment Regulation 2021 which, under Schedule 7 Dictionary states that a:

“BASIX building means a building that contains at least 1 dwelling, but does not include the following:

- a) hotel or motel accommodation, or*
- b) a boarding house, hostel, or **co-living housing** that:*
 - i. accommodates more than 12 residents, or*
 - ii. has a gross floor area exceeding 300 square metres”.*

The development is for co-living housing that accommodates more than 12 residents and has a gross floor area exceeding 300m².

Therefore, the development is not defined as a BASIX building.

Notwithstanding, in lieu of a BASIX Certificate, and for the purposes of understanding the performance of the building in context to BASIX criteria, the application is accompanied by a statement (*“BASIX Draft Pathway Summary”*) prepared by Northrop and dated 17 November 2022 which notes that the completed development would have the following BASIX scores:

Requirement	Target Score	Provided Score
Water	40	46
Thermal Comfort	Pass	Pass
Energy	25	39

Because the development is excluded from BASIX, the letter provided by Northrop is not included as a condition of consent, nor is any condition included which refers to BASIX.

The application is also accompanied by an *Ecologically Sustainable Design (ESD) and Greenhouse Gas Emissions Assessment* prepared by Northrop.

The report provides an overview of the ESD principles and greenhouse gas emissions and energy efficiency measures that will be implemented in the construction of the development.

In response to Part 7.1 (specifically Clause 7.1.1.5) of the Ryde Development Control Plan 2014, specific sustainability initiatives proposed for the development include:

- Energy Efficiency.
- On-site Renewable Energy.
- Indoor Environment Quality.
- Water Efficiency.
- Improved Ecology.
- Waste Management.
- Green Infrastructure.

6.6 State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Housing) 2021 was gazetted 26 November 2021.

The SEPP aims to encourage more affordable and diverse housing and consolidates and repeals the following five existing State Environmental Planning Policies:

- State Environmental Planning Policy (Affordable Rental Housing) 2009.
- State Environmental Planning Policy (Housing for Seniors and People with a Disability) 2004.
- State Environmental Planning Policy No. 70 – Affordable Housing (Revised Schemes).
- State Environmental Planning Policy No. 21 – Caravan Parks.
- State Environmental Planning Policy No. 36 – Manufactured Home Estates.

Principles of the Policy

The principles of the SEPP are to:

- Enable the development of diverse housing types, including purpose-built rental housing.*
- Encourage the development of housing that will meet the needs of more vulnerable members of the community, including very low to moderate income households, seniors and people with a disability.*
- Ensure new housing development provides residents with a reasonable level of amenity.*
- Promote the planning and delivery of housing in locations where it will make good use of existing and planned infrastructure and services.*
- Minimise adverse climate and environmental impacts of new housing development.*
- Reinforce the importance of designing housing in a way that reflects and enhances its locality.*

- g) *Support short-term rental accommodation as a home-sharing activity and contributor to local economies, while managing the social and environmental impacts from this use.*
- h) *Mitigate the loss of existing affordable rental housing.*

Chapter 3 – Diverse Housing

The use is identified as co-living housing under Chapter 3, Part 3 of the SEPP.

Co-living housing is permitted in zones where residential flat buildings and/or shop top housing are permitted.

Co-living housing is not defined under the SEPP (or the Standard Instrument). Clause 67 of the SEPP only notes as an example that co-living housing *may* be used as off-campus student accommodation. Therefore, to prevent the development being used for any other undefined purpose, a condition is included in the draft consent which restricts the use of the development to off-campus student accommodation only (see **Condition 2**).

The site is located with the MU1 Mixed Use zone where residential flat buildings and shop top housing are permitted with consent. Therefore, the subject development (co-living housing) is permitted with consent in the zone.

The following table provides an assessment of the development (as amended) against the applicable provisions of the SEPP:

Permitted	Proposed	Compliance
Clause 67 - Co-living housing may be carried out on certain land with consent		
Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument.	The site is located within the MU1 Mixed Use zone. Shop Top Housing and Residential Flat Buildings are permitted with consent.	Yes
Note: Co-living housing may be used as off-campus student accommodation.	The development proposes off-campus student accommodation.	Yes
Clause 68 - Non-discretionary development standards		
(2)(a) For development in a zone in which residential flat buildings are permitted - a floor space ratio that is not more than: i. the maximum permissible floor space ratio for residential accommodation on the land, ii. an additional 10% of the maximum permissible floor space ratio if the additional floor space is used only for the purposes of co-living housing,	Residential flat buildings are an innominate use and are permitted in this zone. Therefore, this clause applies: FSR (LEP): 4.0:1 (15,604m ²) FSR (SEPP): 4.4:1 (17,164m ²) Proposed: 4.4:1 (17,164m ²)	Yes
(2)(b) Not applicable (more than 6 rooms)	No comment.	N/A
(2)(c) For co-living housing containing more than 6 private rooms: i. a total of at least 30m ² of communal living area plus at least a further 2m ²	Required: 1,482m ² Provided: 1,536.9m ² (excluding kitchen in common room) Note:	Yes

Permitted	Proposed	Compliance
for each private room in excess of 6 private rooms, and ii. minimum dimensions of 3m for each communal living area,	Private rooms = 732 less 6 = 726. Therefore, $2.0\text{m}^2 \times 726 = 1,452\text{m}^2 + 30\text{m}^2 = 1,482\text{m}^2$.	
(2)(d) Communal open spaces: i. with a total area of at least 20% of the site area, and ii. each with minimum dimensions of 3m,	Site Area: 3,901.6m ² Required: 780.3m ² (20%) Provided: 1,012.5m ² (26%)	Yes
(2)(e) Unless a relevant planning instrument specifies a lower number: i. for development on land in an accessible area - 0.2 parking spaces for each private room.	Private Rooms: 732 Required: 147 spaces Provided: 45 spaces Difference: -102 spaces	No Supported via Clause 4.6 variation. (Refer to separate discussion after this table)
Clause 69 - Standards for co-living housing		
(1) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority is satisfied that:		
a) Each private room has a floor area, excluding an area, if any, used for the purposes of private kitchen or bathroom facilities, that is not more than 25m ² and not less than: i. for a private room intended to be used by a single occupant - 12m ² , or ii. otherwise - 16m ²	The applicant has advised that all private rooms are intended to be used by a single occupant only. <ul style="list-style-type: none"> Cluster Room: 9.9m² Studio (Standard A): 12.4m² Studio (Standard Wide): 12.3m² Studio (Premium E): 20.6m² Studio (Premium B): 14.6m² Studio (Ambulant D): 20.6m² Studio (DDA F): 23.6m² 	No Supported via Clause 4.6 variation. No* Yes Yes Yes Yes Yes Yes *Refer to separate discussion after this table
b) The minimum lot size for the co-living housing is not less than: i. for development on land in Zone R2 Low Density Residential - 600m ² , or ii. for development on other land - 800m ² .	Lot size: 3,901m ²	Yes
(c) Not applicable (R2 zone only)	No comment.	N/A
(d) The co-living housing will contain an appropriate workspace for the manager, either within the communal living area or in a separate space.	The development includes sufficient space at the ground level entry/reception area.	Yes
(e) Not applicable (Business zone only)	No comment.	N/A
(f) Adequate bathroom, laundry and kitchen facilities will be available within the co-living housing for the use of each occupant.	The development includes bathrooms within each room as well as within the gymnasium. Communal kitchens are located through the building servicing the	Yes

Permitted	Proposed	Compliance
	<p>ground floor and in each communal living area adjacent to cluster-room groups. Private kitchens are provided in larger studio rooms.</p> <p>A communal laundry is provided at the ground floor level.</p>	
(g) Each private room will be used by no more than 2 occupants	Each room is to be single occupancy only. See Condition 2.	Yes Subject to condition
(h) The co-living housing will include adequate bicycle and motorcycle parking spaces	<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> <p>It is noted that the SEPP has removed the numerical requirement for motorcycles under the Boarding House category – instead requiring ‘adequate’ provision.</p> <p>The Transport Impact Assessment submitted with the application states:</p> <p><i>“There will be no motorcycle parking provided as a part of the development as the provision of motorcycle parking is inconsistent with the Ryde Integrated Transport Strategy which sets a target of reducing private vehicle usage to 40 per cent in Macquarie Park by 2041 from its current levels. Motorcycles are single</i></p>	Yes

Permitted	Proposed	Compliance
	<p><i>occupant vehicles that take up similar road space to other vehicles in the Australian context. They also have higher levels of emissions (CO2 and local air quality) than small cars (and E-bikes) and are inconsistent with the applicant's goals of having an emissions free development that can be marketed as a green alternative to other residential options for students".</i></p> <p>The Operational Management Plan submitted with the application goes on to state:</p> <p><i>"A managed fleet of dedicated EVs will be operated at the facility. Vehicle types will be distributed to meet demand and will include a range of fully electric cars and bicycles. Traditional bicycles will also be available.</i></p> <p><i>The vehicles will be available for the exclusive use of facility residents and will be managed by the operator via an online booking system or in-person at reception. Vehicles will be available on a 'user-pays' basis with precedent conditions for use being similar to traditional self-drive car hire".</i></p> <p>The development provides 19 shared E-Bike parking spaces and 3 motorbike parking spaces within the basement car park. Using the same parking rate applied to car share (i.e., 1 car share space is equivalent to 8 normal parking space) this would be equivalent to the provision of 152 motorbike parking spaces (19 x 8). The additional 3 private motorbike spaces would result in the equivalent provision of 155 motorbike parking spaces.</p> <p>It is expected that the limitation imposed in the Operational Management Plan regarding the ownership of private vehicles will encourage residents to use public transport, bicycles, shared E-bikes and/or on-site car share vehicles. In this respect, the provision of 19 spaces for E-Bikes and 3 spaces for motorbikes is adequate in this particular circumstance.</p>	

Permitted	Proposed	Compliance
(2) Development consent must not be granted for development for the purposes of co-living housing unless the consent authority considers whether:		
(a) The front, side and rear setbacks for the co-living housing are not less than: i. for development on land in Zone R2 Low Density Residential or Zone R3 Medium Density Residential—the minimum setback requirements for multi dwelling housing under a relevant planning instrument, or ii. for development on land in Zone R4 High Density Residential—the minimum setback requirements for residential flat buildings under a relevant planning instrument.	The site is not located in a R2, R3 or R4 zone.	N/A
(b) If the co-living housing has at least 3 storeys - the building will comply with the minimum building separation distances specified in the Apartment Design Guide (ADG).	This matter is addressed separately after this table. See Conditions 1(a) and 1(b) .	Yes Subject to conditions
(c) At least 3 hours of direct solar access will be provided between 9am and 3pm at mid-winter in at least one (1) communal living area.	The development provides communal living areas at multiple levels which facilitate sunlight access through the day for at least 3 hours on 21 June. The main communal living area at the ground floor level is sited within the central spine of the building. The shadow diagrams submitted with the application indicate that this communal living area will have access to direct sunlight for 5 hours between 9am and 3pm on 21 June. Considering the possibility of 165-167 Herring Road being developed in the future, direct sunlight access to this area will potentially reduce to 2 hours pending the design of that particular development in which case, the subject development includes communal living areas at multiple levels which will continue to receive direct sunlight access for the prescribed time (given their elevation).	Yes
(d) Repealed	No comment.	N/A
(e) The design of the building will be compatible with: i. the desirable elements of the character of the local area, or ii. for precincts undergoing transition - the desired future character of the precinct	Macquarie Park is undergoing significant transition in response to State driven initiatives to establish the Park as key economic and innovation precinct. The area in which the subject application is located is noted by the increased level of mixed-use development (notably along Herring Road), all of which are consistent with the development standards and	Yes

Permitted	Proposed	Compliance
	controls established for the zone. The development is entirely consistent with the desired future character established within the zone.	

6.6.1 Clause 68 (Non-Discretionary Development Standards)

Clause 68 contains non-discretionary development standards specific to co-living housing.

With respect to the identified non-compliances, Section 4.15(3) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) specifically addresses non-compliances to non-discretionary development standards and states:

“If an environmental planning instrument or a regulation contains non-discretionary development standards and development the subject of a development application does not comply with those standards:

- a) subsection (2) does not apply [subsection 2 refers to development which does comply with a non-discretionary development standard] and the discretion of the consent authority under this section and section 4.16 is not limited as referred to in that subsection, and*
- b) a provision of an environmental planning instrument that allows flexibility in the application of a development standard may be applied to the non-discretionary development standard”.*

Point (b) above refers to a provision of an environmental planning instrument which allows flexibility in the application of a development standard and is taken to mean a request to vary the standard via Clause 4.6 of the Standard Instrument (being the *Ryde Local Environmental Plan 2014* (RLEP 2014)).

Therefore, subject to Clause 4.15(3) of the EP&A Act, the applicant has submitted a request to vary the non-discretionary development standard (being Clause 68(2)(e) – Car Parking) via the provision of Clause 4.6 of the Standard Instrument as follows:

6.6.1.1 - Clause 68(2)(e) (Car Parking)

The assessment has found that the development does not comply Clause 68(2)(e) – Car Parking as follows:

Standard	Required	Proposed	Variation
Clause 68(2)(e) – Car Parking	147 spaces	45 spaces	69.4% (-102 spaces)

Car parking is allocated as follows:

User	Number
Car Share (Resident Use Only)	19
Staff	2

User	Number
Visitors	18
Disabled	5
Shuttle Service	1
Total On-Site Parking	45

The Clause 4.6 request is at **Attachment 3** of this report.

Clause 4.6 – Exceptions to Development Standards

The following assessment of the variation to Clause 68(2)(e) non-discretionary development standard of the SEPP (Housing), 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

The non-discretionary development standard under Clause 68(2)(e) of SEPP (Housing) 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 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. This is discussed in greater detail under Public Interest.

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

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.*

The applicants written request states that:

“There are sufficient environmental planning grounds to justify contravening the development standard, given the following:

- *Ryde Council holds a policy position to minimise traffic impacts in Macquarie Park. Part 4.5 Macquarie Park Corridor of the RDCP 2014 includes the following objectives for sustainable travel in Macquarie Park:*
 - i. *“To minimise rates of private vehicle use for commuters and business (particularly lone driver) trips and achieve a transport modal shift target of 40% public transport/60% private transport use for the journey to work in particular.*
 - ii. *To support public transport, car-sharing, car-pooling, walking, taxi, and bicycle users by enhancing amenities and infrastructure.*
 - iii. *To more effectively manage the use of private vehicle trips and parking within the area.*
 - iv. *Reduce congestion and the cumulative impacts of vehicle emissions upon air quality.”*

The reduced provision of on-site parking within the development strongly supports these objectives given:

- *Students using public or active transport for their journey to work is well supported by existing green travel network. As outlined in the Green Travel Plan, 81% of students living on or near the Macquarie University Campus use a green travel option to commute to work based on the 2016 data from the Australian Bureau of Statistics (ABS).*

In addition, the top employment locations for students living in Macquarie Park are very well serviced by existing public transport. Based on the 2016 ABS data, the vast majority of local students work within the Macquarie Park – Marsfield statistical area (SA2), reflective of the high mode share of walking to work. The following two highest destinations (Sydney – Haymarket – The Rocks and Chatswood (East) – Artarmon) are areas that are very well connected by public

transport to Macquarie Park. During peak periods, the Macquarie University Metro Station has services every 4 minutes in both directions to these locations.

- *Reducing the dependence on private vehicle trips and the subsequent need for parking by providing no resident parking and taking advantage of the existing green travel network.*
- *Having no resident vehicle trips generated by the proposed development will result in a negligible impact on vehicle emissions and air quality.*
- *While there may be some demand for resident vehicle trips, these are anticipated to be limited due to the high level of green travel accessibility to employment, amenities, services and education by non-car modes. The limited demand for vehicle trips can be catered for by the 19 car share vehicles and 19 electric bike share spaces provided in the basement of the development.*
- *As outlined in the Council Assessment Report for the approved development at 23-25 Lachlan Avenue (LDA2021/0138), the Herring Road / Waterloo Road intersection is already approaching capacity:*

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

As indicated in the assessment report for the adjacent site, traffic on the surrounding local roads will significantly increase with the existing approved developments in the surrounding area, resulting in adverse impacts on the surrounding roads and intersections, especially along Waterloo and Herring Roads. The proposed development will result in limited vehicle trip generation, with trips only generated by car share usage, staff and visitors. This will result in a negligible traffic impact on the surrounding roads as there will be a limited number of trips and they will likely occur outside of the peak period.

- *Strict compliance with the car parking standard would prejudice the development’s ability to achieve the objects of the Environmental Planning and Assessment Act 1979 (EP&A Act) as outlined below:*
 - *The provision of 147 car parking spaces as recommended by the Housing SEPP would require a significant amount of basement floor space, where there is no demonstrated demand for such parking.*
 - *It will adversely impact the financial viability of the development and therefore the orderly and economic use and development of the land. Increased parking would require additional basement excavation, which the Applicant (in*

- consultation with the quantity surveyors) has estimated would contribute a further \$10 million in construction costs).*
- *The increased basement footprint would significantly reduce the available area for deep soil (currently proposed at 41.6%) and potentially intercept groundwater, which does not foster good design and amenity of the built environment.*
 - *The cost of the additional car parking would need to be passed onto residents and would therefore impact on the delivery of affordable housing for tertiary students.*
 - *The excessive on-site parking would not promote alternate green modes of travel, including walking, cycling and public transport.*
 - *It will constrain the ability to develop the site for purpose-built student accommodation (PBSA), which in turn frees up demand for conventional housing stock in the Macquarie Park area, improving housing affordability.*
 - *The development is consistent with the objectives of the MU1 Mixed Use Zone.*

In conclusion, the proposal offers a positive planning benefit through the provision of green travel options and reduced car dependency, and there are sufficient environmental planning grounds to justify the non-compliance of the development standard”.

Comment

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 section 3(c) and (g) of the EP&A Act.

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

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

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

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

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

Comment

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

Objectives of the standard

The objectives of the standard, pursuant to *Clause 68(2)(e) – Car Parking* of SEPP (Housing) are:

- a) To ensure that adequate car parking is provided on site to satisfy the parking demands of co-living housing.**

In the request the applicant states:

“It is important to note the intent of the Housing SEPP is to facilitate the increased supply and diversity of affordable rental and social housing in NSW. Whilst by default the proposed PBSA development is considered co-living housing and therefore subject to the provisions under the Housing SEPP, the profile of student residents anticipated to be living at the site is very different to the profile of residents anticipated to live in co-living housing operated privately or by a social housing provider. Accordingly, the demand for resident and visitor on site car parking associated with PBSA in metropolitan locations may vary.

Consistent with PBSA industry experience, there will be no dedicated private car parking for residents within the development, with parking provided in the form of car share spaces. Most PBSA facilities in Sydney, including those not within close proximity to high-frequency train services, do not provide car parking for residents due to a lack of need or demand from international students that mostly utilise these facilities. This has been widely accepted by various consent authorities including the regional planning panels, City of Sydney, Randwick City Council, Willoughby City Council and DPE.

*A recent Property Council of Australia (PCA) report dated November 2022 (titled *The Unsung Hero Underpinning Australia’s Largest Service Export, Purpose Built Student Accommodation*) found that on average 43 per cent of student residents at PBSA were overseas students of non-English speaking background (noting 21 per cent were listed in the ‘other countries’ category, likely resulting in a higher true number) and only 26 per cent of residents were domestic students. All international students would need to purchase a car in Australia and go through the subsequent registration and license transfer process. This is a significant barrier to car ownership likely resulting in these residents not owning a car, resulting in a limited market for PBSA with car parking.*

Having regard to this PCA fact sheet, the proposed variation to the parking requirement is justified due to the following:

- *Students typically rely on public transportation, bikes or walking to and from campus and their accommodation.*
- *The proposal encourages sustainable form of transport through increased use of public transport facilities located within walking distance from the site.*
- *As highlighted above, international students who live in PBSA typically have less interest in car ownership.*
- *The reduction in car parking allows the proposal to achieve lower carbon emissions.*

- *Maintaining and building under-utilised car parking is expensive and will be reflected on the residents in increased rental prices, therefore making the development unaffordable for students. The reduction in car parking will keep the cost for residents down and allow for steady supply of housing for students that meets their budgetary needs.*

Recognising the limited demand for resident parking and high level of green travel accessibility to employment, amenities, services and education by non-car modes, the proposal provides the following parking within the development:

- *45 vehicle parking spaces which are to be allocated as follows:*
 - *19 electric vehicle car share spaces for residents only.*
 - *2 car spaces for staff.*
 - *18 car spaces for visitors.*
 - *5 disabled spaces.*
 - *A car space designated for the site shuttle service.*
- *146 bicycle spaces are provided for residents and 12 bicycle spaces for visitors.*
- *19 shared electric bicycle spaces.*
- *3 motorcycle parking spaces.*

As acknowledged by Ryde Council in the Request for Information (RFI) dated 4 April 2023, based on a first principles approach, one car share space is widely recognised in the industry as the equivalent of eight resident spaces. The proposal includes 19 car share spaces for residents only and therefore equates to 152 resident parking spaces. A further 25 car spaces (including five disabled spaces) are proposed for staff and visitors to the site and one space for the site shuttle service. This represents a surplus of 31 spaces above the 147 car parking spaces required by clause 68(2)(e)(i) of the Housing SEPP.

To understand the likely demand for on-site visitor parking, a Human Movement Data (HMD) Analysis was prepared by Urbis to investigate the method of travel for visitors to different PBSA developments across Sydney in a pre- and post-COVID-19 context. The research confirms that visitor car parking demands associated with PBSA is extremely low and that the proposed allocation of eight parking spaces for visitors is likely to be significantly higher than required at virtually all times of the day. The allocation of 18 parking spaces within the basement for visitors greatly exceeds the expected demand from visitors and on this basis, it is likely to be heavily under-utilised”.

Comment

The required provision of on-site car parking equates to 147 spaces (being 0.2 space per private room). The development provides for 45 spaces which is 102 spaces deficient, and which represents a variation of 69.4%.

Despite this deficiency, it is acknowledged that the Co-Living (and ‘student accommodation’ specifically) category is new, broad-ranging, and that there is no direct source of information available to corroborate the strict applicability of the SEPP requirement. This has been particularly evident when considering different parking provisions applied in various locations and by other local government authorities (LGAs) across the Sydney metropolitan area. This is also compounded by the fact that most

approved student accommodation facilities were consented to as boarding houses under the previous (and now repealed) *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

Therefore, in addressing what constitutes 'adequate car parking' has been considered against the unique context of Macquarie Park and not other LGAs. This is especially relevant to the location of the development and its potential impact upon the local road network given the significant scale of major development occurring in the immediate vicinity of the subject site.

The applicant, at lodgement, proposed the provision of 45 parking spaces which included 19 residential car share spaces and 18 visitor spaces. Given the lack of data at the time, this was initially disputed as being too low and concern was raised regarding on-street parking impact upon Lachlan Avenue due to resident and visitor overspill.

The subsequent provision of detailed data by the applicant has since satisfied Council that the proposed parking is acceptable such that adequate car parking will be provided on-site to satisfy the parking demands of this particular type of development in Macquarie Park.

The development is therefore considered to satisfy this objective.

b) Promote alternate forms of transport to “make good use of existing and planned infrastructure and services”.

In the request the applicant states:

“The site is within 400m of the Macquarie University Metro Station (4-minute walk), Macquarie Shopping Centre and bus interchange (6-minute walk) and within 800m of the Macquarie Park CBD (8-minute walk) and Macquarie University Campus Central (11-minute walk). All of these destinations are well connected by existing pedestrian infrastructure. The metro services allow for extensive access across Sydney, whilst the bus routes from the Macquarie Centre and Herring Road connect to the Sydney CBD, Parramatta, Ryde, Gladesville, The Hills region, St Ives, Mona Vale and Chatswood.

The Macquarie Centre is a major retail centre that will meet the daily retail needs of residents including groceries, banking and medical services. The Macquarie Centre is only 360m walk from the site. There is also an abundance of social and recreational destinations that are accessible by walking or public transport.

Having regard to the above, the proposal intends to capitalise on existing infrastructure and encourage the use of alternate forms of transport as outlined in the Green Travel Plan. Key initiatives include:

- *Developing a Transport Access Guide (TAG) for residents where they are given information on the available travel options.*
- *Providing the TAG to visitors by making it available on the Website.*
- *Displaying signage in a public area to remind residents of parking restrictions.*
- *Providing high-quality bicycle parking.*
- *Providing electric vehicle sharing schemes (car and bicycle) for residents.*

- *The Operational Management Plan states that as part of the lease agreement residents cannot bring a car or apply for a Council-issued parking permit.*

In summary, despite the non-compliance with the car parking requirement, the purpose of the standard can still be achieved as the proposal will adequately meet the parking demands for this type of co-living housing and will promote sustainable forms of transport”.

Comment

It is acknowledged that the site is located within proximity to the transport hub at Macquarie University/Shopping Centre and it is also noted that the use includes parking for car share, EV vehicles and bicycles, all of which are alternative and environmentally acceptable forms of transport.

It is also acknowledged that the development includes a Green Travel Plan which encourages the use of alternate forms of transport which discourages reliance on private vehicles and the issuing of parking permits.

In these respects, the development is considered to satisfy 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:

“While the proposal does not involve business, retail, office or light industrial uses, the future residents will be within walking distance of such uses. As such, the proposal will offer housing close to shops, services and employment opportunities”.

Comment

As noted elsewhere in this report, despite providing a residential function the use is a commercial activity and thus generates employment opportunities within the development as well as encouraging patronage of other external non-residential land uses in Macquarie Park which are local to the use (such as Macquarie Shopping Centre etc).

- ***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:

“All car parking is located within the basement of the development to maximise opportunities for active street frontages.

Given the highly accessible nature of the site, the proposal does not provide any dedicated car parking spaces for the residents and therefore promotes and

encourages public transport patronage, walking and cycling. These alternate forms of transport will attract pedestrian traffic around the site”.

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 development comprises student accommodation that is compatible with the surrounding residential and educational uses in the surrounding area. The proposal is suitably located near public transport, including the Macquarie University Metro Station and the bus interchange at Macquarie Shopping Centre.

The reduced provision of car parking within the site will not impact on surrounding residential properties and the availability of on-street parking in Lachlan Avenue. As highlighted previously, the research undertaken by Urbis confirms the PBSA industry experience where demand for resident and visitor on site car parking in metropolitan locations is negligible”.

Comment

The data provided by the applicant, and subsequently reviewed by Council, indicates that impact upon the local road network will be minimal given the proposed provision of parking on the site for off-campus student accommodation.

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

In the request the applicant states:

“The street level entries include communal spaces and the main office area (to Lachlan Avenue), which will active the street frontages and facilitate passive surveillance of the adjoining streetscapes”.

Comment

Despite its residential function, the development is rated as a commercial activity as it operates in a similar manner to a boarding house rather than a residential flat building. In this respect, the activities which are located at the ground floor level are entirely commercially based.

This assessment has noted that the site is not located within the Macquarie Park Station Macquarie University Station Activity Precinct as identified in the Ryde Development Control Plan 2014. As such, continuous ground level active uses are not required.

Notwithstanding, it is agreed that the development will provide an active street frontage to both Herring Road and Lachlan Avenue through the provision of the main reception

entry (Lachlan Avenue) and the secondary entry (Herring Road) – both of which provide active outdoor gathering spaces.

- ***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 proposal provides student accommodation within a highly accessible location to support Macquarie University and other local businesses.

While the proposal will not deliver business activities, the future residents will benefit from the site’s proximity to employment and educational activities in the immediate area”.

Comment

This objective is not relevant to the proposal as the site is not located within the Macquarie University campus.

Notwithstanding, as discussed in the objective below, the development will provide a strong link between Macquarie University and research institutions and businesses in the Macquarie Park corridor such that it will facilitate integration between Macquarie University and other businesses and activities in Macquarie Park.

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

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

“The proposal involves high-quality accommodation for tertiary students that is integrated with the surrounding educational and research activities, retail and business services and public transport. The proposal is therefore consistent with this objective and will deliver a compatible complementary land use within the Macquarie Park corridor”.

Comment

Although not directly aligned to Macquarie University as a housing provider, the provision of student accommodation is clearly in support of students attending the university. The development provides a residential base for students to engage in studies while having an opportunity to pursue employment within the Macquarie Park corridor.

In this respect, the development provides a strong link between Macquarie University and research institutions and businesses in the Macquarie Park corridor.

Conclusion

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 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 of Clause 68(2)(e) non-discretionary development standard under the SEPP (Housing) is assumed.

Conclusion to consideration to the request to vary Clause 68(2)(e)

Given the above, it is considered that the development satisfies the various objectives of the non-discretionary development standard and the zone and provides sufficient environmental planning grounds to justify the request to vary the standard. In this regard, the variation may be supported.

6.6.2 - Clause 69 (Standards for Co-Living Housing)

Clause 69 contains development standards specific to co-living housing and is divided into two sub-sections (being s.69(1) and s.69(2)).

Clause 69(1) stipulates that “*development consent must not be granted for development for the purposes of co-living housing **unless the consent authority is satisfied that...***”

As this clause requires the consent authority to be satisfied, a variation to room size is sought pursuant to Clause 4.6 (see **Section 6.6.2.1**).

Clause 69(2) stipulates that “*development consent must not be granted for development for the purposes of co-living housing **unless the consent authority considers whether...***”

As this clause only requires the consent authority to consider whether the development complies with the ADG, a variation pursuant to Clause 4.6 is not required and this matter is discussed in detail in **Section 6.6.2.2**).

6.6.2.1 Clause 69(1)(a) (Room Size)

The assessment has found that the development does not comply with Clause 69(1)(a) – Room Size.

Therefore, the applicant has submitted a request to vary the development standard via the provision of Clause 4.6 of the Standard Instrument as follows:

Standard	Permitted	Proposed	Variation
Clause 69(1)(a) – Room Size	Private Room: 12m ²	Cluster Room: 9.9m ²	17.5% (-2.1m ²)

The Clause 4.6 request is at **Attachment 4** of this report.

Figure 25 below shows the non-compliant rooms, in this instance designated as cluster rooms. Cluster rooms are a series of four or five private rooms which collectively share a common living room which includes a lounge area, kitchen, and dining area.

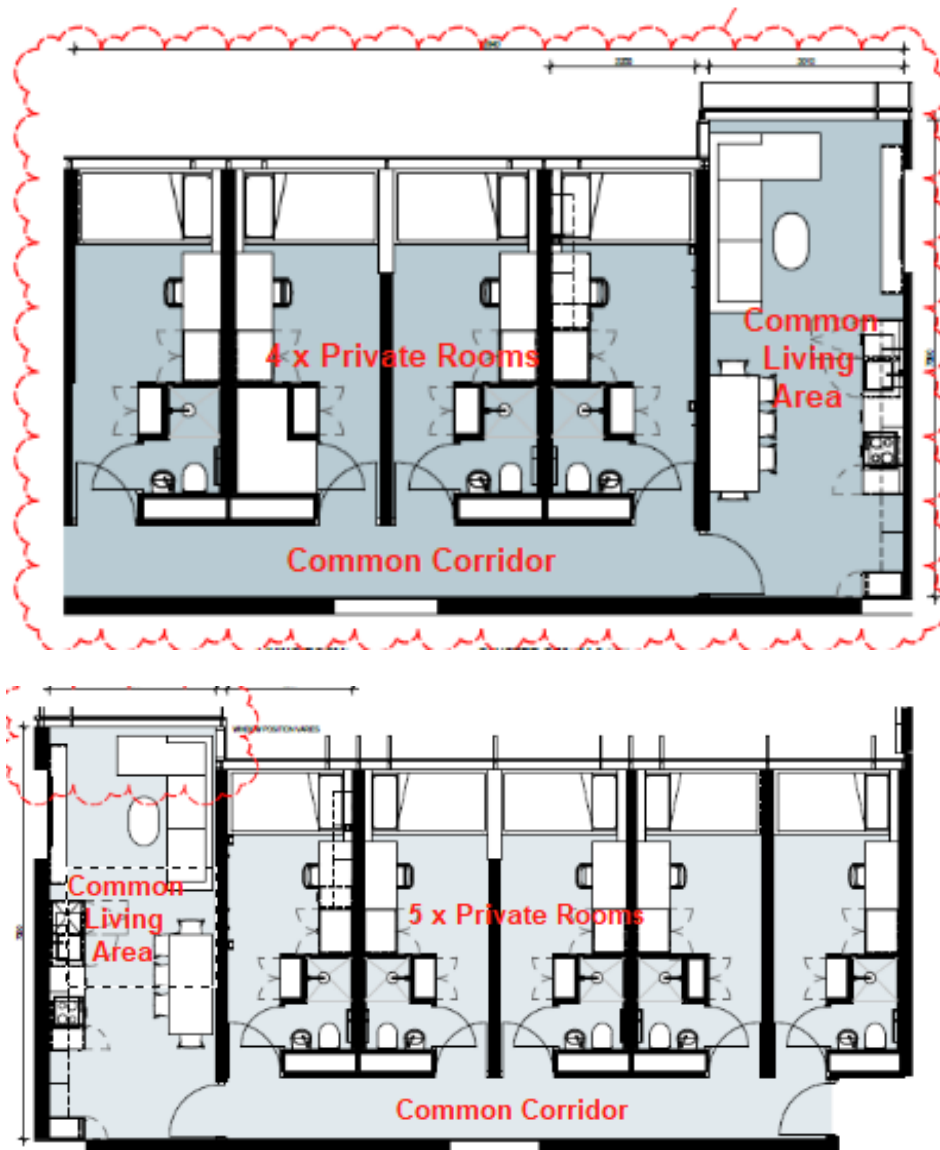


Figure 25 – Four- and five-bedroom cluster units.

Source: Plan DA5101 Rev 6) dated 18 May 2023 as prepared by AJC.

Clause 4.6 – Exceptions to Development Standards

The following assessment of the variation to Clause 69(1)(a) development standard of the SEPP (Housing), 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

The non-discretionary development standard under Clause 69(1)(a) of SEPP (Housing) 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:

- c) *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. This is discussed in greater detail under Public Interest.

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

d) 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.

The applicant's written request states:

“There is an absence of environmental harm arising from the contravention and positive planning benefits arising from the proposed development as outlined in detail above. These include:

- The development achieves the underlying objective of the development standard as the cluster room sizes will be able to provide at least 12m² per resident with the inclusion of the shared living area within each unit. As such, strict compliance with the development standard is not considered necessary.*
- Cluster rooms involving private rooms less than 12m² have been readily accepted by consent authorities to date, including the recently approved development at 23-25 Lachlan Avenue.*
- The provision of multi-bed clusters contributes to the diversity of purpose-built accommodation for students and will contribute positively to housing affordability around Macquarie University and the Herring Road Priority Precinct by freeing up demand for conventional housing stock.*
- In regard to internal residential amenity, the private rooms provide adequate bedroom, study and bathroom spaces which are able to be used in addition to the shared areas of the units and the extensive internal and external communal areas throughout the site.*
- Various measures are in place to ensure residential amenity of other residents and adjoining neighbours is protected. Residents are not permitted to create any noise or nuisance in or around the rooms or any communal areas that is likely to interfere with the enjoyment of any other residents, any other person using the accommodation, neighbouring properties or the public.*
- The development is consistent with the objectives of the zone as set out in Section 6.5.*

In conclusion, there are sufficient environmental planning grounds to justify the technical non-compliance of 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.

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:

- (iii) 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.*

In considering whether the proposed development will be in the public interest, consideration must be given to the underlying objectives of the development standard and the objectives of the MU1 Mixed Use zone.

An assessment against these objectives is provided below.

Objectives of the development standard

Clause 69(1)(a) does not include any specific objectives with which to respond to. Instead, the relevant principle(s) under Clause 3 of the SEPP are to be considered.

Of relevance, Principle (c) under Clause 3 seeks to ensure new housing development provides residents with a reasonable level of amenity.

In response, the applicant notes:

“The Housing SEPP does not include specific objectives for the room size development standard. Having regard to the principles of the Housing SEPP, it can be assumed however that the underlying objective or purpose of the standard is to ensure that adequate living space is provided for residents to provide a reasonable level of amenity”.

In addressing Principle (c), the applicant states:

“Each cluster also includes a shared kitchen, dining and living area for the exclusive use of the residents living in the unit, with a minimum area of 18m² [Figure 25 above shows the shared living area as 22.17m²]. When the shared area is taken into consideration (as a portion according to the number of residents), the net living area of each bedroom can achieve the Housing SEPP requirement of 12m² per occupant. It is considered that the proposed rooms are an appropriate size and layout to ensure adequate privacy and amenity is maintained, whilst fostering community living that delivers a social and inclusive environment for residents.

On this basis, the proposal will satisfy the underlying purpose of the development standard”.

Referring to **Figure 25**, the above statement may be expressed numerically as follows:

Cluster Room Typology (Living Areas)	Proposed Area
Bedroom Living Area (Net)	9.9m²
Shared Living Area (Net)	22.17m²
Four Room Cluster (Total Net Living Area per Room) i.e., $22.17\text{m}^2/4 = 5.542\text{m}^2 + 9.9\text{m}^2$	15.442m²
Five Room Cluster (Total Net Living Area per Room) i.e., $22.17\text{m}^2/5 = 4.434\text{m}^2 + 9.9\text{m}^2$	14.334m²

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:

“While the proposal does not involve business, retail, office or light industrial uses, the future residents will be within walking distance of such uses. As such, the proposal will offer housing close to shops, services, and employment opportunities”.

Comment

The use is for student accommodation which is a business use. The use adds to the diversity of business, retail, and office uses in Macquarie Park as it facilitates accommodation which generates employment opportunity as well as providing an employee resource for local businesses through students wishing to work close by.

- ***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 location of entries and communal areas will activate the street frontages and provide an engaging pedestrian environment. Given the highly accessible nature of the site, the proposal does not provide any dedicated car parking spaces for the residents, therefore promoting public transport patronage and encouraging walking and cycling, thereby attracting pedestrian traffic”.

Comment

The development provides most of its communal outdoor area at the ground floor. It is therefore agreed that the development will provide 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 development comprises student accommodation that is compatible with the surrounding residential and educational uses in the surrounding area. The proposal is suitably located near public transport, including the Macquarie University Metro Station and the bus interchange at Macquarie Shopping Centre”.

Comment

As noted throughout this report, the impact of the development upon surrounding land uses within the MU1 Mixed Use zone is minimal considering the permitted density and heights made available in the RLEP 2014 (and the 10% FSR uplift available to co-living housing in SEPP Housing).

The development has been designed to respond to the requirements of building separation, visual privacy, sunlight access, and the provision of on-site car parking thereby sensitively responding to its urban context.

The impact on other zones is negligible given the significant distance of approximately 250m from the nearest residential zone to the south-west.

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

In the request the applicant states:

“The street level entries include communal spaces and the main office area (to Lachlan Avenue), which will active the street frontages and facilitate passive surveillance of the adjoining streetscapes”.

Comment

The development is a commercial activity and operates in a similar manner to a boarding house.

The ground floor includes areas which are administrative (office and reception) and communal in nature, all of which are non-residential.

- ***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 proposal provides student accommodation within a highly accessible location to support Macquarie University and other local businesses.

While the proposal will not deliver business activities, the future residents will benefit from the site’s proximity to employment and educational activities in the immediate area”.

Comment

Although the proposed use will service the student needs of the university with respect to the provision of satellite accommodation, this objective is not relevant to the proposal as it refers only to employment and educational activities within Macquarie University. The subject site is not located within (or a part of) Macquarie University.

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

In the request the applicant states:

“The proposal involves high-quality accommodation for tertiary students that is integrated with the surrounding educational and research activities, retail and business services and public transport. The proposal is therefore consistent with this objective and will deliver a compatible complementary land use within the Macquarie Park corridor”.

Comment

It is agreed that proposed use will promote strong links between Macquarie University and research institutions and businesses in the Macquarie Park corridor through the provision of associated student accommodation.

Conclusion

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 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 room size standard under Clause 69(1)(e) of SEPP Housing is assumed.

Conclusion to consideration of the request to vary Clause 69(1)(a)

Given the above, it is considered that the development satisfies the various objectives of the development standard and the zone and provides sufficient environmental planning grounds to justify the request to vary the standard. In this regard, the variation to room sizes may be supported.

6.6.2.2 - Clause 69(2)(b) (Building Separation)

Clause 69(2)(b) states that development consent must not be granted for development for the purposes of co-living housing unless the consent authority *considers whether* the building will comply with the minimum building separation distances specified in the Apartment Design Guide (ADG).

Clause 69(2) therefore enables the consent authority to permit consideration to be given to varying the standard without the need to seek a variation to the standard via the provision of Clause 4.6.

With reference to the ADG, Clause 69(2)(b) of SEPP (Housing) requires consideration to be given only to the building separation distances only.

Clause 2F (Building Separation)

Clause 2F of the ADG addresses building separation. The clause prescribes the following minimum separation distances:

Building Height	Between habitable rooms / balconies	Between habitable rooms & non-habitable rooms	Between non-habitable rooms
Up to 4 storeys ² (approx. 12m)	12m ¹	9m	6m
5 to 8 storeys (approx. 25m)	18m	12m	9m
9 storeys and above (approx. 25m+)	24m	18m	12m

Notes:

- ¹ The above represents distances to neighbouring buildings. The ADG instructs to apply half the minimum separation distance measured to the boundary as this distributes the building separation equally between sites (as reflected in Clause 3F (Visual Privacy) below).
- ² The RLEP 2014 defines a storey as a space within a building that is situated **between one floor level and the floor level next above**, or if there is no floor above, the ceiling or roof above, but does not include:
- (a) a space that contains only a lift shaft, stairway, or meter room, or
 - (b) a mezzanine, or
 - (c) an attic.

Clause 2F advises that gallery access circulation areas should be treated as habitable space, with separation measured from the exterior edge of the circulation space and, when measuring the building separation between commercial and residential uses, consider office windows and balconies as habitable space and service and plant areas as non-habitable.

Clause 3F (Visual Privacy)

Clause 3F of the ADG addresses visual privacy and is to be read in conjunction with Clause 2F. This clause prescribes the following minimum separation distances from buildings to the side and rear boundaries:

Building Height	Habitable rooms and balconies	Non-habitable rooms
Up to 4 storeys (Approx 12m)	6m	3m
5 to 8 storeys (approx. 25m)	9m	4.5m
9 storeys and above (approx. 25m+)	12m	6m

Like Clause 2F, Clause 3F advises that, for residential buildings next to commercial buildings, separation distances should be measured as follows:

- for retail, office spaces and commercial balconies use the habitable room distances.
- for service and plant areas use the non-habitable room distances.

Planning Consideration

The following provides an assessment of the proposal against the separation distances described under Clause 2F and Clause 3F of the ADG.

Up to 4 storeys (approx. 12m)

Building Height	Habitable rooms and balconies	Habitable rooms and non-habitable rooms	Non-habitable rooms to non-habitable rooms
Up to 4 storeys (Approx 12m)	6m	4.5m	3m

Given that the floor layouts on levels 1 to 9 are the same, **Figure 26** below is used to illustrate this assessment of the development up to 9 storeys.

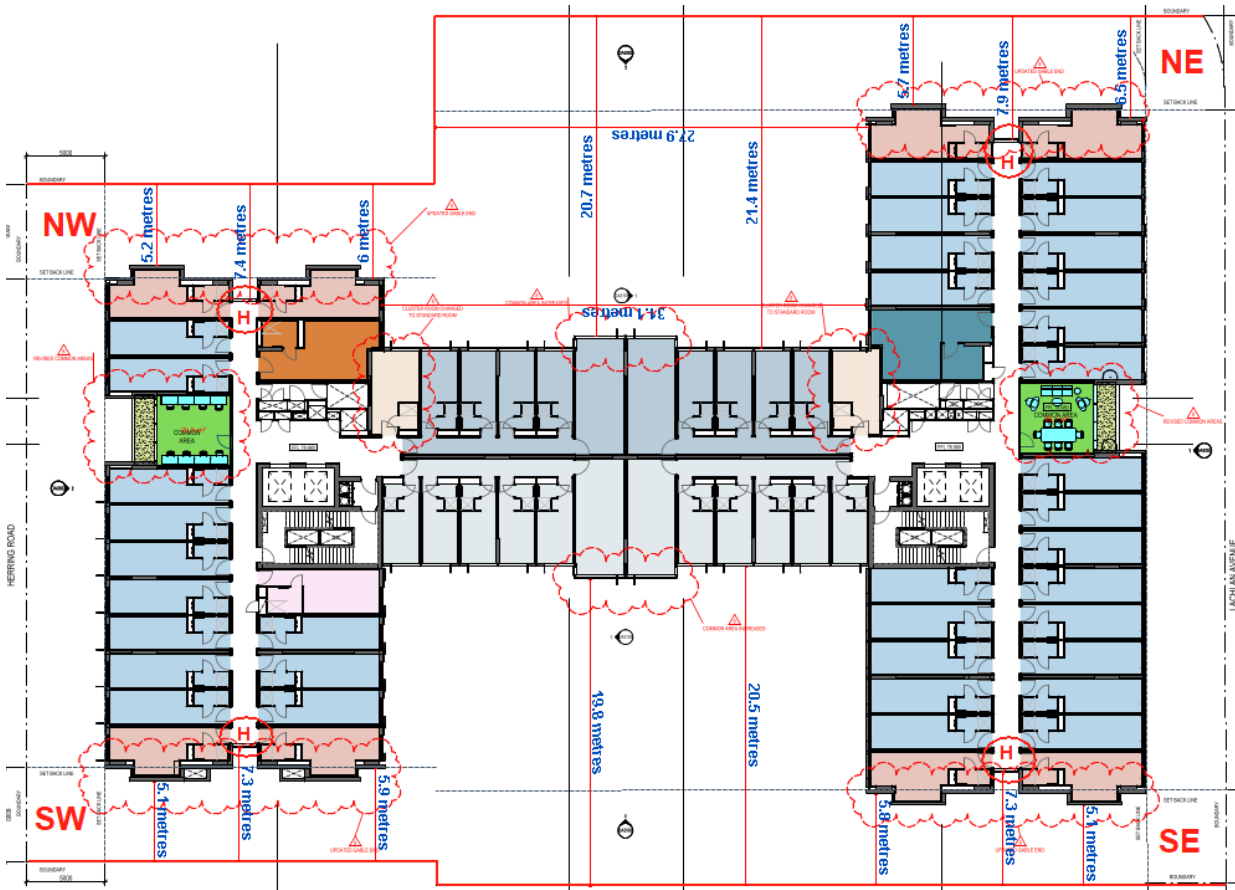


Figure 26 – Typical building separations at Levels 1 to 9 (side boundaries are marked in red).

Source: Plan DA2009 (Rev 8) General Arrangement Plan Level 06 dated 18/05/2023 as prepared by AJC.

As can be seen in **Figure 26** above, the development includes blank walls which are situated at the ends of both north-south orientated wings. These blank walls include windows which service corridor ends at each level (circled in red and marked 'H').

As noted earlier, gallery access circulation areas should be treated as habitable space, with separation measured from the exterior edge of the circulation space. In this respect, the required building separation setback to the boundary is 6m from these windows. Given the setbacks of between 7.3m and 7.9m, these windows achieve compliance.

The blank walls are setback between 5.1m and 6.5m and therefore achieve compliance for the development up to 4 storeys.

5 to 8 storeys (approx. 25m)

Building Height	Habitable rooms and balconies	Habitable rooms and non-habitable rooms	Non-habitable rooms to non-habitable rooms
5 to 8 storeys (approx. 25m)	9m	6m	4.5m

As can be seen in **Figure 26** above, the development continues to include blank walls which are situated at the ends of both north-south orientated wings. These blank walls also include windows which service corridor ends at each level.

The required building separation setback to the boundary is 9m from these windows. Given the setbacks of between 7.3m and 7.9m, these windows do not comply.

These non-compliant elements are minor in that they comprise corridor-end windows only and are not regarded as high traffic areas because of their location at the end of each corridor (i.e., generally only the occupants of the rooms at the end of these sections would be transiting these areas for access/egress to rooms). Notwithstanding, a condition is included to require these windows be treated with obscure film to prevent any overlooking opportunity (see the 'Conclusion' of this section).

The blank walls are setback between 5.0m and 6.5m and therefore does not achieve compliance by 0.9m. These non-compliant elements comprise wall protrusions which extend out from the main side wall.

In considering these elements it is noted that the extent of wall protruding from the side main wall does not extend for the full length of the wall but instead, are centred within each wall façade. This results in minimal visual impact, particularly when viewed from the public domain which would primarily show only the 6.5m building separation.

9 storeys and above (approx. 25m+)

Building Height	Habitable rooms and balconies	Habitable Rooms to Non-Habitable Rooms	Non-Habitable Rooms to non-habitable rooms
9 storeys and above (approx. 25m+)	12m	9m	6m

As can be seen in **Figure 27** below, the development continues to include blank walls which are situated at the ends of both north-south orientated wings. These blank walls also include windows which service corridor ends at each level.

The required building separation setback to the boundary is between 9m and 12m from these windows. Given the setbacks of between 7.3m and 7.9m, these windows do not comply.

As noted earlier, the non-compliant windows are minor in that they comprise corridor-end windows only and are not regarded as high traffic areas because of their location at the end of each corridor (i.e., generally only the occupants of the rooms at the end of these sections would be transiting these areas for access/egress to rooms).

Notwithstanding, a condition is included to require these windows be treated with obscure film to prevent any overlooking opportunity (see the 'Conclusion' of this section).

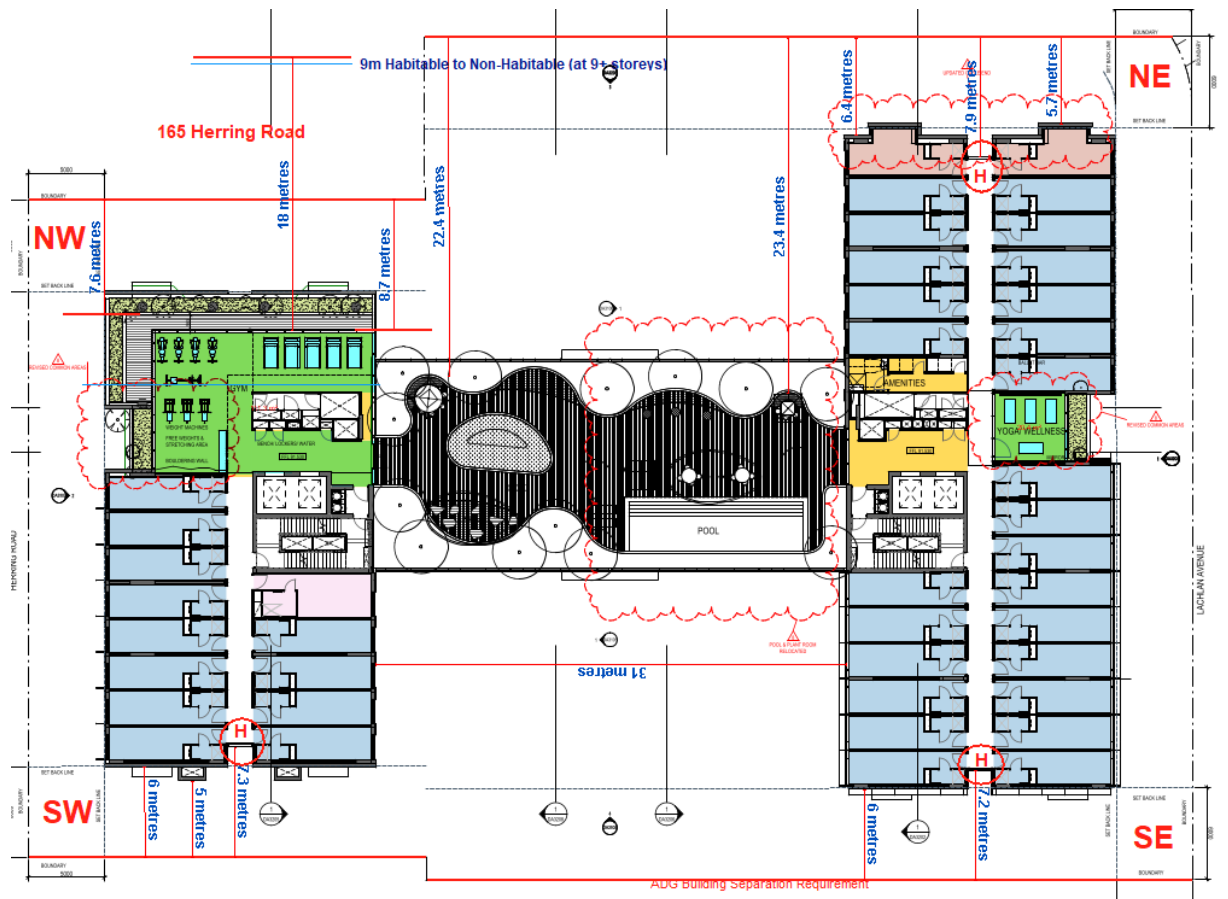


Figure 27 – Building separations at Level 10 (side boundaries marked in red).

Source: Plan DA2013 (Rev 8) General Arrangement Plan Level 10 dated 18/05/2023 as prepared by AJC.

The blank walls are setback between 5.0m and 6.5m and therefore achieve compliance.

As noted earlier, the blank walls comprise wall protrusions which extend out from the main side wall and, in considering these elements it is noted that the extent of wall protruding from the side main wall does not extend for the full length of the wall but instead, are centred within each wall façade. This results in minimal visual impact, particularly when viewed from the public domain which would primarily show only the 6.5m building separation.

The development includes two rooms which are part of a 5 room-cluster group at Level 09 (being the 9th storey) and which are set back 10.5m from the northern property boundary.

Figure 28 below shows the location of the two rooms (circled in red) in proximity to the property boundary (line marked in red).



Figure 28 – Cluster room setback from 165 Herring Road.
Source: Plan DA2012 8 - General Arrangement Plan Level 09 as prepared by AJC.

Conclusion

Corridor-end Windows

With respect to the side facing corridor-end windows (and noting the ADG classification of these windows as habitable room windows), in order to address the non-compliance without prejudicing development on adjacent properties, it is recommended that these windows are treated to include obscure film at a minimum height of 1.5m above the finished floor level from 5 storeys and above at the southern wings and the north-western wing.

The north-eastern wing is adjacent to the recently approved boarding house and, on examination of the approved plans for that development, although physically separated by 16m, the proposed corridor-end windows will face windows of communal living rooms once that development is constructed. Therefore, the corridor-end windows at the north-eastern wing also require similar treatment (refer to **Condition 1(a)** in the draft consent).

Figure 29 below shows the proximity of corridor-end windows to the approved boarding house.

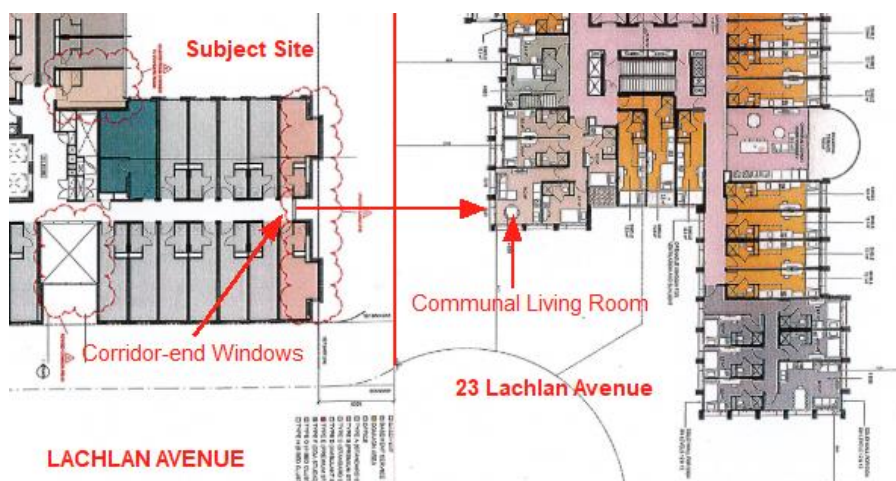


Figure 29 – Cluster room setback from 165 Herring Road.

Source: Plan DA2012 8 - General Arrangement Plan Level 09 as prepared by AJC and approved Plan TP01.09 as prepared by Rothelowman (for 23 Lachlan Avenue).

Gymnasium

With respect to the north-facing façade of the gymnasium at Level 10, it is noted that the northern windows face towards the southern side of the neighbouring property at 165 Herring Road.

Currently, 165 Herring Road accommodates 2 x three storey walk-up flat buildings although there may be potential in the future for this site to be developed to accommodate a linear building up to the 45m height limit (subject to compliance with the floor space ratio provisions). The southern elevation of the nearest flat building includes 3 x centrally located windows which may service habitable rooms.

With respect to the current situation, and notwithstanding the proximity of the aforementioned windows in the neighbouring building, the gymnasium is elevated approximately 29m above street level and approximately 22m above the top-most window of the neighbouring building. This, combined with the setting back of the gymnasium from the northern edge of the development results in an inability to overlook the neighbouring flat building.

With respect to a potential future situation at 165 Herring Road, development up to 45 may be achievable although it is considered that any future development would orientate habitable rooms and balconies towards the north, east or west and not to the south due to limited solar access. In this regard, the provision of a 9m setback to the boundary is appropriate.

Noting the proposed setback of 8.7m from the gymnasium, there is a non-compliance of 0.3m which may require the neighbouring development to be designed to offset any windows or increase its setback by 0.3m (as depicted by the red and blue parallel lines in the top left of **Figure 27** above). In either instance, it is considered that this is not unreasonable and that the proposed setback of 8.7m can be supported without requiring treatment.

The 0.965m wide walkway outside the gymnasium is noted which appears to provide access to maintain the landscaped planter boxes. A condition is included in the draft consent which requires that this area is accessible for maintenance purposes only (refer to **Condition 1(b)** in the draft consent).

Cluster Rooms

Given the above considerations to the gymnasium, and that the subject rooms are setback 10.5m from the property boundary to 165 Herring Road, it is considered that impact upon existing and future development of that property would be negligible and therefore, no treatment is required.

Overshadowing

Due to the configuration of the development, overshadowing is minimised due to the significantly increased setback of the central spine (being approximately 20m from the southern boundary to 15 Lachlan Avenue).

The south-eastern and south-western wings are comparatively small in width and will therefore not create any unreasonable impact to sunlight access, given the permitted building heights in this area.

Conclusion to Consideration of Clause 69(2)(b)

Therefore, on balance, this assessment considers that, subject to conditions addressing corridor-end windows and limited maintenance access to the walkway adjacent to the gymnasium, the proposed building separations are satisfactory, and that the development will comply with the minimum building separation distances specified in the ADG.

6.7 State Environmental Planning Policy (Planning Systems) 2021

As the proposed development has a Capital Investment Value (CIV) of \$120,150,000 (excluding GST) is classified as Regionally Significant Development and is required to be determined by the Sydney North Planning Panel (SNPP).

The CIV is confirmed by a Quantity Surveyor's Cost Report dated 15 November 2022 as prepared by WTP Australia Pty Ltd.

6.8 State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 4 – Remediation of Land

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

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

In response to the above requirements, the applicant has submitted a Stage 2 *Detailed Site Investigation* prepared by Douglas Partners dated 15 November 2022.

The investigation notes that:

With regard to soil

- *Chemical contaminant concentrations in the soil samples were generally low and below the adopted SAC for a high-density residential land use with limited soil access. Friable asbestos was however, detected in borehole BH09 at the depths of between 0.1 m and 0.2 m bgl.*

With respect to asbestos, the Investigation concludes that “*further sampling and analysis is required to delineate the extent of asbestos contamination around BH08 and BH09 and the site so that the above waste classification for the fill can be confirmed prior to offsite disposal. Additionally, in any areas where asbestos is later identified, the material would, at a minimum, be classified as Special Waste Asbestos in conjunction with the chemical classification*”.

In this regard, the Investigation recommends that *“an interim asbestos management plan is prepared and implemented to minimise exposure of current site users to asbestos in the area”*.

With regard to groundwater

- *Whilst exceedances of chromium, copper, nickel and zinc were detected in the groundwater, the recorded concentrations are considered to be attributable to typical background concentrations in urbanised areas from diffuse sources such as service leakage or from natural mineralisation, and therefore are not considered to pose an unacceptable human or ecological risk. It is noted however that dewatering during construction may change groundwater conditions and further assessment would be required if dewatering is to be considered for the proposed development.*

With regard to the preliminary in situ waste classification

- *The fill across the majority of the investigation area is preliminary classified as General Solid Waste (GSW) (non-putrescible) with the exception of:*
 - *Fill around borehole BH09 is classified as Special Waste Asbestos - GSW (non-putrescible); and*
 - *Natural soils are preliminarily classified as Virgin Excavated Natural Material (VENM).*

Amongst the recommendations included in the Investigation, it is noted that a Remediation Action Plan (RAP) would need to be prepared and implemented. This has been included as a separate condition in the draft consent which requires the RAP to be prepared and implemented prior to the issue of a Construction Certificate and that a Notice of Completion (which includes a Validation Report) is given to the Council within 30 days of remediation work being completed.

Therefore, with respect to Clause 4.6(1)(c) of the SEPP, the consent authority can be satisfied that the land will be remediated before the land is used for that purpose.

The Investigation concludes that *“based on the results of the investigation, it is considered that the site can be made suitable for the proposed high density residential (student accommodation) development subject to implementation of the recommendations”*.

The submitted Detailed Site Investigation Report is included as an approved document under **Condition 1** in the consent which requires the developer to undertake recommended actions.

Refer to **Conditions 1, 30, 32, 33, 38 to 42, and 47**.

6.9 State Environmental Planning Policy (Transport and Infrastructure) 2021

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 developments are referred to Transport for NSW (TfNSW) as development on a proposed classified road and 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
Commercial Premises	10,000m ² GFA	2,500m ² GFA

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

It is noted that the development includes 17,164m² GFA and is classified as a commercial premises for the purpose of Schedule 3.

Accordingly, the application was referred to TfNSW for comment pursuant to Clause 2.119 and Clause 2.122 of the SEPP and for concurrence under Section 138 of the *Roads Act 1993*.

Having regard for the above, TfNSW provided concurrence under Section 138 of the *Roads Act 1993* subject to Council's approval and the design and construction of the proposed civil works on Herring Road to Council's satisfaction.

Refer to **Condition 24**.

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.

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

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

Clause 4(4) of the SEPP stipulates that:

*“Unless a local environmental plan states otherwise, this Policy does not apply to a boarding house, **co-living housing** or a serviced apartment to which that plan applies”.*

The SEPP (Housing) 2021 and the Ryde Local Environmental Plan 2014 do not state that SEPP 65 applies to co-living development and therefore, SEPP 65 does not apply.

The application was referred to the Urban Design Review Panel (UDRP) to address the visual and functional aspect of the building in context to its surrounding urban environment. The UDRP use the nine (9) Design Quality Principles within SEPP 65 as a guide to inform comment only and do not constitute an assessment against SEPP 65. To avoid confusion in the application of SEPP 65, these comments are provided in the ‘Referrals’ section of this report.

Apartment Design Guide (ADG)

Although the SEPP excludes consideration against SEPP 65, SEPP (Housing) 2021 includes specific reference under Clause 69(2)(b) to the building separation provisions of the ADG which do require consideration.

The matter of building separation has been considered and is addressed under Section 6.5 of this report.

6.11 Ryde Local Environmental Plan 2014 (RLEP 2014)

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

Clause 2.2 - Zoning

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

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

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

Clause 67 of *State Environmental Planning Policy (Housing) 2021* states:

“Development for the purposes of co-living housing may be carried out with consent on land in a zone in which development for the purposes of co-living housing, residential flat buildings or shop top housing is permitted under another environmental planning instrument”.

Residential flat buildings and shop top housing are permitted with consent in the MU1 Mixed Use zone under the RLEP 2014.

Therefore, co-living development is 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 relevant objectives. It will be consistent with the desired future character for the precinct by introducing mixed use buildings consisting of residential and retail uses. The subject site is located within walking distance of bus and train services, retail and commercial services, Macquarie University and Macquarie Shopping Centre and is therefore considered to be a suitable location for this development.

The development proposes a mixed-use development which include retail premises, commercial premises, residential flat buildings. All 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	Variation	Compliance
Height of Buildings	45m	34m to 47.36m	5.2% (+2.36m)	No
Floor Space Ratio* Site Area 3,901.6m ²	4.0:1 (15,604m ²)	4.4:1 (17,164m ²)	N/A	Yes

***Note:** SEPP (Housing) 2021 includes a FSR bonus of up to 10% for co-living development in a zone in which residential flat buildings are permitted. This equates to a permitted FSR of 4.4:1 (17,164m² GFA).

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 34m to 47.36m as noted in the table above. The non-compliance equates to a variation of 5.2% (+2.36m).

The non-compliant elements are illustrated in **Figures 30 and 31** below where it is noted that the development breaches the permitted building height at the uppermost section of the roof and rooftop plant.

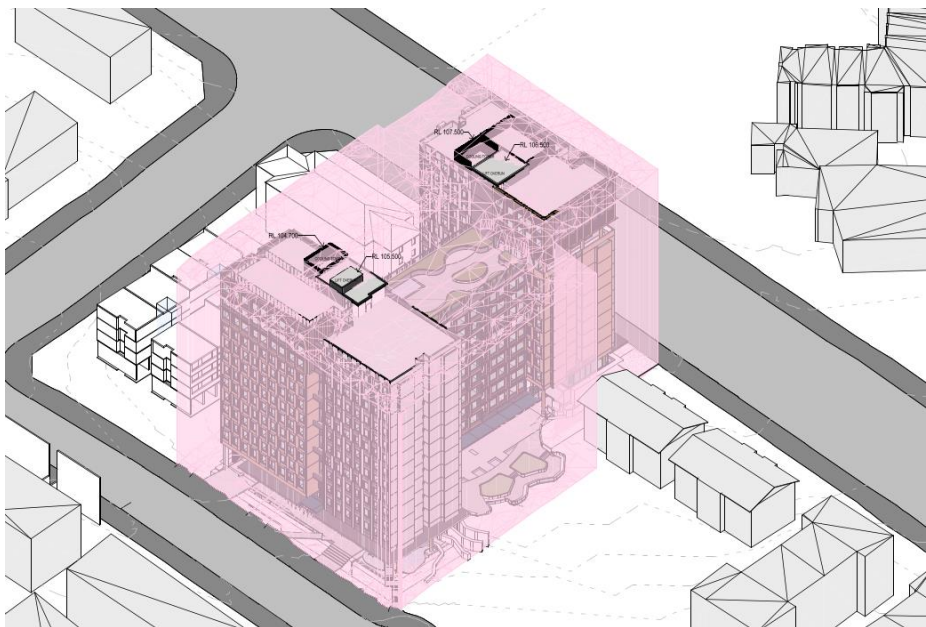


Figure 30 – Permitted 45m height plane (in pink) as viewed from the north-east (Lachlan Avenue).
Source: Plan DA0003 5 as prepared by AJC.

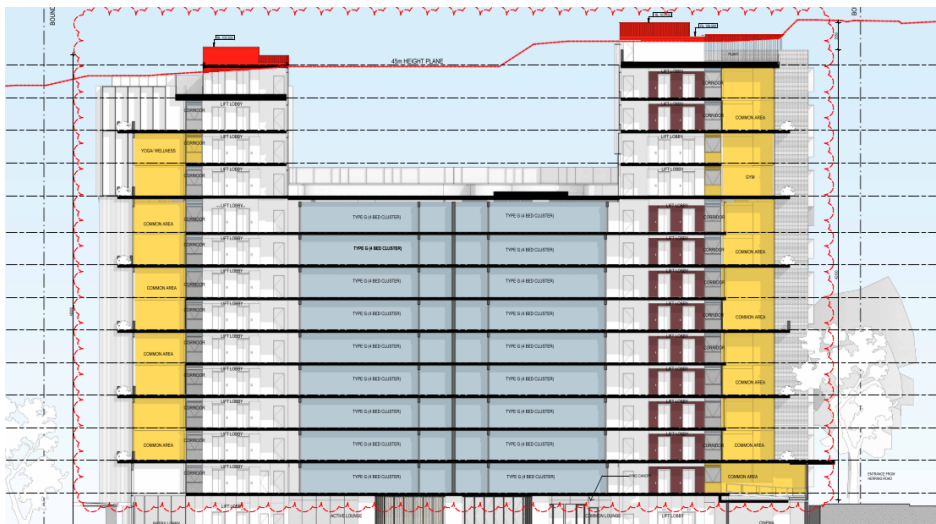


Figure 31 – Section showing height non-compliances (shaded in red).
Source: Adapted from Plan DA3203 7 as prepared by AJC.

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.

The Clause 4.6 request is at **Attachment 5** of this report.

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. This is discussed in greater detail under Public Interest.

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

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

Comment

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

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

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

- a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources.*
- b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment.*
- c) to promote the orderly and economic use and development of land.*

- d) *to promote the delivery and maintenance of affordable housing.*
- e) *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.*
- f) *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage).*
- g) *to promote good design and amenity of the built environment.*
- h) *to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants.*
- i) *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State.*
- j) *to provide increased opportunity for community participation in environmental planning and assessment.*

The applicant's written request states:

- *The proposal results in a built form that responds positively to the constraints of the site and in particular, the steep topography between Herring Road and Lachlan Avenue. The development presents as a part 13 and part 14 storey building consistent with the desired future character of the locality, which is undergoing significant transformation, including the recently approved 15 storey development at 23-25 Lachlan Avenue to the immediate north-east.*
- *The proposed development is predominantly well under the maximum building height for the site. The design has sought to strategically minimise massing in the central portion of the site adjacent to 13-15 Lachlan Avenue to minimise visual impacts and overshadowing.*
- *The development complies with the FSR, building separation and deep soil controls for the site. Accordingly, the non-compliance does not result in an over-development of the site and does not contribute to unreasonable visual bulk, overshadowing or view loss.*
- *The 300mm non-compliance of the parapet along Lachlan Avenue will not be discernible from neighbouring properties or the public realm compared to a compliant built form. The rooftop plant and lift overruns are sited towards the central areas of the built form and are well set back from the site boundaries. Accordingly, the non-compliant roof elements will not be visible from the public domain and adjoining sites.*
- *As demonstrated previously, the protrusions result in negligible additional shadow impact when compared to a compliant scheme.*
- *The roof top plant and lift overruns are a fundamental component to the proper functioning of the residential building. The proposed development has made provision for plant in the basement where possible, with the remaining equipment located on the rooftop being the only reasonable locations to house the building services.*

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.

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

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

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

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

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

Comment

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

An assessment against these objectives is provided below.

Objectives of the development standard

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

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

In the request the applicant states:

"This objective is not relevant to the current character of built form in this locality but is most relevant to the desired future character, which is encouraged through the current height and FSR provisions applicable to this part of Macquarie Park.

The proposed design seeks to provide a contemporary built form consistent with the emerging character of the Macquarie University Station Priority Precinct, which aims to create opportunities for renewal within an 800m radius of the station and deliver up to 5,800 new homes by 2031 in high-rise urban forms.

The height exceedance is limited to the following elements which will not be visible when viewed from Lachlan Avenue and Herring Road:

- *Lift overruns.*
- *Cooling tower screens.*
- *South-eastern end of the Lachlan Avenue parapet.*

The proposed development complies with building separation and setback requirements for the site. In addition, the street facades incorporate deep vertical recesses that break the massing into more slender proportions that reflect the scale envisaged for the precinct by the current planning controls”.

Comment

The proportion of the frontages of the development facing Herring Road and Lachlan Avenue are in proportion to development which would be commensurate to the intent of the zoning and built form controls for the area which establishes the desired future character.

As discussed in this report, the local area is subject to significant transformation and includes several developments which have either been constructed, are under construction, have received approval and are scheduled for construction and which are being considered in other development applications.

Despite the differing use, each of these developments is of a similar scale and proportion to that proposed by this application.

With respect to building separation, this assessment includes consideration against the building separation requirements established in the ADG. The assessment found that the development complies with separation requirements with exception to minor elements which were conditioned accordingly.

The height non-compliance is not considered to offend this outcome as these features are also consistent with other development in the area and that they are situated on the roof, thereby they are not readily visible from street level.

The application satisfies 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:

*“Sun-eye diagrams have been prepared by AJ+C [see **Figures 32(a) to 34(a)** below] for the proposed development. The shadows cast by the non-compliant roof elements have a negligible effect on overshadowing compared to a compliant scheme on the site.*

The proposal will significantly improve the appearance and quality of the site and increase tree canopy coverage in the area. The site is entirely consistent with desired future character of Macquarie Park, which is undergoing transition”.

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, overshadowing of neighbouring properties to the south-west is unavoidable.

Notwithstanding, the design of the development, through the inclusion of a centrally located spine which is lower than the permitted building height setback (i.e.,

approximately 35m) and which is setback 20m from the side boundary, does facilitate a higher level of sunlight access to properties to the south-west than would otherwise be available.

The shadow diagrams indicate that the greatest impact would be to the properties at the south-west (i.e., adjacent to Windsor Drive) at 9.00am on 21 June. However, the shadow moves to the east through the day thereby providing relief to the neighbouring property.

The ‘view from the sun’ diagrams provide a clearer perspective as to the impact on neighbouring properties and shows that the neighbouring property to the south-west will receive sufficient sunlight access in the afternoon from 1.00pm. Assuming 15 Lachlan Avenue (in culmination with 13 Lachlan Avenue and 161 Herring Road) are developed in the future, the impact of the proposed development would be lessened because the neighbouring property could reasonably be developed up to a height of 45m.

The sequence of diagrams in **Figures 32 to 34(a)** below illustrate the shadows cast by the development (indicated by the red dotted outline) at 9.00am, Noon and 3.00pm on 21 June. Also provided are the view from the sun angles to provide an alternate perspective of the extent of shadow cast over adjoining property. The site is outlined in red.



Figure 32 – Shadows cast at 9.00am.
Source: Plan DA6002 as prepared by AJ+C.



Figure 32(a) - View from the sun 9.00am.
Source: Plan DA6100 as prepared by AJ+C.

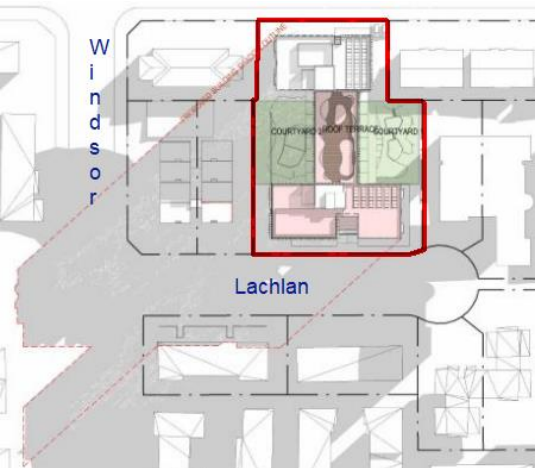


Figure 33 – Shadows cast at Noon.
Source: Plan DA6002 as prepared by AJ+C.

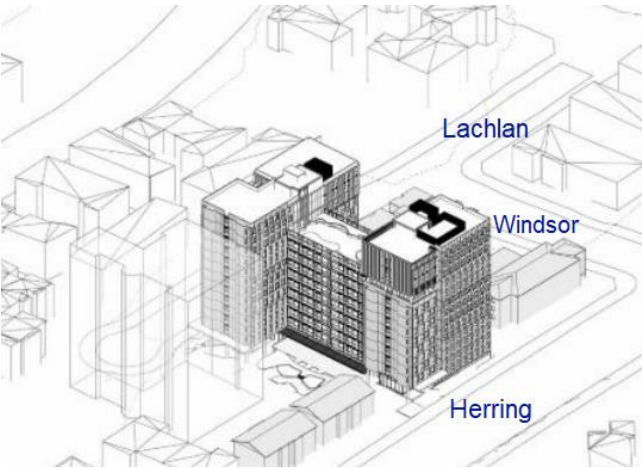


Figure 33(a) – View from the sun at Noon.
Source: Plan DA6100 as prepared by AJ+C.



Figure 34 – Shadows cast at 3.00pm.
Source: Plan DA6002 as prepared by AJ+C.



Figure 34(a) – View from the sun at 3.00pm.
Source: Plan DA6100 as prepared by AJ+C.

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

It is therefore agreed that the development is consistent with this objective in that it maintains a commensurate level of overshadowing to that envisaged by the built form controls, and that the development is compatible with the appearance of the area given the scope and scale of development occurring in vicinity of the site.

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

In the request the applicant states:

“The proposal consolidates four lots for a high-density student accommodation development within walking distance from the Macquarie University Metro Station and bus interchange”.

Comment

The development consolidates four lots without leaving any remnant lots which could not be developed to current built form standards.

The site is located within close (walking) proximity to key transport nodes around the Macquarie University/Shopping Centre interchange.

The development include provision for 19 e-bikes which will facilitate sustainable localised transport within the Macquarie Park area.

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 elements that project above the height control will not impact the amenity of surrounding properties. The rooftop plant and lift overruns have been sited towards the centre of the northern and southern wings of the development and will not be visually perceptible from surrounding properties. The exceedance does not relate to any habitable spaces and will therefore does not cause privacy impacts.

As highlighted in the sun-eye diagrams, there is no material overshadowing cast by the development compared to a compliant built form”.

Comment

The effect of overshadowing has already been discussed in this section of the report where it was considered that the degree of overshadowing cast by the development was not unreasonable.

With respect to visual and acoustic privacy, the development has been designed to respond to its neighbours in that overlooking opportunities are minimised, and the proximity of noise sources are located to mitigate impact.

A review of the visual privacy requirements under Clause 3F of the ADG has been conducted where it was considered that minor treatments can be applied to corridor-end windows and side-facing gym terrace to future proof the development capacity of the neighbouring properties to the south-west and to the north-east. Conditions have been included in the draft consent to address this (refer to **Conditions 1(a) and 1(b)**).

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 has a frontage to Herring Road, which is a busy regional road connecting the M2 and Epping Road.

The façade treatment incorporates strong articulation, which provides a high-quality and attractive frontage to Herring Road, which is currently punctuated with high-rise built form. The non-compliant elements are well set back from the street edge and do not detract from the achievement of this objective”.

Comment

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:

“While the proposal does not involve business, retail or light industrial uses, the future residents will be within walking distance of such uses. As such, the proposal will offer housing close to shops, services and employment opportunities. A small office is provided adjacent to the Lachlan Avenue entry associated with the management of the facility”.

Comment

The development will encourage a diversity of business, retail, office land uses that generate employment opportunities through the increase in resident population.

- ***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 location of entries and communal areas will activate the street frontages and provide an engaging pedestrian environment. Given the highly accessible nature of the site, the proposal does not provide any dedicated car parking spaces for the residents, therefore promoting public transport patronage and encouraging walking and cycling, thereby attracting pedestrian traffic”.

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 development comprises student accommodation that is compatible with the surrounding residential and educational uses in the surrounding area. The proposal is suitably located near public transport, including the Macquarie University Metro Station and the bus interchange at Macquarie Shopping Centre.

The minor non-compliance with the height control will not result in any additional amenity impacts to surrounding residential properties compared to a compliant development”.

Comment

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

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

In the request the applicant states:

“The street level entries include communal spaces and the main office area (to Lachlan Avenue), which will active the street frontages and facilitate passive surveillance of the adjoining streetscapes”.

Comment

The development is a new form of commercial land use which is dedicated to the provision of student accommodation. The use includes ancillary features at the ground floor level which service the resident population and includes active street frontages which facilitate passive surveillance.

- ***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 proposal provides student accommodation within a highly accessible location to support Macquarie University and other local businesses.

While the proposal will not deliver business activities, the future residents will benefit from the site’s proximity to employment and educational activities in the immediate area”.

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 that this objective is not applicable.

“The proposal involves high-quality accommodation for tertiary students that is integrated with the surrounding educational and research activities, retail and business services and public transport. The proposal is therefore consistent with this objective and will deliver a compatible complementary land use within the Macquarie Park Corridor”.

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 accommodate students who are directly associated to Macquarie University and thus may indirectly form strong associated 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 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 objective 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 application is accompanied by a Geotechnical Investigation dated 18 November 2022 as prepared by Douglas Partners. The investigation notes the following:

Groundwater

Groundwater was measured in the wells on the site after development on 13 October 2022 at depths of between 4.6m to 10.5m (RL 47.7 to RL 53.7).

The water levels on the southern part of the site were measured at RL 53.2 and RL 53.7. The water level on the northern part of the site was measured at RL 47.7.

These water levels are below the proposed basement levels (Basement B1a (South) at RL 54.52 and Basement B1b (North) at 53.02). Based on the measured water levels on 13 October 2022 the investigation suggests that the groundwater is seepage rather than significant ongoing groundwater flow and concludes that the basement excavation may therefore not intercept the groundwater table.

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 59 and 98**).

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 Northrop and dated 17 November 2022) 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 which discusses:

- Water efficient fixtures and fittings.
- Water Sensitive Urban Design.
- Rainwater capture and re-use.

The Report states:

“The project will look to incorporate a strong focus on water sensitive urban design with the external landscape design assisting to minimise water use for irrigation. The inclusion of landscaped area will also assist in the reduction of site stormwater discharge and assist in the management of the projects broader impact on urban stormwater flows”.

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 79**).

BASIX

As discussed earlier in this report, the development is excluded by the Regulation from consideration under the SEPP (BASIX) and can therefore not be conditioned to comply with BASIX requirements.

Notwithstanding, for the purposes of understanding the performance of the building in context to established BASIX criteria, the application is accompanied by a statement (“BASIX Draft Pathway Summary”) prepared by Northrop and dated 17 November 2022 which notes that the completed development would achieve the following BASIX scores:

Requirement	Target Score	Provided Score
Water	40	46
Thermal Comfort	Pass	Pass
Energy	25	39

Therefore, the development would comply with BASIX if applicable.

7. 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.

8. DEVELOPMENT CONTROL PLANS

8.1 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 9.5 – Tree Preservation.


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>		

Control	Comments	Compliance
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.	<p>As can be seen in Figure 35 below, the site (shaded in red) is not located in an area which requires the provision of new streets and pedestrian connections.</p>  <p>Figure 35 – Access Network. Source: RDCP 2014 (Figure 4.1.1)</p>	Yes
<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.	A Green Travel Plan has been submitted with the application.	Yes
<u>Parking Rates</u> Bicycle parking and end of trip facilities and parking to be provided in accordance with Part 9.3 Parking.	<p>Parking for co-living development is determined by the SEPP (Housing). Refer to a separate discussion under Section 6.5 of this report.</p> <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 36 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 36 – 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 45.</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.</p> <p>Art must be located within the site so as to be publicly accessible i.e., viewed or experienced from publicly accessible places.</p>	<p>The applicant has provided a Public Art Strategy which includes a detailed provision of public art within the centrally located public open space area.</p> <p>A condition is included in the draft consent to reflect this requirement and to include provision of public art.</p> <p>Refer to Conditions 1, 53, and 137.</p>	<p>Yes Subject to condition</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 34m to 47m as noted in the table above. The non-compliance equates to a variation of 4.4% (+2.0m).</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 accordance with the Macquarie</p>	<p>As seen earlier in Figure 35 and Figure 36, 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
Park Corridor Public Domain Technical Manual.		
7.0 Built Form		
7.1 Site Planning and Staging. 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
Activity Centres Macquarie Park Station Macquarie University Station North Ryde Station	As can be seen in Figure 37 below, the site (shaded in blue) is not located within any Activity Centre (the Macquarie University Station Activity Centre is shaded in red).  <p>Figure 37 – Activity Centres (shaded in red). Source: RDCP 2014 (Figure 7.3.2)</p>	Yes
Active Frontage Continuous ground level active uses must be provided where primary active frontages are shown in Figure 7.3.2. Buildings must address the street or public domain.	The site is not located within an Activity Centre or in an area defined by Primary Active Frontages. The development addresses both street frontages.	Yes
Setbacks and Build to Lines 5m to all new and existing streets.	The development is setback 5.0m to both Herring Road and Lachlan Avenue. 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. 60% of the street setback area is to be soft landscaping.	The basement car parking is designed to comply with the minimum required setback provisions. 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. Similarly, the setback to Lachlan Avenue includes broken deep soil zones (with a minimum width of 5.0m) owing to this frontage being the main vehicle and pedestrian entry. Herring Road: 77% (164.2m ²) soft landscaping. Lachlan Avenue: 68.4% (187m ²) soft landscaping.	Yes

Control	Comments	Compliance															
Existing mature trees are to be retained where possible. Paved areas are to relate to the materials and finishes of the adjacent streetscape. At grade car parking must not be located within this setback.	The development will retain 25 (56.8%) trees on the site. Paved areas will relate to the street. No at-grade parking is proposed.																
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															
<u>Awning and Canopies</u> Awnings must be provided where Primary Active Frontages are shown in Figure 7.3.2 Activity Centres Structure Plan and Active Frontage Control Drawing. Entry canopies and discontinuous awnings are encouraged elsewhere in the Corridor.	The site is not located within an Activity Centre of in an area defined by Primary Active Frontages. The development includes glazed canopy awning at the entry facing Lachlan Avenue.	Yes															
<u>Rear and Side Setbacks</u> Buildings are to be set back 10m from the rear boundary and 5m from a side boundary unless a proposed new road is shown on the site.	The site has a dual frontage (to Lachlan Avenue and Herring Road). <table border="1"><thead><tr><th>Orientation</th><th>Setback</th><th>Complies</th></tr></thead><tbody><tr><td>Herring Road</td><td>5.0m</td><td>Yes</td></tr><tr><td>Lachlan Avenue</td><td>5.0m</td><td>Yes</td></tr><tr><td>North (Side)</td><td>5.7m to 21m</td><td>Yes</td></tr><tr><td>South (Side)</td><td>5.0m to 20m</td><td>Yes</td></tr></tbody></table> No new roads are required to be shown on the site.	Orientation	Setback	Complies	Herring Road	5.0m	Yes	Lachlan Avenue	5.0m	Yes	North (Side)	5.7m to 21m	Yes	South (Side)	5.0m to 20m	Yes	Yes
Orientation	Setback	Complies															
Herring Road	5.0m	Yes															
Lachlan Avenue	5.0m	Yes															
North (Side)	5.7m to 21m	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 35 , 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.	The basement car parking is designed to comply with the minimum required setback provisions. The side setback areas include variable width deep soil zones (with a minimum width of 5.0m) which include dense landscaping and which can support deep root planting.	Yes															
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. See Conditions 1(a) and 1(b) .	Yes Subject to condition.															
8.Site Planning & Staging																	
<u>Site Planning & staging</u> Sites are to be planned to allow for the future provision of new	The site is not located in areas identified in Figure 4.1.1 and Figure 5.1.1 and is therefore not required	Yes															

Control	Comments	Compliance
streets, pedestrian connections and open spaces in accordance with Figure 4.1.1 Access Network and Figure 5.1.1 Proposed Open Space Network.	to provide new streets, pedestrian connections, and open spaces.	
<p><u>Site coverage, DS areas & POS</u> A minimum 20% of a site must be provided as deep soil area. Deep soil areas must be at least 2m deep.</p> <p>For the purpose of calculating deep soil areas, only areas with a minimum dimension of 20m x 10m may be included.</p>	<p>Site Area: 3,901.6m² Required: 780.3m² (20%) Provided: 1,150.9m² (29.5%) Minimum Dimensions: Variable (2.5m to 6.3m)</p> <p>The application was referred to Council's consultant Landscape Architect who noted:</p> <p><i>"The proposal was previously assessed as being non-compliant with the minimum deep soil requirements outlined under Section 8.2(a) and (c) of Part 4.5 of RDCP 2014, the applicant was encouraged to provide a revised landscape scheme for the northern COS area at Level 00 which included more generous planting areas capable of accommodating large growing canopy trees that were commensurate with the scale of the built form.</i></p> <p><i>Whilst tree planting information has now been provided and is inclusive of such canopy trees within this space, there has been no further design changes to increase the amount of open deep soil area which is inclusive of soft landscaping. With the exception of a narrow planting strip adjoining the northern boundary, the majority of this proposed COS remains defined by retaining walls, decking and compacted/decomposed granite.</i></p> <p><i>Although further efforts could have been made to increase open deep soil area and understory planting within this space, it is acknowledged that overall site deep soil area (min 2m deep and excluding minimum lateral dimensions) has been calculated at approximately 29.5%. As such, the currently proposed arrangements are generally considered acceptable on balance".</i></p> <p>With respect to the provision of 780.3m² of deep soil as per the 20m x 10m dimension, this would require 4 such zones around the site. The landscape plans show the provision of deep soil areas around the perimeter of the site (i.e., along the northern and southern side boundaries and along the majority of the Herring Road front setback) which have a minimum dimension of 5.0m but which extend for lengths of up to 75m.</p> <p>The narrow planting strip referred to in the comments above relate to the ground floor areas designated as communal outdoor space which have variable dimensions due to the more organic shapes of</p>	<p>No Considered satisfactory</p>

Control	Comments	Compliance
	<p>retaining. On review of these spaces, it is noted that these areas include crushed granite gravel and turf lawn as the predominant surface finish to the northern outdoor area. This area is framed along the boundary by dense deep soil plantings. The design of these areas is considered to provide sufficient dense landscaping which facilitates the active use of the outdoor communal open space areas without creating a heavily shaded (and potentially cold) area which would otherwise be uninviting. The use of crushed granite gravel and turf lawn, together with variable deep soil areas around the perimeter will allow for water filtration.</p> <p>As noted earlier, despite the dimension, the quantum of deep soil is calculated at 29.5% which exceeds the DCP requirement by 370.6m² (i.e., 47.5%) and achieves the objectives of the control which seek:</p> <ul style="list-style-type: none"> • <i>To maintain the 'campus style' industrial parklands character that typifies much of the Corridor.</i> • <i>To provide developments with a high level of amenity and landscape character.</i> • <i>To retain existing mature trees and allow for future tree planting.</i> • <i>To provide occupants with passive recreational opportunities.</i> • <i>To provide an area on site for soft landscaping and deep soil planting.</i> • <i>To improve stormwater quality and minimise water consumption through implementation of water sensitive urban design guidelines.</i> 	
A minimum 20% of the site area is to be provided as Landscaped Area.	<p>Site Area: 3,901.6m² Required: 780.3m² (20%) Provided: 2,138m² (55%)</p> <p>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".</p>	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	<p>The northern communal open space area and the roof top communal open space area will receive a minimum of 3 hours direct sunlight between 9 am and 3 pm on the 21st of June.</p> <p>The southern communal open space area is self-shaded by the development.</p>	Yes
Appropriate shading is to be provided so that communal spaces are useable during summer.	The development includes appropriate shading at the ground level communal open space areas and at the roof communal open space area.	Yes
<u>Topography and Building Interface</u>		

Control	Comments	Compliance
<p>Level changes across sites are to be resolved within the building footprint.</p> <p>Where buildings are set back from the street boundary, entries are to be provided at street level wherever possible.</p> <p>An accessible path of travel is to be provided from the street through the main entry door of all buildings.</p>	<p>The site has an average fall of approximately 6.0m from the Herring Road boundary to the Lachlan Avenue boundary.</p> <p>The development responds to the topography by stepping the built form and lowering the height of the Lachlan Avenue tower comparative to the Herring Road tower.</p> <p>All entries are provided at street level.</p> <p>Accessible paths of travel are provided from Herring Road to Lachlan Avenue via the interior of the building and via the external communal open space areas.</p>	Yes
<p><u>Site Facilities Commercial</u></p> <p>Vehicular access to loading facilities is to be provided from secondary and tertiary streets where possible.</p> <p>Rubbish and recycling areas must be provided in accordance with Section 6.3 Waste Management. These areas must be integrated with the development;</p>	<p>Vehicle access to the loading bay (located in the basement) is via the proposed driveway and crossover onto Lachlan Avenue.</p>	Yes
<p><u>Vehicular Access</u></p> <p>Vehicular access is not permitted along streets identified as 'Active Frontages' (refer to Section 7.2 Active Frontages).</p> <p>Where practicable, vehicle access is to be from secondary streets.</p>	<p>The site is not located within an Activity Centre of in an area defined by Primary Active Frontages.</p> <p>Vehicle access is gained solely from Lachlan Avenue.</p>	Yes
<p>Potential pedestrian/vehicle conflict is to be minimised by: limiting the width and number of vehicle access points ensuring clear site lines at pedestrian and vehicle crossings utilising traffic calming devices separating and clearly distinguishing between pedestrian and vehicular access-ways.</p>	<p>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 vehicle safety in the public domain.</p>	Yes
<p><u>On-site Parking</u></p> <p>Safe and secure 24-hour access to car parking areas is to be provided for building users.</p> <p>At-grade parking:</p> <p>Parking areas must not be located within the front, side, or rear setbacks. Provide safe and direct access from parking areas to building entry points.</p>	<p>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.</p> <p>Refer to Condition 141.</p> <p>The development does not include any at-grade parking.</p>	Yes Subject to condition

Control	Comments	Compliance
<p><u>Basement parking</u> Basement parking areas should be located directly under building footprints to maximize opportunities for deep soil areas unless the structure can be designed to support mature plants and deep root plants.</p> <p>Basement parking areas must not extend forward of the building line along a street. Basement parking should be contained wholly beneath ground level along public streets.</p> <p>Ventilation grills or screening devices of car park openings are to be integrated into the overall façade and landscape design of the development</p>	<p>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.</p> <p>Basement areas do not extend forward of the street setback.</p> <p>Ventilation of the car park is subject to Condition 61.</p>	<p>Yes Subject to condition</p>
Environmental Performance		
<p><u>Wind Impact</u> Buildings shall not create uncomfortable or unsafe wind conditions in the public domain which exceeds the Acceptable Criteria for Environmental Wind Conditions. Carefully locate or design outdoor areas to ensure places with high wind level are avoided.</p> <p>All applications for buildings over 5 storeys in height shall be accompanied with a wind environment statement. For buildings over 9 storeys and for any other building which may be considered an exposed building shall be accompanied by a wind tunnel study report. Refer to Council for documentation and report requirements.</p>	<p>The application is accompanied by a Pedestrian Wind Environment Statement (dated 18/11/2022) as prepared by Windtech Consultants.</p> <p>The report indicates that the development has incorporated several design features and wind mitigation strategies and is expected to be suitable for the intended use for the majority of the outdoor trafficable areas. However, there are some areas that are likely to be exposed to stronger winds. It is expected that the wind effects identified in the report can be ameliorated with the consideration of the following treatment strategies into the design of the development:</p> <p><u>Ground level trafficable areas:</u></p> <ul style="list-style-type: none"> • Lachlan Avenue: <ul style="list-style-type: none"> ○ Retain proposed 2.5m deep awning around the eastern corner. ○ Retain proposed densely foliating evergreen tree planting. • Herring Road: <ul style="list-style-type: none"> ○ Retain proposed 2.5m deep awning. ○ Retain proposed densely foliating evergreen tree planting. • Courtyards: <ul style="list-style-type: none"> ○ Retain proposed densely foliating evergreen tree planting. ○ Retain proposed 2.5m deep awning along both courtyards. 	<p>Yes Subject to condition</p>

Control	Comments	Compliance
	<p><u>Level 10:</u></p> <ul style="list-style-type: none"> • Gym Balcony: <ul style="list-style-type: none"> ○ Retain proposed 1.5m high densely foliating evergreen hedge planting. • Pool Deck: <ul style="list-style-type: none"> ○ Retain proposed densely foliating evergreen tree planting. ○ Retain proposed 1.8m high impermeable balustrades. • <u>Rooftop:</u> <ul style="list-style-type: none"> ○ Retain proposed 2m high impermeable parapet. <p>The report concludes that, “<i>with the inclusion of the above-mentioned recommendations in the final design, it is expected that wind conditions for the various trafficable outdoor areas within and around the development will be suitable for their intended uses, and that the wind speeds will satisfy the applicable criteria for pedestrian comfort and safety</i>”.</p> <p>The Report (including its recommendations) are included in the draft consent as a condition (see Condition 1).</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 17/11/2022) 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>	<p>Yes Subject to condition</p>

8.2 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.

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

In this instance, demand credits are calculated on the existing number of residential apartments (which, in this instance comprises 51 x 2 bedroom apartments) being demolished as a result of the development.

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	\$2,154,100.68
Open Space & Recreation	\$4,152,993.72
Transport & Traffic Facilities	\$294,374.16
Plan Preparation & Administration	\$99,023.28
Total Contribution	\$6,700,491.84

The Section 7.11 Contribution of **\$6,700,491.84** has been included under **Condition 45** in the draft consent.

9. LIKELY IMPACTS OF THE DEVELOPMENT

- (i) The environmental impacts of the proposed development on the natural and built environment are addressed under the *Biodiversity Conservation Act 2016*, and within the RDCP 2014 sections of this report.

It has been found that the development would not have a detrimental impact on any ecological communities or flora or fauna species of any 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. The implementation of the Operational Management Plan will mitigate potential internal (and external) social impacts.
- (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.

10. REFERRAL RESPONSES

External Referrals

Transport for NSW (TfNSW)

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

Refer to **Condition 24** 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 141 to 144** in the draft consent.

Internal Referrals

Urban Design Review Panel (UDRP)

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

The comments provided by the UDRP throughout the assessment are provided below (noting the Panel uses the Design Quality Principles from *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development* to inform their comments):

2 March 2023 (Following a post-lodgement meeting with the applicant on that day).

Design Quality Principle	UDRP Comments
<p>Context and Neighbourhood Character</p> <p>Good design responds and contributes to its context. Context is the key natural and built features of an area, their relationship and the character they create when combined. It also includes social, economic, health and environmental conditions. Responding to context involves identifying the desirable elements of an area's existing or future character. Well-designed buildings respond to and enhance the qualities and identity of the area including the adjacent sites, streetscape and neighbourhood. Consideration of local context is important for all sites, including sites in established areas, those undergoing change or identified for change.</p>	<p>The site is located within a part of Macquarie Park that continues to undergo significant renewal.</p> <p>The site benefits from a dual frontage - to Lachlan Avenue and also to Herring Road. Lachlan Avenue terminates in a cul-de-sac to the north with a pedestrian link through to the Elouera Reserve and then to Waterloo Road. The site is in close proximity to Macquarie University Station and the bus interchange. A recent approval for student accommodation on the adjacent site at 23-25 Lachlan Avenue forms a relevant precedent for the anticipated scale and character of renewal.</p> <p>The subject site comprises 4 lots which are each currently occupied by 4 storey walk-up apartments arranged along the longer dimension of the individual lots. Of particular note are the existing mature trees that are located along Herring Road, the southern boundary, northern boundary and elsewhere towards the centre of the consolidated site.</p> <p>The topography of the combined sites slopes from the westerly frontage along Herring Road, falling by approximately 1-2 storeys to Lachlan Avenue.</p> <p>The proposal is for a co-living (student accommodation) project that spans the majority of the site with frontage and address to both Herring Road and Lachlan Avenue. The proposed address and presentation to the surrounding street network is supported.</p> <p>The building has been sited to generally provide positive setbacks from each boundary and neighbouring developments, which are supported subject to further refinements discussed in this report. The Panel notes that much of the feedback provided at the last review has been positively addressed in the latest design material.</p> <p>The maximum height of building control is 45m and the maximum FSR is 4:1. The proposed co-living use attracts an additional 10% FSR bonus. The proposal therefore seeks to achieve a total of 4.4:1 FSR. The height exceedance of the previous meeting has</p>

Design Quality Principle	UDRP Comments
	been amended to largely comply with minor exceedance at the Herring Road and Lachlan Avenue lift cores.
<p>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.</p>	<p>The proponent has previously analysed a number of alternative building massing scenarios in response to earlier Panel comments. The refined building form relocates the central portion of the "I" shaped building to the north and reduces its height. This siting, form and mass are supported, noting a minor exceedance to the maximum permissible building height. The developed architectural character presented by the proponent demonstrates a positive response to more finely-scaled building articulation and expression and are generally supported subject to some relatively minor recommendations set out in this report. A series of differentiated building facades help to scale the building and identify key moments and communal areas within the scheme. The landscape design is comprehensive and detailed and is supported. Communal rooms and spaces have been distributed throughout the proposal to allow for congregation in a range of settings and spaces, some more intimate and others larger. This strategy is supported. The side setback from the south boundary to the basement entry and building envelope has been increased to 6m which appears to better support the preservation of existing trees around the perimeter of the sites. The landscape plans indicate opportunities for significant tree planting and communal use and are generally supported. The undercroft entry space presenting to Lachlan Avenue remains less convincing and was the subject of discussion during the meeting. The Panel is concerned to mitigate against the common environmental and security issues that tend to accompany undercroft spaces such as this. Discussion focused on possible refinements to resolve these concerns and may involve adjustment of security lines, glazing lines. Care should be taken to ensure that wind effects and natural lighting levels are comfortable noting the significant scale of the undercroft space.</p>
<p>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.</p>	<p>The Panel recognises the design challenges presented by the various development standards - 45m height of building and 4.4:1 FSR control (including 10% bonus). The design amendments improve the off-site impacts on adjoining properties in relation to overshadowing and privacy separation. With the design development and refinements presented, the proposal demonstrates that the proposed density can be accommodated on the site.</p>
<p>Sustainability Good design combines positive environmental, social and economic outcomes.</p>	<p>An ESD Strategy is proposed to achieve BASIX and an 8-star NatHERS average rating. These targets and strategies are supported.</p>

Design Quality Principle	UDRP Comments
<p>Good sustainable design includes use of natural cross ventilation and sunlight for the amenity and livability 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.</p>	<p>This building type is not required to meet the natural cross ventilation and sunlight access targets set out in SEPP 65. However, the refined proposal indicates a reasonable approach to natural and mechanically assisted ventilation.</p> <p>The Panel appreciates the tension here between the need for high levels of internal occupant safety and the mental health benefits of being able to engage with the natural environment in private and communal spaces.</p>
<p>Landscape</p> <p>Good design recognises that together landscape and buildings operate as an integrated and sustainable system, resulting in attractive developments with good amenity. A positive image and contextual fit of well-designed developments is achieved by contributing to the landscape character of the streetscape and neighbourhood.</p> <p>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.</p> <p>Good landscape design optimises useability, privacy and opportunities for social interaction, equitable access, respect for neighbours' amenity and provides for practical establishment and long term management.</p>	<p>The proposal documents existing tree protection zones and amends setbacks to the south to support their retention.</p> <p>The landscape design has developed and the integration of architecture and landscape architecture is positive and supported.</p> <p>The diversity of communal open spaces across the scheme - of different microclimates, scales and uses - is supported.</p> <p>The Panel noted the opportunity for the swimming pool to be re-located to the southern side of the central wing in order to improve solar access to rooms below.</p> <p>Refer to comments in building form for Lachlan Avenue undercroft space.</p>
<p>Amenity</p> <p>Good design positively influences internal and external amenity for residents and neighbours. Achieving good amenity contributes to positive living environments and resident well-being.</p> <p>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.</p>	<p>The distribution of communal rooms has been amended and is generally supported.</p> <p>The general level of refinement and amenity evident in the various room types is noted and supported.</p> <p>The use of a more generous window openings (balancing occupant safety) within the living spaces of the 5-bed cluster type is strongly encouraged - this might take the form of a Juliet balcony with appropriate fall protection.</p> <p>The Panel remains concerned about the close proximity between adjacent windows at the 4 re-entrant corners of the typical plan. Studies presented by the proponent highlight the potential for occluded outlook and cross viewing.</p> <p>Every opportunity to mitigate against these issues must be investigated and adopted.</p>
<p>Safety</p>	<p>The proposal is capable of satisfying this principle.</p>

Design Quality Principle	UDRP Comments
<p>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.</p> <p>A positive relationship between public and private spaces is achieved through clearly defined secure access points and well lit and visible areas that are easily maintained and appropriate to the location and purpose.</p>	
<p>Housing Diversity and Social Interaction</p> <p>Good design achieves a mix of apartment sizes, providing housing choice for different demographics, living needs and household budgets.</p> <p>Well-designed apartment developments respond to social context by providing housing and facilities to suit the existing and future social mix.</p> <p>Good design involves practical and flexible features, including different types of communal spaces for a broad range of people and providing opportunities for social interaction among residents.</p>	<p>The proposal is capable of satisfying this principle.</p>
<p>Aesthetics</p> <p>Good design achieves a built form that has good proportions and a balanced composition of elements, reflecting the internal layout and structure. Good design uses a variety of materials, colours and textures.</p> <p>The visual appearance of a well-designed apartment development responds to the existing or future local context, particularly desirable elements and repetitions of the streetscape.</p>	<p>As noted above in 'Built Form and Scale', the Panel encourages the architect to further refine the architectural character and expression in a small number of areas.</p> <p>The Panel supports the use of brick panels with strong relief to achieve the shadow play and sense of depth portrayed in the renders. The Panel seeks further commitment to a preferred construction methodology. In particular, should the facade systems rely on pre-cast or panellised systems, then jointing need to be carefully studied and resolved at the time of DA approval - to fully describe the design intent.</p> <p>Similarly, the Panel encourages some further refinement in the detail and scaling of the 'veil' elements that define the top of the building. The Panel discussed the possibility of increasing the number of vertical elements, at closer spacings.</p> <p>The Panel encourages the preparation of further detailed design studies of each primary facade type (ideally in 3D) at a scale of approximately 1:50 to resolve the design intent in these instances.</p>

13 June 2023 (Comments relating to amended plans lodged on 19 May 2023)

In summary, the Panel was generally supportive of the proposal and had sought some further design refinement in a small number of key locations. The comments are structured against these aspects of the revised proposal.

Lachlan Avenue Undercroft

The applicant has indicated that no further revision to the undercroft entry space addressing Lachlan Avenue was considered necessary. For that reason, the Panel's earlier comments remain relevant and Council should satisfy itself that the environmental conditions - particularly wind, daylight levels and landscape character - are acceptable prior to the grant of any development consent.

Similarly, Council should satisfy itself that the safety and security of the undercroft space is appropriately managed - particularly in any operational management or security overlay.

The Panel remains concerned that the anticipated social benefits of this space risk diminution due to the physical environment and its perceived safety.

Comment

The undercroft entry space refers to Level LG and B0 as shown on Plan DA2002 (Revision 10). The entry space includes the entry lobby, a front-of-house reception, lift/stair access and meeting rooms. Given the facility is in operation 24/7 and that a condition is included in the draft consent which requires CCTV cameras to be installed in lobbies and lifts (in addition to cameras monitoring a 50m vicinity outside the building including, but not limited to, the footpath area in front of the premises), there is no concern regarding the safety and security of this area.

With respect to environmental conditions (wind impact, daylight access and landscape character) at this level, these aspects have been discussed throughout this report where it was considered that the development achieved a satisfactory level of amenity.

Operability of facade - 4 and 5 bed cluster units

The Panel encouraged exploration of increased facade operability in the living rooms provided within the 5 bed cluster unit type - perhaps as a Juliet balcony with sliding doors - to improve the sense of connection with the external environment and maximise access to natural light and air.

Noting the proposal has been modified to also include a 4 bed alternative, the applicant has indicated these cluster units will not include a balcony as suggested, citing security concerns.

Understanding this, the Panel notes that the cluster units' living room provides for a large, fixed window with a small awning window restricted to a 100mm maximum opening. In order to improve the sense of connection with the external environment, the Panel would encourage a greater level of operability in the windows of these shared living rooms - perhaps a bank of 3-4 similar awning windows and a corresponding reduction in the extent of fixed glazing.

Comment

It is agreed that the inclusion of balconies does present a security risk and is therefore not pursued.

With respect to the awning window to the common living area of the cluster rooms, the applicant has submitted an amended plan (Plan DA4206, Revision 7) which includes 2 x awning windows spaced at each side of the room. This reduces the extent of fixed glazing from 4.7m² to 3.2m² (i.e., minus 1.5m²). **Figures 38 and 39** below show (shaded in blue) the amendment to the common living room windows).

Relocation of swimming pool

The relocation of the swimming pool to the southern edge of the roof, in line with the Panel's suggestion, is supported.

Re-entrant corners, privacy and cross viewing

The Panel remains concerned for the re-entrant corners of the plan and the close proximity evident between adjacent rooms.

The applicant has indicated that the closest proximity will be managed with a translucent film. The Panel is concerned that the film is proposed on the operable awning sash and concerned that the operable sash is located closest to the re-entrant corner. This configuration should be reconsidered to ensure the operable sash is not obscured with privacy film and that operable windows are located further from the adjacent re-entrant corner.

Council should satisfy itself that that any further design refinement in this location maintains an acceptable outlook for each affected unit, that any cross viewing is entirely eliminated and that the operable portion of any window is not obscured by privacy film.

Comment

The obscure film originally proposed at the re-entrant corner has been replaced with a solid glazed cladding panel and a vertical fin which extends down the full height of the corners in question (see Plan DA4206 Revision 7). These features combined provide sufficient visual separation between adjacent rooms at re-entrant corners.

Figures 38 and 39 below show the amendment to the re-entrant corner windows (outlined in red).

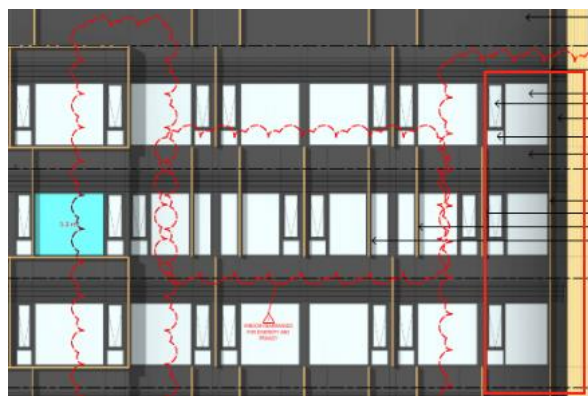


Figure 38 – Amended windows.
Source: Plan DA4201 (Rev 7).

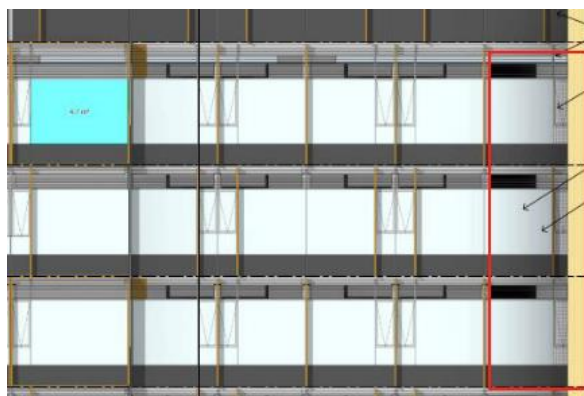


Figure 39 – Originally proposed windows.
Source: Plan DA4201 (Rev 4).

Facade studies to clarify design intent

The Panel had encouraged further design development to fully describe the design intent at the point of any development consent. In particular, the Panel sought focus on the 'veil', the use of panellised brick and pre-cast systems with a sense of depth and relief. The Panel notes that comprehensive facade studies are presented at drawings DA4201-DA4208 (Rev 6). Comments are provided to each of the 8 facade types below including comparison with the equivalent drawings reviewed on 2 March (Rev 4).

Type 1 This facade type represents the design intent for the 'veil'. Comparison with the equivalent Rev 4 drawings indicates that the density and spacing of deep fins has reduced. Previously, each awning window was framed on both sides, along with room divisions. The current proposal provides fins on the room divisions only. The Panel considers this to be a diminution of the architectural expression for the veil, and at odds with the comments raised at the last review, which were encouraging a tightening of the spacing of the fins generally. The Panel is concerned that the veil will not be convincing in elevation from Lachlan Avenue (for example). Noting the architect's view differs from that of the Panel, Council should satisfy itself that the veil is a distinctive and perceptible architectural element when viewed from the public domain as a three-dimensional form.

Comment

The vertical fins which were originally included in Plan DA4201 (Revision 4) have been reinstated in the current plan DA4201 (Revision 7). To clarify, Plan 4201 (Revision 6) excluded the grouping of three vertical fins which flattened the façade and diminished the sense of depth. The current revision provides a distinctive and perceptible architectural element when viewed from the public domain as a three-dimensional form.

Figures 40 and 41 below show the amended 'veil' facing Lachlan Avenue.

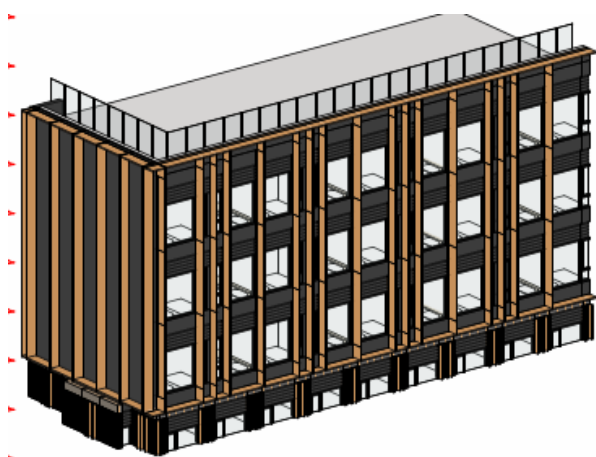


Figure 40 – Amended vertical veil elements.
Source: Plan DA4206 (Rev 7).

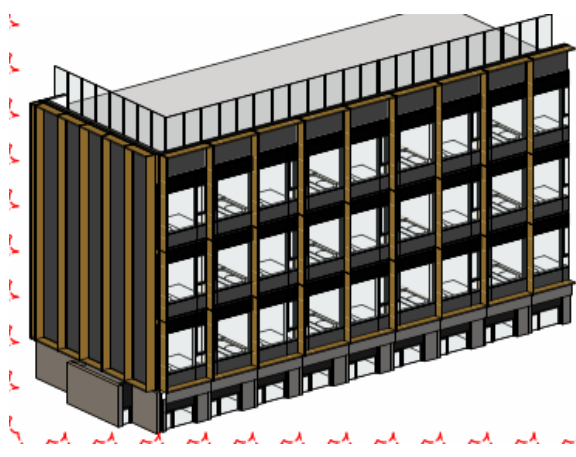


Figure 41 – Original vertical veil elements.
Source: Plan DA4206 (Rev 6).

Type 2 Supported, noting that panel joints may warrant rationalisation and refinement.

- Type 3 The Panel is generally supportive of the use of panellised brick cladding, but concerned to ensure that panel jointing, cut brick courses and the precise nature of 'feature brick stack detail 50mm and 100mm protruding is understood and illustrated.*
- Type 4 Supported.*
- Type 5 This facade type is described as brick cladding on a 'clip on' system, which may be acceptable, but raises question as to whether the proposal is a rain screen or a weathertight system. A rain screen system might undermine the appearance of brick (with open joints?). Council should satisfy itself there is a suitable proprietary system that attains a solid masonry character.*

Comment

The brick cladding system remains as a “feature brick cladding system with protruding detail” (i.e., the system defines the open joints of the bricks). Council is satisfied that this will attain a solid masonry character and not a smooth, featureless surface.

- Type 6 Supported, noting earlier comments that privacy film would be better applied to fixed portions of a window rather than an operable sash. The proposed appearance of the veil in this facade type is acceptable.*
- Type 7 Supported, noting comments from Type 3 are relevant here, particularly where panels are offset between adjacent storeys.*
- Type 8 Supported.*

Consultant Social Planner

The Social Impact Review (SIR) which was submitted with the application was referred to Council's consultant Social Planner for review and comment.

Although noting some deficiencies in the submitted SIR, these were not problematic for the application as the consultant review further clarified matters which were considered to require more detail. In this respect, the SIR did not require updating.

The consultant review noted that the Operational Management Plan (OMP) submitted with the application was acceptable in terms of satisfying the planning principles established in *Renaldo Plus 3 Pty Limited v Hurstville City Council [2005] NSWLEC 315*.

Notwithstanding the general acceptability of the OMP, the consultant review did note the following additional provisions which should be included in the OMP:

On-Site Management and Management Support

- Detail on the number/ratio of students to staff that will be employed and active on the premise at any given time, along with training programs for Residential Customer Advisors (RCAs) scheduled on after-hours assistance.
- Detail regarding training provided to all staff and RCAs about cultural and diversity practices, prevention of physical and sexual violence, response to mental health issues and prevention of suicide.
- Detail of how mental wellbeing support for RCAs is to be made available in response to issues they may have to address during a shift.

- Provision of a frequently updated database system to keep a record of all training activities and certifications for on-site staff members (including RCAs) be made available to residents.

Code of conduct

- Detailed Code of Conduct Management procedures relating to sexual harassment, bullying, smoking and consumption of alcohol within the building.
- Detail on the management of the pool area.
- Detail on the use of the Prayer Room.

Pastoral Care

- Inclusion of an Action Plan to outline how the aims detailed in Section 8.1 of the OMP will be delivered.

Shared Electric Vehicle Fleet Vehicles

- Detail the procedure of managing shared vehicle fleet (for example: parking and charging facilities and maintenance).

The recommended additional provisions listed above are included as a condition in the draft consent (see **Condition 133**).

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 63 to 67, 92, 93, 127, 146, 148, 149, 151, and 171** in the draft consent.

City Works - 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 14, 15, 43, 44, 68, 73, 99, 100, 105, 111, 113, 128, 151, 152, 154, 155, and 191** in the draft consent.

City Works - 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 12, 70, 71, 74, 75, 76, 95 to 98, 129, 160, 162, 163, 165, and 167** in the draft consent.

City Works - Waste

The application was referred to the Resource Recovery section in Council's City Works Department who raised no objection to the proposal as the proposal is classified as commercial development.

Development Engineering

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

Refer to **Conditions 78 to 83, 115, 117 to 119, 127, 136, 146, 147, 173, 174, 176, 177, 178, and 179** 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 21, 22, 23, 26, 35, 36, 77, 89, 90, 101 to 104, 119, 131 and 132** 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 **Conditions 26** in the draft consent.

Environmental Health

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

Refer to **Conditions 30, 32, 33, 37 to 41, and 47** in the draft consent.

11. PUBLIC NOTIFICATION AND SUBMISSIONS

The application was publicly exhibited between 2 February 2023 and 28 February 2023. Notification letters were sent to 774 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 five (5) submissions were received which raise the following issues:

- **The development does not provide adequate common (communal) facilities.**

Comment

This matter has been discussed in detail under Section 6.5 of this report.

The application has been assessed against the requirements of SEPP Housing with respect to the provision of communal living area (Clause 68(2)(c)) and communal open space (Clause 68(2)(d)) and has been found to comply in both instances.

With respect to communal living area, the development is required to provide 1,482m². The development provides 1,617.5m² communal living area.

With respect to communal open space, the development is required to provide 780.3m² (being 20% of the site area). The development provides 1,012.5m² communal open space.

This issue does not warrant the refusal of the application.

- **Concern regarding internal privacy of residents given shared living spaces.**

Comment

All rooms within the development are private. The shared living areas are located at various levels of the building (including several outdoor options) which provide a variety of available options for a resident to choose from.

This issue does not warrant the refusal of the application.

- **Non-compliant room sizes.**

This matter has been discussed elsewhere in this report (see Section 6.6 - 'State Environmental Planning Policy (Housing) 2021').

The application has been assessed against the requirements of SEPP Housing with respect to the size of rooms within the development pursuant to Clause 69(1)(a) and was found to not comply with respect to the cluster rooms.

The SEPP prescribes a minimum internal floor area (excluding kitchens and bathrooms) of 12m². The development includes cluster rooms which have areas of 9.9m².

The cluster room concept involves the 'clustering' of 4 to 5 rooms which share a common living room (which includes a dining area and kitchen).

As the provision is a development standard, consideration of a variation to this requirement is available via the provision of Clause 4.6 under the Standard Instrument.

A request to vary the development standard has been lodged and considered where it was found to demonstrate sufficient environmental planning grounds given the availability of the shared living area per cluster grouping.

This issue does not warrant the refusal of the application.

- **Traffic/parking impact and insufficient provision of on-site parking.**

Comment

With respect to parking impact, the development has been considered in detail under Section 6.6 State Environmental Planning Policy (Housing) 2021. In that consideration it was concluded through the analysis of detailed Human Movement Data (HMD) that the resident population (i.e., students) do not own or use private vehicles in the same quantum or manner as residents of a residential flat building (which is also reflected in the different parking rates for co-living development).

The data indicated that, given the provision of public transport alternatives within walking distance, and the on-site provision of car share, e-bike and bicycle options (including a shuttle), the provision of 45 on-site parking spaces would be adequate. Furthermore, the Operational Management Plan for the development includes, as part of the tenancy agreement, that residents will not own a car affirms that parking permits will not be permitted. This has been included as a separate condition. (See **Condition 179**).

With respect to impact on the local road network, the application is accompanied by a Transport Impact Assessment prepared by Urbis' Transport Advisory Team dated 22 November 2022.

The Assessment notes that, although the surrounding road network is currently operating close to capacity and that this will likely continue, the development will only generate 26 vehicles per hour during the peak period which will have a negligible impact on the surrounding road network.

The Assessment has been reviewed by Council's Traffic Engineer who notes that the net vehicle trips generated by the proposed development will be 18 and 20 vehicles during AM and PM peak hours respectively. Such an extent of the traffic generation indicates a maximum of 1 vehicle trip every 2.3 minutes during peak periods.

Although it is anticipated that significant congestion will occur along Herring Road and Waterloo Road during weekday peak periods by the year 2031 (based on a study conducted by Bitzios Consulting in relation to a previously approved development at 2 to 10 Cottonwood Crescent (LDA2020/0243)), it is also conceded that, while the additional 26 vehicle trips generated by the proposed development are expected to exacerbate the poor traffic conditions along Herring Road and Waterloo Road during weekday peak periods in the future, it is acknowledged that the proposed development is not the sole contributor to traffic along Herring Road and Waterloo Road and 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 this respect, Council's Traffic Engineer does not raise any objection to the proposal subject to conditions.

See **Conditions 14, 15, 43, 44, 68, 73, 99, 100, 105, 111, 113, 128, 151, 152, 154, 155, and 191**.

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

- **Inadequate provision of laundries.**

The development includes a central laundry which is located on Level 00 (adjacent to the main common lounge and cinema).

The laundry has an area of 47m² and the plan indicates the provision of 18 washing machines and dryers in a stacked arrangement and two island sinks and bench. This equates to a ratio of 1 machine stack per 41 residents. The operational Management Plan (OMP) submitted with the application includes management protocols for the use of the laundry.

Obviously, the use of machines cannot be assumed to occur all at once (and for any one period longer than the typical 50 minutes per cycle) and will be used on an as needed basis. In this regard, the provision of machines and the management protocols in the OMP will enable equitable access. Any issues which arise from the availability and use of the laundry will be subject to the management of the student accommodation.

This issue does not warrant the refusal of the application.

- **Inadequate Operational Plan of Management, pastoral care, security, and use of students as Residential Customer Advisors.**

This matter has been discussed elsewhere in this report (see Section 10 – Referral Responses).

In summary, Council's external social planning consultant undertook a detailed assessment of the Social Impact Review (SIR) submitted with the application which also included a broader consideration of the social aspects and impacts of the development generally.

In that review, the consultant noted that the Operational Management Plan (OMP) submitted with the application was generally acceptable however, felt that additional elements should be incorporated into the OMP to address to specific functions and operational aspects of the use. These are grouped into the following fields:

- On-Site Management and Management Support.
- Code of conduct.
- Pastoral Care.

The above fields include (but are not limited to):

- Detail on the number/ratio of students to staff that will be employed and active on the premise at any given time, along with training programs for Residential Customer Advisors (RCAs) scheduled on after-hours assistance.
- Detail regarding training provided to all staff and RCAs about cultural and diversity practices, prevention of physical and sexual violence, response to mental health issues and prevention of suicide.
- Detail of how mental wellbeing support for RCAs is to be made available in response to issues they may have to address during a shift.

- Provision of a frequently updated database system to keep a record of all training activities and certifications for on-site staff members (including RCAs) be made available to residents.
- Detailed Code of Conduct Management procedures relating to sexual harassment, bullying, smoking and consumption of alcohol within the building.
- Detail on the management of the pool area.
- Detail on the use of the Prayer Room.
- Inclusion of an Action Plan to outline how the aims detailed in Section 8.1 of the OMP will be delivered (Section 8.1 of the OMP refers to a 'Health & Wellbeing Policy').

The above is included in the draft consent as a condition which requires the OMP to be updated and referred to Council for approval prior to the issue of an Occupation Certificate (see **Condition 134**).

With respect to the broader aspects of security, the NSW Police have reviewed the application and have provided conditions which are included in the draft consent (see **Conditions 141 to 144**).

This issue does not warrant the refusal of the application.

- **Incompatibility with the character of the local area.**

The development has been considered against the overarching State and local government policies which are directing the scale and type of development within Macquarie Park generally, and within the local area specifically.

Macquarie Park is undergoing significant transition in response to State driven initiatives (such as the *Macquarie Park Place Strategy*) to establish the Park as key economic and innovation precinct.

The Strategy, which was publicly exhibited from 1 July to 10 August 2021, has since been finalised and will guide renewal of the precinct to 2036 to incorporate the following:

- An 18-hour economy attracting business, workers, and visitors.
- Approximately 20,000 new jobs.
- Up to 7,650 new homes.
- New public open space.
- Improved connections between people and places.

The area in which the subject application is located is designated in the Strategy as the Macquarie University (Herring Road) Precinct. The emerging character of the area is reflected by the increased level of mixed-use development (notably along Herring Road), all of which are consistent with the development standards and controls established for the zone.

The development is entirely consistent with the desired future character established within the zone.

This issue does not warrant the refusal of the application.

- **Impact on 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.

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

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

The local area (being the subject of the submission) is identified in the SISA as the *Macquarie University (Herring Road) Urban Activation Precinct* as shown in **Figure 42** below (the subject site is circled in red):



Figure 42 - Macquarie University (Herring Road) Urban Activation Precinct.

Source: Macquarie Park Strategic Infrastructure and Services Assessment: Final Report.

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

- Bus Priority Infrastructure Program 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 any current and future impacts because of ongoing development.

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

- **Inadequate consideration on acoustic impacts to neighbouring properties.**

The application includes an Acoustic Assessment (dated 17 November 2022) as prepared by Pulse White Noise Acoustics.

The Assessment addresses impacts to neighbouring residential receivers from outdoor communal open space areas (including the roof top communal area at Level 10) and includes the following requirements:

- *Permitted use of the external communal areas is between 7:00am-10:00pm Monday to Saturday and 8:00am-10:00pm on Sundays and Public Holidays.*
- *No playing of amplified music is to be undertaken within the external communal areas. No external speakers should be included in the design and construction of the external areas.*
- *The external communal terrace area on Level 10 will have no more than one hundred and fifty (150) people utilising the space at any one time with an assumption that one in two are speaking in conversation.*
- *The two external communal areas on Level 00 [the at-grade ground level area] will have no more than fifty (50) people utilising each space at any one time with an assumption that one in two are speaking in conversation.*
- *Continuous glazed/solid acoustic screens must be installed to a height of 1,800mm above the finished floor level of each outdoor communal area, on all exposed sides.*

The above requirements are included within the Assessment and are contained under **Condition 1** in the draft consent.

This issue does not warrant the refusal of the application.

- **Impact on mental wellbeing of residents.**

This issue has been addressed elsewhere in this report (see Section 10 – ‘Referral Responses’ and a separate issue above which discusses the OMP).

In summary, the OMP includes a Section 8.1 which deals with a ‘Health & Wellbeing Policy’ (i.e., pastoral care) however, a condition is included in the draft consent which requires that this section includes an Action Plan to outline how the aims detailed in Section 8.1 will be delivered.

This issue does not warrant the refusal of the application.

- **Protection of Brush Turkey habitat/corridor and local bird/marsupial species.**

This issue has been addressed elsewhere in this report (see Section 6.2 – ‘Biodiversity Conservation Act 2016’).

In summary, it is considered that the development will not adversely impact upon the local Brush Turkey population as the site is one of many along Lachlan Avenue used for foraging between Elouera Reserve and Quandong Reserve which Lachlan Avenue (particularly the southern side of the road) functioning as a corridor between the two reserves.

With respect to impact upon local bird/marsupial species, the site is not directly affected by wildlife corridors (which are centred along creeks lines (such as Shrimptons Creek to the east and Kikkiya Creek to the north-west). It is noted that, although 19 trees are proposed to be removed, the development will plant 111 replacement trees on the site (equating to a total of 136 trees on the site due to the retained 25 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.

- **Impact upon and displacement of current residents.**

The development of property results in the requirement for current occupants to relocate, particularly for development of this scale.

This is a private consideration born by each owner/occupant in terms of establishing a reasonable timeframe within which to vacate and is therefore not a matter required to be considered under any planning legislation.

This issue does not form a reason to refuse the application.

- **Excessive building heights of development in the area and incompatibility with the character of the local area.**

The local area comprises a range of maximum permitted building heights as illustrated in **Figure 43** below which is extracted from Council’s ‘Height of Buildings’ Map.

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 43 – 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 34m to 47.36m (being a variation of 5.2%). 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 6.11 'Ryde Local Environmental Plan 2014' of this report.

With respect to incompatibility with the local area, the area 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 of current and upcoming development applications are responding to the building height and floor space ratio permissibility's 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.

- **Negative impact from the removal of trees on the site.**

This issue has been addressed elsewhere in this report (see Section 5 – 'The Proposal' and Section 6.4 – 'State Environmental Planning Policy (Biodiversity and Conservation) 2021').

In summary, a review of the Arboricultural Assessment Report and the assessment conducted by Council's consulting Landscape Architect indicates that a total of 19 (43.2%) trees will be removed and 25 (56.8%) trees will be retained.

The landscape plans and planting schedule indicate that the development will include 111 replacement trees.

The application has been considered by Council's consulting Landscape Architect and Council's Tree Management Officer who raised no objection to the clearing of vegetation subject to conditions (see **Conditions 21, 22, 23, 26, 35, 36, 77, 89, 90, 101 to 104, 119, 131 and 132**).

This issue does not warrant the refusal of the application.

- **Loss of Public Amenity in Eloura Reserve.**

The development is located approximately 43m to the south-west of the entrance to Eloura Reserve and forms an important pedestrian link from Lachlan Avenue to Waterloo Road and the transport interchange/Macquarie Shopping Centre. Therefore, it is acknowledged that the development may result in an increased level of pedestrian traffic through the reserve although this is assumed as other access/egress points are available from the development (i.e., Herring Road).

The submission suggests that the close connection between the subject site and the reserve would result in additional hardstand, loss of grassed parkland areas and loss of local vegetation in the parkland for private benefit. It should be noted that Eloura Reserve is a public reserve owned by Council and is therefore expected to accommodate pedestrian traffic and public recreation. Any works which occur in the reserve are by or on behalf of Council only and cannot be for private benefit.

This issue does not warrant the refusal of the application.

12. CONCLUSION

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

The application is responsive to the strategic intentions of the Macquarie Park, SEPP (Housing) 2021, Council's controls under RLEP 2014 and RDCP 2014 that have been adopted for the locality. The proposal is consistent with the MU1 Mixed Use zone objectives.

Therefore, it is recommended that the application be approved for the following reasons:

- The applicant's Clause 4.6 written requests to vary Clause 68(2)(e) – 'Car Parking' and Clause 69(1)(a) – 'Room Size' under SEPP (Housing) 2021, and Clause 4.3 under the RLEP 2014 are acceptable as the proposal satisfies the objectives of the zone and the respective 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 these development standards is unreasonable or unnecessary in this particular circumstance; and there are sufficient environmental planning grounds to justify contravening the standards.

- 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 development in the immediate vicinity.
- The site is considered suitable for the proposed development.
- The development is in the public interest through the provision of accommodation and associated services to meet the demands of students in this educational precinct and support the growth of the local community.

It is therefore recommended that the application be approved subject to conditions.

13. RECOMMENDATION

That LDA2023/0001 at 17 to 23 Lachlan Avenue and 163 Herring Road, Macquarie Park be approved subject to the conditions in the attached draft consent.

- 1) That the Sydney North Planning Panel accepts the Clause 4.6 written requests to vary Clause 68(2)(e) and Clause 69(1)(a) of the State Environmental Planning Policy (Housing) 2021, and Clause 4.3 of the Ryde Local Environmental Plan 2014 which have adequately addressed the matters in sub-clause (3) and will be in the public interest as it is consistent with the objectives of the respective standards and the MU1 Mixed Use Zone.
- 2) That the Sydney North Planning Panel grant consent to development application LDA2023/0001 for demolition, excavation, construction and occupation of a part 9, 13 & 14 storey development for a purpose-built student accommodation for 732 students, including associated basement parking, communal open space areas, stormwater drainage works, landscaping and public domain improvements at 17 to 23 Lachlan Avenue and 163 Herring Road, Macquarie Park, subject to conditions of consent in **Attachment 1** of this report.
- 3) That TfNSW be advised of the decision.
- 4) That those persons who provided a submission be notified of the decision.

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